DISTRICT COURT, CITY AND COUNTY OF
DENVER, COLORADO
1437 Bannock Street
Denver, CO 80203

Case Number 2023CV032577, Division/Courtroom 209
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CERTIFIED STENOGRAPHER'S TRIAL TRANSCRIPT
TRIAL DAY 2: October 31, 2023
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NORMA ANDERSON, MICHELLE PRIOLA,
CLAUDINE CMARADA, KRISTA KAFER,
KATHI WRIGHT, and CHRISTOPHER
CASTILIAN,

        Petitioners,

v.

JENA GRISWOLD, in her official capacity as
Colorado Secretary of State, and
DONALD J. TRUMP,

        Respondents,

and

COLORADO REPUBLICAN STATE CENTRAL
COMMITTEE, and DONALD J. TRUMP,

        Intervenors.
_____

        The trial in the above-entitled matter
commenced on Tuesday, October 31, 2023, at 8:06 a.m.,
before the HONORABLE SARAH B. WALLACE, Judge of the
District Court.

        This transcript is a complete transcription
of the proceedings that were had in the above-entitled
matter on the aforesaid date.

                        Stenographically reported by:
                        Jennifer Bajwa Melius, RPR

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1   I N D E X

2   WITNESSES: PAGE

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10   EXHIBITS: RECEIVED

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     **STENOGRAPHER'S NOTE: All quotations from exhibits
23   are reflected in the manner in which they were read
     into the record and do not necessarily indicate an
24   exact quote from the document.

25

 1   P R O C E E D I N G S

 2   THE COURT: Good morning. We're on the

 3   record on Norma Anderson, et al., vs. Jena Griswold

 4   and Intervenors Colorado Republican State Central

 5   Committee and Donald J. Trump.

 6   May I have entry of appearance -- if

 7   just one person for each group could make the

 8   appearances.

 9   MR. OLSON: Good morning, Your Honor.

10   Eric Olson for petitioners along with Sean Grimsley,

11   Jason Murray, Martha Tierney, Mario Nicolais, and

12   Nikhel Sus.

13   THE COURT: Perfect. Thank you.

14   MR. GESSLER: Good morning, Your Honor.

15   Scott Gessler on behalf of President Trump. With me

16   is Geoff Blue, Jacob Roth, Chris Halbohn who's not

17   been admitted yet pro se [sic]. We'll keep him quiet.

18   Mr. Justin North as well.

19   And I think that's it for our side for

20   the attorneys. Thank you, Your Honor.

21   THE COURT: There's so many of you, it

22   becomes a memory test.

23   MS. RASKIN: Here's more for the list.

24   Jane Raskin on behalf of the intervenor, Republican

25   State Committee of Colorado. With me, Mike Melito,

1   Nathan Moelker, and Bob Kitsmiller.

2   THE COURT: Great. For some reason,

3   it's Colorado State Central Committee.

4   MS. RASKIN: State Central Committee. A

5   lot of Cs.

6   THE COURT: Yeah. That tripped me up as

7   well.

8   MR. KOTLARCZYK: Good morning, Your

9   Honor. Michael Kotlarczyk from the Attorney General's

10   Office on behalf of Secretary of State Jena Griswold.

11   With me at counsel table is the Deputy Secretary of

12   State, Christopher Beall, and also Jen Sullivan from

13   the Attorney General's Office.

14   THE COURT: Great. Thank you.

15   MR. KOTLARCZYK: Thank you.

16   THE COURT: Are the petitioners ready to

17   proceed?

18   MR. OLSON: Yes, Your Honor. I do think

19   one preliminary matter about the potential expert from

20   Intervenor Trump. Based on discussion this morning,

21   they've said that they've decided an expert is not

22   available, so they're not going to call an expert -- a

23   new expert, yeah.

24   MR. GESSLER: That's correct, Your

25   Honor. It was a false alarm yesterday. We were not

1   able to get him.

2   THE COURT: Okay.

3   MR. GESSLER: And then also, we are

4   withdrawing one witness.

5   THE COURT: Okay.

6   MR. GESSLER: And I think I've notified

7   opposing counsel of that.

8   THE COURT: Okay.

9   MR. OLSON: Thank you. We are ready to

10 proceed with testimony. Oh, sorry.

11   MR. GESSLER: Just one thing.

12   Your Honor, for clarification of

13 protection order at this point, are we able to reveal

14 the names of witnesses? I know some of them were

15 revealed in opening argument, but I want to just get

16 clarification.

17   THE COURT: Do the petitioners have a

18 point of view? I think you were mainly concerned

19 about witnesses you were calling.

20   MR. OLSON: Correct. I guess the

21 question is it going forward, or is it a question of

22 unsealing the stuff that's been filed already?

23   MR. GESSLER: I've had questions about

24 the names of witnesses. I'd like to be able to reveal

25 them, but I want to be mindful of the protective

 1 order.

 2   THE COURT: Of your own witnesses?

 3   MR. GESSLER: Yes.

 4   MR. OLSON: So our view is what Your

 5 Honor said, which was we wanted to make sure that we

 6 didn't lose any witnesses before the hearing, which we

 7 did.

 8   But now that we're underway in the

 9 public proceeding, the names of the witnesses are fine

10 to reveal.

11   MR. GESSLER: Okay.

12   THE COURT: Okay. That's fine with the

13 Court as well.

14   MR. OLSON: Are we ready to start with

15 testimony?

16   THE COURT: If you are.

17   MR. OLSON: I am. All right. At this

18 point, the petitioners call Dr. Peter Simi.

19   THE COURT: Will you raise your right

20 hand, please.

21   PETER SIMI,

22 having been first duly sworn/affirmed, was examined

23 and testified as follows:

24   THE COURT: Great. Just make sure to

25 speak into the microphone, okay?

 1   THE WITNESS: Yes.

 2   DIRECT EXAMINATION

 3   BY MR. OLSON:

 4   Q.   Good morning, Dr. Simi.

 5   A.   Good morning.

 6   Q.   Could you please introduce yourself and

 7   spell your last name?

 8   A.   Pete Simi, S-i-m-i.

 9   Q.   Dr. Simi, what do you do?

10   A.   I'm a professor of sociology at Chapman

11   University.

12   Q.   Where is Chapman?

13   A.   It's in Southern California.

14   Q.   You're here as an expert witness.

15   How would you describe your expertise?

16   A.   In short, political violence and

17   political extremism.

18   Q.   How do you know about political violence

19   and political extremism?

20   A.   I've been studying these issues my

21   entire career, 27 years, since 1996.

22   Q.   Do you have any formal training in

23   political violence and political extremism?

24   A.   Yes. I earned a PhD in sociology. That

25   was one of my main emphases in my studies in 2003.

1   Q.   And you said you've been working in this

2 field for about 25, 27 years.

3   Tell us a little bit about the kind of

4 work you've done over the past two and a half decades.

5   A.   Yeah. I've collected data using a

6 number of different methods to study political

7 extremism and political violence, to include

8 ethnographic fieldwork, interviews with current and

9 former members of extremist groups, and then a variety

10 of different type of archival methods to gather data

11 and information about both political extremism and

12 political violence.

13   Q.   I want to talk about some of the

14 methodologies you just mentioned. And to help us keep

15 track, I'm going to write them down on the flip chart

16 so we can come back to it a couple times in your

17 testimony.

18   A.   Okay.

19   Q.   And I believe the first kind of

20 methodology you mentioned was fieldwork; is that

21 right?

22   A.   Yes. That's correct.

23   Q.   Okay. What is fieldwork?

24   A.   Fieldwork is a type of method that's

25 employed by a range of different disciplines in the

1 social sciences and, frankly, outside the social

2 sciences -- in the military and business world as

3 well.

4   But it's a method of gathering

5 information where you spend time with people in their

6 natural environments in order to understand a culture,

7 a community, a group, a set of individuals. Learn

8 from their perspective, learn how they understand the

9 world, learn about their lives in their natural

10 settings.

11   And so for me that's meant spending lots

12 of time with active members of different types of

13 extremist groups, actually living with families and

14 individuals in some cases attending gatherings and so

15 forth.

16   Q.   When you say "living with families in

17 some instances," tell us a little bit more about that

18 kind of fieldwork.

19   A.   Well, that's sometimes referred to as

20 embedded fieldwork, where you're actually, you know,

21 living with the objects -- the subjects of your study.

22 And, you know, for me that meant staying in spare

23 bedrooms or crashing on their living room couch and

24 observing individuals in their daily lives and the

25 other types of activities that they're involved in

1   beyond, you know, what they do in their home.

2   Q.   And I believe the second kind of

3   methodology you mentioned that you relied on for the

4   past two and a half decades was interviews; is that

5   right?

6   A.   Yes. That's correct.

7   Q.   Okay. Tell us what you mean by

8   interviews.

9   A.   Well, interviews are basically a

10   structured type of conversation where you, you know,

11   sit down with a person and ask, you know, specific

12   questions based on, you know, whatever the focus of

13   your study is. And so for me that meant interviewing

14   current members of extremist groups, but also former

15   members as well.

16   Q.   Okay. What was the third kind of

17   methodology you mentioned?

18   A.   Archival.

19   Q.   Okay. Tell us what archival work is.

20   A.   Well, that's kind of a big bucket. It

21   covers a broad kind of range of -- different things

22   would fall under archival research. That would be --

23   you know, if you think about an archive, it's

24   basically just a collection of information.

25   Sometimes archives are generated for

1 very specific purposes to allow researchers to

2 conduct, you know, studies of various kind. And other

3 archives are not necessarily generated for that

4 purpose explicitly, but they do provide researchers an

5 opportunity to conduct studies.

6   So if you think about, for instance, a

7 video archive would be YouTube. And then, of course,

8 there's lots of different historical archives that are

9 available at universities, for example. Social media

10 is a type of archive where you're studying platforms

11 and how people communicate on platforms. That would

12 be a kind of archive. Websites are a kind of archive,

13 newspapers are a kind of archive.

14   So it does cover -- a broad range of

15 things would fall under that.

16   Q.   Great. Thanks, Dr. Simi.

17   And if I could just make a request for

18 the court reporter's benefit: If we could slow down a

19 little bit when we're talking, I'm sure --

20   A.   Excuse me. Sorry.

21   Q.   Now, are -- these three kinds of

22 methodologies that we've talked about, are those

23 standard methodologies used in sociology?

24   A.   Very much so.

25   Q.   How do you know that?

1   A.   Well, working in the field for 27 years,

2   part of that is -- that's part of my job. Part of

3   what you do in terms of presenting your research at

4   professional conferences, that's one of the things

5   that's discussed is research methodology. When you

6   submit your research for peer review in terms of

7   academic journal articles, research methods are

8   certainly scrutinized and reviewed.

9   And then I teach both undergraduate

10   research methods now at Chapman, but previously at the

11   University of Nebraska I taught PhD-level research

12   methods.

13   Q.   Is your teaching part of the course, or

14   is that a stand-alone course?

15   A.   Okay. Research methods is a stand-alone

16   course.

17   Q.   Okay. And are the methods that we're

18   talking about today the methods you teach in your

19   research methods course?

20   A.   Yes, it is.

21   Q.   Okay. Now, I want to talk a little bit

22   about some of your experience with each of these

23   methodologies.

24   And I want to talk first generally, and

25   then we'll talk specifically about the groups involved

1   in the January 6 attack, okay?

2   A.   Okay. Sure.

3   Q.   How many -- well, how much fieldwork

4   have you done generally in your career to study

5   extremist groups?

6   A.   Thousands of hours, literally.

7   Q.   Okay. And then have you done

8   fieldwork -- well, I know I'm supposed to talk into

9   the microphone. Let me ask the question.

10   Have you done fieldwork -- well, let me

11   ask a threshold question.

12   What groups have you identified as

13   playing a leading role in the January 6 attack?

14   A.   The Proud Boys, Three Percenters, and

15   Oath Keepers.

16   Q.   Okay. Have you also done fieldwork with

17   those groups?

18   A.   Yes, I have.

19   Q.   Okay. So if it's okay with you,

20   Dr. Simi, I'll just write "J6," and put all three to

21   show you're familiar with all the groups in this case.

22   A.   Yeah. Sure. That's fine.

23   THE COURT: I'm sorry. What does the J6

24   stand for?

25   MR. OLSON: The groups involved in

 1   January 6.

 2   THE COURT: Oh, duh.

 3   MR. OLSON: Sorry. Trying to fit it all

 4   on one chart, Your Honor.

 5   Q.   (By Mr. Olson) For interviews, how many

 6   interviews of right-wing extremists have you done in

 7   your career?

 8   A.   217.

 9   Q.   And how many interviews have you done

10   with members of the Oath Keepers, Proud Boys, and

11   Three Percenters?

12   A.   14.

13   Q.   And what about archival research? How

14   would you describe the amount of archival research

15   you've done in your career?

16   A.   It's a little trickier than the

17   fieldwork where you can count hours, or the interviews

18   you can count the number of interviews.

19   But, you know, you can look at it in

20   terms of time spent, you can look at it in terms of

21   the number of different archives, number of websites,

22   social media platforms. But given that's really where

23   I started in 1996 -- was all online and doing archival

24   research online. It would definitely be in the

25   thousands.

1   Q.   Okay. And have you done archival

2   research involving the three groups involved in

3   January 6?

4   A.   Yes, I have.

5   Q.   Okay. Now, Dr. Simi, I want to talk a

6   little bit about your work in this case.

7   How did the archival material available

8   for your work here compare to the kind of archival

9   material you typically rely on?

10   A.   It's very consistent.

11   Q.   How is that?

12   A.   Similar types of materials. It was

13   social media materials, court documents,

14   scholarship -- you know, existing scholarship, folks

15   who are also studying the same topics, looking at

16   their findings -- government reports. You know, just

17   a variety of different kind of materials that I've

18   used over the years were very comparable to what was

19   done in this case.

20   Q.   And you've used all the three

21   methodologies for your work in this case; is that

22   right?

23   A.   Yes. That's correct.

24   Q.   Is it common for work in sociology to

25   rely on all three of these methodologies?

1   A.   Well, this would be referred to as a

2   multimethod approach. And multimethod approaches are

3   often referred to as kind of gold standard. Certainly

4   to conduct research in an accurate manner doesn't

5   require using all three. You could conduct a very

6   legitimate study with any one or some combination, but

7   using all three certainly would be, like I said, the

8   gold standard.

9   Q.   Dr. Simi, have you testified as an

10   expert before?

11   A.   Yes, I have.

12   Q.   Tell us a little bit about that.

13   A.   I testified in the Sines v. Kessler

14   civil case that was related to the Unite the Right

15   rally in Charlottesville, Virginia.

16   As you may recall, that was a rally that

17   turned deadly violent in 2017. And I testified on

18   behalf of the plaintiffs in that case as it relates to

19   the way in which the Unite the Right rally was

20   organized and the central role that violence played in

21   how the event was organized.

22   Q.   Have you worked on other cases as an

23   expert?

24   A.   Yes, I have.

25   Q.   Tell us a little bit about that.

1   A.   I testified in a murder case in

2 Portland, Oregon. I was asked by the Multnomah County

3 District Attorney's Office to review some materials in

4 terms of statements in posts and so forth that the

5 defendant who had been charged in this case had made.

6 And the district attorney's office asked for me to

7 offer an opinion as to whether I felt those statements

8 were consistent with white supremacist extremist

9 beliefs.

10   Q.   Have you ever worked on behalf of

11 defendants in cases?

12   A.   Yes, I have. Many times. I've worked

13 with public defender offices, for example, across the

14 country.

15   Q.   Now, have you published on extremist

16 political violence?

17   A.   Yes, I have.

18   Q.   Tell us about some of your publications.

19   A.   Well, I've written a number of articles,

20 more than 60 peer-reviewed articles or book chapters

21 and edited volumes that address different facets of

22 political violence and extremism. And I've

23 published -- co-authored two books on the topic.

24   Q.   Tell us about the two books.

25   A.   Okay. The first book was "America's

1   Swastika: Inside the White Power Movement's Hidden

2   Spaces of Hate." That relied on all three of the

3   methods that we were just discussing -- fieldwork and

4   interviews and archival research. And the basic focus

5   of the book was looking at the type of cultural and

6   social spaces that are important to white supremacist

7   extremists in terms of sustaining their beliefs and

8   the central role violence plays in that culture.

9   And the second book that's due to be

10 published in the next month or so, I guess, is

11 actually looking at the forces or the influences that

12 ultimately led to the attack on the Capitol on

13 January 6.

14   Q.   What's your new book called?

15   A.   "Out of Hiding."

16   Q.   Why did you choose that title?

17   A.   Well, we look at the way in which the --

18 starting with the election of Barack Obama in 2008 and

19 a series of other developments following that, how

20 that led to a substantial reemergence of far-right

21 extremists.

22   Q.   And the "Out of Hiding" refers to sort

23 of coming out of hiding?

24   A.   Yes. Exactly.

25   Q.   Okay.

1   A.   Yep.

2   Q.   Now, on the screen I've put

3   Plaintiffs 161, which is a copy of your CV. And I

4   don't want to go into everything in this.

5   MR. OLSON: And really, I welcome

6   guidance from Your Honor in terms of how you want to

7   do this.

8   But would it be easiest to move it to a

9   demonstrative exhibit so you have an understanding of

10 his expertise, Your Honor? Or we can go through a

11 couple of highlights.

12   What would be most preferable to you?

13   THE COURT: Why don't we just walk

14 through his qualifications. The highlights would be

15 fine.

16   MR. OLSON: Okay. Great.

17   Q.   (By Mr. Olson) So, Dr. Simi, if we --

18 if we scroll down we see your education, and we've

19 already talked about that.

20   Can you tell us a little bit about some

21 of the trainings that you've given?

22   A.   Yes. I've done a number of trainings

23 for law enforcement, the legal field, educators over

24 the years in terms of law enforcement. I've provided

25 training to the Federal Bureau of Investigation,

1 Department of Homeland Security, Federal Bureau of

2 Prisons, Department of Justice, and a number of

3 state-level and local-level law enforcement agencies

4 across the country. I've done trainings for legal

5 organizations like the American Bar Association, and

6 educational institutions across country.

7   Q.   And have you received some grants and

8 fellowships -- some grants from federal government

9 agencies to study political extremism?

10   A.   Yes, I have.

11   Q.   Can you tell us -- it's on the screen

12 right now.

13   Can you tell us a couple examples of

14 those?

15   A.   Sure. The National Institute of

16 Justice, which is housed within the Department of

17 Justice, Department of Homeland Security.

18   Q.   What kind of trainings do you provide --

19 I'm sorry.

20   What kind of work do you do under those

21 grants?

22   A.   Sure. It's basic research; that is,

23 research intended to look at different questions as it

24 relates to the causes and consequences of political

25 extremism and political violence, looking at different

1   factors of the individual group. And on a broader

2   societal level, in terms of what kinds of things

3   influence these issues and what kinds of measures seem

4   to be most effective in terms of countering them.

5   Q.   And here on the screen I have your

6   expert legal consultation.

7   Is this a list of the cases where you've

8   been retained as an expert, this page and the next?

9   A.   Yep. It appears to be.

10   Q.   Okay. And then did you provide

11   testimony to the January 6 Committee?

12   A.   Yes, I did.

13   Q.   Why was that?

14   A.   I was invited to provide written

15   testimony.

16   Q.   Fair to say, Dr. Simi, you've been

17   working on issues of right-wing extremism well before

18   we've been working together on this case?

19   A.   Yes, I have. My entire career

20   basically.

21   Q.   Okay. Did you work with us to prepare a

22   demonstrative exhibit to summarize your work in this

23   case?

24   A.   Yes, I did.

25   Q.   Okay. I'm having a little bit of

 1 computer issue. Let me see if I can bring it up on

 2 the right screen.

 3   THE COURT: While you're doing that, I

 4 just have a quick question.

 5   THE WITNESS: Yes.

 6   THE COURT: You said that your book,

 7 "Coming [sic] Out of Hiding" is from 2008 forward.

 8   When did -- kind of culminating on

 9 January 6; is that correct?

10   THE WITNESS: That's correct, Your

11 Honor.

12   THE COURT: Did you start working on it

13 before January 6?

14   THE WITNESS: We did. Yeah, we did.

15 That happened while we were working on it, which

16 obviously added an additional item that -- certainly,

17 an additional development that we needed to address

18 because it was a new facet that was a substantial,

19 important historical event that was very relevant to

20 what we were already analyzing and discussing.

21   THE COURT: So that was a work in

22 progress, and then that book becomes a new chapter or

23 chapters?

24   THE WITNESS: Absolutely.

25   THE COURT: Thank you.

1   Q.   (By Mr. Olson) On that, Dr. Simi, did

2   you express any concerns about the possibilities of

3   violence related to the -- after the 2020 election,

4   before it happened?

5   A.   Yes, I did.

6   Q.   Tell us a little bit about that.

7   A.   Well, in the summer of 2020, I thought

8   it was pretty clear that depending on the outcome of

9   the election there was a lot of anger and resentment

10   and mobilization that was really starting to increase

11   among far-right extremists. And that, should Donald

12   Trump not be reelected, I thought it was pretty clear

13   that far-right extremists would respond with political

14   violence.

15   MR. OLSON: I think I've got the tech

16   issues worked out.

17   Q.   (By Mr. Olson) So this is the

18   demonstrative that we worked together to prepare for

19   your summary?

20   A.   Yes, it is.

21   Q.   Okay. Let's go to the first page.

22   And tell us, what topic did you address

23   in your work in this case?

24   A.   Looking at the kind of defining

25   characteristics of far-right extremism, including the

1   central aspects of their communication style; the

2   influence that Donald Trump and relationship Donald

3   Trump has developed with far-right extremists that

4   includes certain communication strategies; the motives

5   for those who attacked the Capitol on January 6; and

6   then Donald Trump's role in the attack on the Capitol.

7   Q.   How does your expertise over the past

8   27 years help you address these topics?

9   A.   Well, when you've spent as much time as

10 I have, you know, directly observing, directly

11 engaging, interviewing active and formerly active

12 members of far-right extremist groups and that those

13 aren't, you know, affiliated with specific groups as

14 well, understanding that culture provides lots of

15 different types of insight about things like

16 motivations.

17   And then the archival research is really

18 important as well because that also provides certain

19 insight about people's perspectives, motivations,

20 communication strategies, and so forth.

21   Q.   You talked about communication

22 strategies.

23   Can you give us a couple examples of

24 things that are particularly unique to right-wing

25 extremist communication just to help us understand

 1   what you mean by that?

 2   A.   Sure. You know, in terms of this case,

 3   for example, 1776 is very relevant.

 4   To an outsider, that might just sound

 5   like a number or a fairly innocuous historical

 6   reference to the, you know, Revolutionary War. But to

 7   insiders within far-right extremist culture, that has

 8   a very specific connotation and relationship to

 9   violence, and it really is a direct call to violence.

10   Q.   Tell us a little bit about the materials

11   that you reviewed in this case to address these four

12   issues.

13   THE COURT: Before you go there, I just

14   have one follow-up question. Sorry.

15   MR. OLSON: No, please. Go ahead.

16   THE COURT: When you were talking about

17   the fieldwork, and you said that sometimes you -- I

18   heard you say you embed yourself? What do you mean?

19   How is that different than an interview? And does the

20   group that you're embedding yourself, like, do they

21   know that you're embedding yourself, or are you

22   undercover?

23   I'm just trying to understand what the

24   distinction is between fieldwork and the interviews.

25   THE WITNESS: Sure. It's a great

1 question, Your Honor.

2   The fieldwork would involve a more

3 immersive experience from a research standpoint. So

4 it would include a lot of observation. It would

5 include informal interviews, which would be much more

6 conversational in style.

7   When you're embedded, depending on the

8 approval you receive from what's called the

9 Institutional Review Board -- which academic research

10 is governed under federal regulations under

11 institutional review boards. There is a way to do

12 that where you don't have to obtain informed consent

13 and you could do it -- you could be embedded

14 surreptitiously without your participants' or

15 subjects' knowledge.

16   But the fieldwork I did in terms --

17 certainly in terms of the folks that I lived with,

18 they knew that I was doing research. Some of the

19 larger gatherings that I attended as part of

20 fieldwork, people wouldn't necessarily know that I was

21 a researcher, and they might assume that I was one of

22 them. And then I essentially would notify people as

23 my relationship with them kind of developed.

24   And so the main distinction, I would

25 say, between the interviews is they're much more

 1   structured than compared to the fieldwork, which is,

 2   again, intended to be a much more naturalistic way of

 3   gathering information, whereas the interviews are,

 4   while helpful and certainly provide a lot of insight,

 5   are also pretty structured and formalized.

 6   THE COURT: But for the most part,

 7   you're not going -- you're not becoming a member of

 8   the group or pretending to be a member of the group

 9   while you're doing research?

10   THE WITNESS: I've never done that, Your

11   Honor.

12   THE COURT: Okay. Thank you.

13   Q.   (By Mr. Olson) And, Dr. Simi, can you

14   just give us a couple real-life examples of -- you

15   mentioned sleeping on someone's couch or their spare

16   bedroom.

17   How do those come to be?

18   A.   Well, it's a pretty kind of involved

19   process you might say in terms of gaining people's

20   trust and building rapport with individuals, spending

21   time with them, to where they feel comfortable with

22   inviting you to do that.

23   Now, sometimes it ends up happening much

24   quicker than I expected.

25   Contacting folks, you know, when I first

1   started, this was in the early stage of the internet,

2   so P.O. boxes were still kind of a thing. So my first

3   contacts actually, you know, emerged through letters

4   that I wrote to P.O. boxes, and I was able to meet

5   with individuals in person. And then from there,

6   develop relationships where they were comfortable

7   enough with inviting me into their homes.

8   Q.   And help us understand how sort of

9   someone who is a member of a right-wing extremist

10   group would say to a university professor, "Why don't

11   you come stay in my bedroom."

12   How does that come to be?

13   A.   It doesn't always quite happen like

14   that. I've had many doors slammed in my face. I've

15   certainly been asked in not-so-polite terms to get

16   lost. So that certainly happens.

17   But for some, they see it, I think, for

18   a lot of different reasons. First, sometimes people

19   enjoy being the focus of attention, you know. So

20   having a researcher say that, you know, they're

21   interested in you and want to spend time with you, for

22   some people they find that satisfying on some level.

23   For some they see it as an opportunity

24   to get their message out, to recruit potentially

25   the -- if not the researcher, then at least get their

1   message out there and try and, you know, shape things

2   and influence things more broadly.

3   So I think there's a number of different

4   motives that, you know, lead to people making those

5   kind of invitations.

6   Q.   And I want to be clear. We've talked

7   about sort of your work with fieldwork and interviews

8   with the groups involved in Jan 6.

9   Did that work happen before or after

10   January 6, 2021?

11   A.   Before.

12   Q.   Okay. And did you rely on all three of

13   these methodologies in your work in this case?

14   A.   Yes, I did.

15   Q.   Okay. And are these the sort of methods

16   and materials that experts in your field reasonably

17   rely on in forming opinions upon the subject in

18   political extremism?

19   A.   Yes, it is.

20   Q.   Okay. Based on your scholarship, your

21   prior work, and your review of materials in this case,

22   are you familiar with events of and leading up to

23   January 6, those who participated in the attack, and

24   Mr. Trump's role in those events?

25   A.   Yes, I am.

1   MR. OLSON: Your Honor, at this point in

2   time, we'd tender Dr. Simi as an expert on political

3   extremism, including how extremists communicate and

4   how the events leading up to and including the

5   January 6 attack relate to longstanding patterns of

6   behavior and communication by political extremists.

7   MR. GESSLER: We'll renew our 702

8   objections, Your Honor.

9   THE COURT: Okay. Professor Simi will

10 be admitted as an expert on political extremism,

11 excluding [sic] how extremisms communicates, and his

12 interpretation of January 6 vis-a-vis his expertise in

13 extremism and extremism communications.

14   MR. OLSON: Thank you very much, Your

15 Honor.

16   Q.   (By Mr. Olson) Let's turn to some

17 high-level findings, and then we'll get more granular

18 as our conversation continues, okay, Dr. Simi?

19   A.   Sounds good.

20   Q.   So on the screen we have pictures of the

21 three groups we've talked about. But let's start with

22 a basic definition.

23   What is far-right extremism?

24   A.   The best way to think about far-right

25 extremism is that it's defined by some core

 1   characteristics. And let me first say, in terms of

 2   thinking about it and visualizing it, is if you think

 3   about a constellation in the sky, if you think about a

 4   broad-based network, that's what we're talking about

 5   with far-right extremism.

 6   There's individual appearance, there's

 7   groups and organizations. These are all part of this

 8   constellation. And it's pretty far-ranging. It

 9   includes, you know, a disparate set of elements.

10   But then there are these core

11   characteristics that cut across certain beliefs,

12   practices, and then communication strategies.

13   Q.   Let's talk about some of these core

14   characteristics.

15   What are some of the core

16   characteristics about beliefs in far-right extremism?

17   A.   Several things, really.

18   Heavy reliance on conspiracy theory.

19   Explaining events, situations as the result of kind of

20   shadowy forces that are on scene. And those, you

21   know, specific types of conspiracy theories are pretty

22   far-ranging that are kind of adhered to among

23   far-right extremists, but the use of conspiracy theory

24   is very central.

25   A strong distinction between us and

1 them. And, of course, people, you know, in general

2 make distinctions between us and them, and oftentimes

3 it's quite innocuous. If you think about, for

4 instance, sports fans, you know, make distinctions --

5 Packers fans or Vikings fans and so forth. Pretty

6 innocuous for the most part.

7   But what we're talking about here in

8 terms of distinctions between us and them for

9 far-right extremists is that "them" are really viewed

10 as enemies, as representing existential threat, and

11 are often described in very dehumanizing terms --

12 degenerates, scum, infestation. These kind of

13 dehumanizing terms are often used among far-right

14 extremists to describe the -- you know, the people

15 that they believe are opponents and that represent

16 these threats.

17   Another central kind of tenet is really

18 a kind of antidemocratic ethos that really, you know,

19 moves in the direction of supporting authoritarian

20 impulses, authoritarian beliefs, authoritarian

21 leaders/structures of various sorts.

22   So I would say those are kind of three

23 defining aspects of beliefs.

24   Q.   Next on your slide is "Practices

25 Including Violence."

1   Talk to us about the role that violence

2   plays in far-right extremism.

3   A.   Because, in part, of what I just

4   mentioned about beliefs, the idea that there's these

5   existential threats out there that have been

6   dehumanized, violence is viewed as a necessary tactic

7   to achieve political goals.

8   Violence is glamorized and glorified in

9   many ways, viewed in a kind of legitimized fashion,

10 seen as a form of self-defense to fend off these

11 existential threats.

12   So it is, again, very central to -- it's

13 certainly not the only practice, but it is a central

14 practice.

15   Q.   And the last core characteristic is

16 communication strategies.

17   Tell us a little bit about communication

18 strategies you've observed in your work.

19   A.   Yeah. So some of the things in terms of

20 communication strategies that I've observed, but other

21 scholars in the field have also observed as it relates

22 to far-right extremism, is a reliance on doublespeak,

23 which is a specific kind of deceptive style of

24 communication that often involves using words that

25 have multiple meanings -- one meaning for insiders,

1 another meaning, potentially, for outsiders. Using

2 language with a so-called wink and a nod, you might

3 say.

4   Also making substantial kind of

5 distinctions between front- and backstage behaviors.

6 So presenting oneself or a group in a particular way

7 that is more favorable on the front stage, and then

8 being much more open about things like the use of

9 violence on the backstage.

10   And the same would apply to the

11 doublespeak in terms of its relationship to violence,

12 that it's a technique, a communication strategy that's

13 used to promote violence but in a kind of deceptive

14 way.

15   Q.   And let me stop you right there,

16 Dr. Simi.

17   Where would the 1776 example that you

18 talked to us about earlier fit in to this vocabulary

19 you're talking about right now?

20   A.   Yeah. That would be a type of

21 doublespeak, because, again, it would have a certain

22 meaning to outsiders who aren't familiar with the kind

23 of inside culture. But to insiders within the

24 culture, they would understand and interpret that word

25 differently.

 1   Q.   Do all far-right extremists share these

 2   beliefs, practices, and communication strategies?

 3   A.   These are core characteristics that cut

 4   across the culture. But we are dealing with, you

 5   know, a large culture that has different elements.

 6   And so, you know, you're going to see varying degrees.

 7   But these characteristics do have a high degree of

 8   salience that does cut across culture.

 9   Q.   You've selected three groups to

10   highlight here on this slide.

11   Can you tell us a little about each of

12   these groups?

13   A.   Sure. The first group to my left is the

14   Proud Boys. And they were founded in 2016 by Gavin

15   McInnes, more recently been led by Enrique Tarrio.

16   They were really founded, according to McInnes's own

17   words, as a violent street gang with a political

18   ideology that is referred to as Western chauvinism.

19   Q.   I'm sorry. You said Western --

20   A.   Chauvinism.

21   Q.   Okay. I'm sorry.

22   Tell us a little bit more about the

23   Proud Boys.

24   A.   Sure. So the political violence that

25   they gravitate towards is, you know, directed to

1 people they believe to be political opponents. And

2 the emphasis or the kind of central nature of violence

3 for the Proud Boys is kind of best you might say

4 exemplified by their mantra, "Fuck around and find

5 out."

6   THE WITNESS: Excuse my language, Your

7 Honor.

8   A.   And that's a commonly used mantra. In

9 fact, you actually see it in that image there in terms

10 of the acronym. But that's really kind of an -- in a

11 nutshell, how they view the important use of violence

12 to achieve their goals.

13   Q.   (By Mr. Olson) Tell us about the Oath

14 Keepers.

15   A.   Sure. They were founded in 2009 by

16 Stewart Rhodes, who is a Yale Law School graduate.

17 And the Oath Keepers were a part of the second wave of

18 the antigovernment militia movement that emerged

19 shortly after Barack Obama's election in 2008.

20   The first wave was, of course, during

21 the 1990s and ultimately culminated in the Oklahoma

22 City bombing in 1995. And then the movement was --

23 kind of somewhat dissipated for a period of time, but

24 it then had a second wave that reemerged in 2008.

25   And so the Oath Keepers were part of

1   that. They focus a lot on the idea of law enforcement

2   and military, maintaining their oath that -- to

3   maintain the Constitution, which they believe the

4   government has become tyrannical and is violating the

5   Constitution. And they adhere to lots of different

6   types of conspiracy theories about the government

7   putting people in detention camps and things of that

8   nature.

9   So there's a high degree of kind of

10 paranoia among the Oath Keepers. They've been

11 involved in various armed standoffs, like the Bundy

12 ranch standoff in 2014 in Nevada, and the Malheur

13 Wildlife Refuge in Oregon, the standoff that occurred

14 there in 2016, and several others.

15   So that's kind of the Oath Keepers in a

16 nutshell.

17   Q.   What about the Three Percenters?

18   A.   They were founded just a year before the

19 Oath Keepers, so in 2008. So they were also part of

20 the second wave of the antigovernment militia movement

21 that emerged at that time. And the Three Percenters

22 were founded by Mike Vanderboegh, who actually had

23 been involved in the first wave of the militia

24 movement in the 1990s.

25   And they developed kind of a more

1   decentralized set of -- different types of Three

2   Percenter groups across the country. They've been

3   involved in actual plots -- domestic terror plots on

4   multiple occasions. And their name itself refers to

5   the idea -- the actually inaccurate idea that only

6   3 percent of the colonists fought against the British

7   in the American Revolution.

8   And the reason why that's important for

9   them is because they believe they're this same kind of

10 vanguard that's now fighting against the U.S.

11 government that's become tyrannical.

12   Q.   Let's turn to the next slide.

13   And tell us -- we've talked generally

14 about the role violence plays in far-right extremism.

15   But tell us why you chose pictures of

16 the Unite the Right rally to show this violence and

17 the role that violence plays more generally.

18   A.   Well, it was a very important event

19 among far-right extremists. Of course, the name

20 itself indicates in part some of their efforts in

21 terms of uniting the right, and the fact that violence

22 was always intended to be part of this event.

23   When you looked at the social media

24 platforms where Unite the Right was organized, Discord

25 and other platforms, there were discussions, for

1 example, of using automobiles to attack individuals

2 that were counterprotester, which obviously ultimately

3 happened on the second day.

4   Q.   Excuse me. Is that what we see on the

5 right?

6   A.   Yes. Yes. So there you see James

7 Fields' car mowing into this group of

8 counterprotesters in the afternoon after the state of

9 emergency had been called and things were starting to

10 disperse.

11   And, of course, Heather Heyer was

12 murdered in this car attack. And a number of other

13 individuals -- you see there Marcus Martin in

14 mid-air -- he was permanently disabled from his being

15 struck by the car, and -- as were a number of other

16 individuals seriously injured.

17   So we have the car attack, and then to

18 the left, you see the way in which a flagpole is being

19 used to bludgeon individuals they perceive as

20 political opponents.

21   That was also discussed ahead of time.

22 Individuals on Discord platform and other platforms

23 were talking about what types of instruments they

24 could use as weapons and the importance of framing it

25 as self-defense, and also the importance of framing it

1 as that we're just joking about committing violence.

2   Q.   I want to talk a little bit more about

3 this framing of self-defense.

4   Tell us a little bit more about that.

5   A.   Well, given that within society we

6 generally recognize the right that individuals have to

7 defend themselves in certain situations where they may

8 be harmed or their life is being threatened, any time

9 an individual or group can frame their violence as

10 self-defense, it offers a degree of legitimacy. And

11 that is true of individuals and it's true of groups.

12   It's also a part of this worldview that

13 they have that they really are under threat, under

14 attack from a variety of forces. And so, therefore,

15 any time they engage in violence, from their

16 perspective, it becomes kind of seen as a type of

17 self-defense.

18   Q.   And you mentioned some of the humor, I

19 believe, when you answered just now. Let's turn to

20 the next slide.

21   And tell us what you see on the left.

22 Why did you choose to have this quote from Robert Ray

23 on the left?

24   A.   So Robert Ray was one of the central

25 organizers of the Unite the Right rally. And here he

1 is actually explaining. And this is where archival

2 material becomes really useful and important from a

3 research standpoint because in this quote he's

4 explaining the role or the function in terms of how

5 they use humor to essentially promote violence, but do

6 it in a way that is not always obvious. To keep

7 people off balance in terms of not knowing whether

8 their calls for violence are to be taken seriously or

9 not.

10   They know as insiders that the calls are

11 meant to be taken seriously, but they understand that

12 by framing it as humor, outsiders may not always be

13 able to discern the difference.

14   Q.   And one more question on the violence

15 and far-right extremism.

16   Does everyone attracted to far-right

17 extremism engage in violence?

18   A.   No. No. Not at all. There's, I

19 think -- you know, we can talk about different roles

20 that individuals have in terms of within this culture

21 as it relates to violence.

22   One are violence players. That is,

23 these are individuals who really help orchestrate,

24 plot violence, but aren't directly involved in it

25 themselves. Stewart Rhodes, Enrique Tarrio would be

1 current examples that fit that mold.

2   Then you have your violent implementers.

3 These are individuals who may help in the planning or

4 may not help in the planning, but their primary kind

5 of role is to actually execute or implement the

6 violence. These individuals often come prepared to

7 commit violence. They may have weapons of various

8 sorts or other instruments that are helpful for them

9 in terms of trying to complete their violent acts.

10   Then you have other folks that in some

11 situations, they may be open to committing violence,

12 but they're not involved in the planning, and they

13 aren't necessarily, you know, intending to commit

14 violence at the outset. But given a certain

15 situation, they might be open to it or certainly at

16 least wouldn't necessarily prevent violence from

17 occurring.

18   And then you have kind of a fourth

19 bucket of folks that are kind of sympathetic

20 bystanders you might say. And these are folks who

21 aren't planning. You know, they're not, you know,

22 engaging in the violence, but they may, you know, more

23 indirectly, in more subtle ways support the violence.

24   Q.   And on the left we see a picture of a

25 person attacking wearing a helmet and goggles.

1   Is that an example -- like what category

2   of -- would you put someone like that in?

3   A.   Without -- I would say probably a

4   violence implementer.

5   Q.   Why is that?

6   A.   Well, they've come prepared for violence

7   in terms of having the goggles and the headgear. And

8   then they're, you know, using an instrument that's

9   meant to be, you know, for displaying a symbol.

10   They've turned that into a weapon.

11   And, again, based on what we know about

12   how Unite the Right was planned and the directives

13   that were discussed in great length about how to use

14   things like flagpoles as weapons, I think that

15   certainly we could, you know, infer that this person

16   came prepared to use their flagpole in that respect.

17   Q.   Okay. Let's go to the communication

18   style. And on the right we have a video of Nick

19   Fuentes.

20   Who is Nick Fuentes?

21   A.   In short, he is a white supremacist

22   leader, quite influential among folks who follow him.

23   He was present at the attack on the Capitol,

24   January 6. He was present at Unite the Right rally.

25   He has substantial presence in terms of social media

1 platforms as well as offline. And yeah, that's

2 Fuentes.

3   Q.   And we'll play the video.

4   MR. OLSON: But just to make sure we're

5 doing housekeeping correctly, this is P-120, which is

6 admissible, but hasn't yet been admitted under the

7 Court's October 27 order.

8   So I'll go ahead and play the video.

9   THE COURT: And is it -- is he part of

10 one of the three groups, or is he out on his own?

11   THE WITNESS: No. He's not involved in

12 those three groups.

13   THE COURT: Okay. And what -- you said

14 it was which video?

15   MR. OLSON: P-120.

16   Can I play the video, Your Honor?

17   (Video was played.)

18   THE COURT: Could you actually replay it

19 a little louder?

20   MR. OLSON: Yes.

21   (Video was played.)

22   Q.   (By Mr. Olson) So, Dr. Simi, why did

23 you include this video of Nick Fuentes?

24   A.   It's an illustration of how the

25 doublespeak works in real time where you have both

1 advocacy and then -- you know, part of doublespeak is

2 about developing plausible deniability where you

3 insert certain aspects in terms of the communication

4 that allows you then to say after the fact, "Well, I

5 didn't mean it." Or it gives you some type of kind of

6 built-in excuse, you might say, built-in rationale for

7 why you shouldn't be taken in terms of saying what you

8 said as a promotion of violence.

9   So this really kind of exemplifies that

10 style of communication. And I think it's important to

11 recognize that among far-right extremist leaders like

12 Nick Fuentes, you're not going to see very often just

13 completely open promotions of violence.

14   Oftentimes, there's these efforts to

15 build in the plausible deniability so that it's not

16 obvious, and a person can't be -- or it's more

17 difficult to hold a person criminally or civilly

18 liable for promoting violence.

19   So this is, you know, very consistent

20 with what we see among far-right extremists more

21 broadly.

22   Q.   To make sure we understand exactly what

23 you mean, talk us through the specific things

24 Mr. Fuentes did in this video that is that

25 doublespeak.

1   A.   Yeah. Do you want to replay it one more

2   time?

3   Q.   Sure.

4   (Video was played.)

5   A.   Okay. Stop it. So right there --

6   (Video was played.)

7   A.   So. Right. The first statement is, you

8   know, killing state legislators. We've got him

9   saying, "What else are you going to do?" And then we

10   get the negation, "but I'm not suggesting that." But

11   then, "What else can you do, right?"

12   So it's kind of a teeter-totter back and

13   forth in terms of promoting, bringing it back, and

14   then still promoting. And so that's -- that's the

15   strategy.

16   Q.   (By Mr. Olson) Are these techniques

17   unique to far-right extremists?

18   A.   Doublespeak and front- and backstage

19   behavior, these are common aspects of human behavior

20   more broadly.

21   All of us, I would assume, in this room

22   at some point in our lives have used some form of

23   deceptive language, have used some types of

24   doublespeak. We all present ourselves differently on

25   the front stage.

1   If you think about a job interview, for

2   example, you're going to present yourself in one

3   fashion. And then on the backstage when we're in the

4   privacy of our home, we might engage differently. So

5   these are very common things.

6   What's distinctive about what we're

7   talking about here today is that the front- and

8   backstage and the doublespeak are connected to

9   violence and the use of violence. So that's what

10 distinguishes far-right extremists in these respects

11 as it relates to these communication strategies.

12   Q.   How do you know these communication

13 strategies work?

14   A.   Well, that comes, again, from the data

15 collection. That comes from the fieldwork and having

16 the opportunities to observe the culture and how it

17 operates. That comes from interviewing active members

18 of these groups and formerly active members of these

19 groups and having them discuss these strategies and

20 how things are structured in terms of within the

21 culture.

22   And that comes from the archival

23 material. I mean, this quote here from Robert Ray

24 is -- again, it's an important example of what can be

25 learned from archival material in terms of, you know,

1   some of these issues.

2   Q.   What about instances where violence

3   occurs and then there's discussion of violence after

4   the violence has occurred? Have you looked at that in

5   your work?

6   A.   I'm sorry. Could you repeat the

7   question?

8   Q.   Yeah. What about when violence occurs

9   and then there's communication after the violence?

10 Did you look at that in your work in this case?

11   A.   Yes.

12   Q.   Okay. Tell us what you learned about

13 these communications strategies from looking at what

14 people say after violence occurs.

15   A.   Well, you're going to get certain kinds

16 of promotions, certain kinds of endorsements. But,

17 again, it's not always going to be completely

18 transparent in the endorsements for public relations

19 purposes, for, you know, in particular. But

20 certainly, the endorsements afterwards in terms of

21 supporting violence is an important part of

22 reinforcing kind of the cultural -- acceptable role

23 violence plays within the culture.

24   Q.   What about condemnation after; is that

25 an important factor? After the condemnation, is that

1 something you study?

2   A.   Yeah. When you have an absence of

3 condemnation, that then can be interpreted -- and

4 often is interpreted among far-right extremists -- as

5 essentially a type of endorsement, that is, an

6 endorsement by omission.

7   Q.   And how are you confident that the

8 audiences understand these speakers' messages when

9 they use this communication style?

10   A.   27 years of gathering data, spending

11 thousands of hours in the field talking with

12 individuals immersed in this culture, talking with

13 individuals who used to be immersed in this culture

14 and aren't anymore, going through the volume of

15 archival materials. You know, I feel very confident

16 that these strategies are widely understood.

17 Individuals indicate this.

18   And other scholarship finds similar

19 things, so there's consistency in what I've found with

20 other scholars who've also studied this issue.

21   Q.   In your report you talk about repeat

22 interactions between a speaker and the audience.

23   Does repeat interactions influence your

24 conclusion that these communication styles are

25 effective?

 1   A.   Yes. Absolutely. Again, that's part of

 2 kind of this cultural immersion. As people become

 3 more immersed within a cultural environment -- and

 4 that would be true of any culture, really. The more

 5 repeated interactions between a speaker and an

 6 audience, the more understanding develops, the more

 7 people begin to be able to interpret contextual cues

 8 which are an important part of what we're talking

 9 about here. Context is very relevant in terms of

10 understanding communication.

11   And so the more immersed you are within

12 a culture, the more able you are to interpret context.

13   Q.   Talk to us about your earlier example of

14 1776 through the lens of this immersed in culture and

15 repeat interactions.

16   What did you see in your study?

17   A.   Well, for individuals that, again, are

18 immersed in the culture, then you're going to over

19 time start to develop an understanding of a term like

20 "1776" and how it becomes a call for violence. And so

21 as people interact both online and offline and are

22 exposed to the messaging, then that's where the

23 familiarity develops.

24   Q.   Tell us -- I think you said this

25 already, but just to make sure we're clear: Based on

1 your work, what does 1776 mean among far-right

2 extremists?

3   A.   It's a violent call for a revolution.

4   Q.   Okay. Did you see examples of 1776

5 being used as a violent call for revolution leading up

6 to it on January 6?

7   A.   I saw the speeches. There's a document

8 that the Proud Boys acquired, "1776 Returns," which

9 was basically a blueprint for attacking the Capitol.

10   So yes, there were several aspects to

11 1776 in my opinion was being used as a call for

12 violence.

13   Q.   What is -- you talked about a document,

14 "1776 Returns."

15   Tell us a little bit more about that

16 document.

17   A.   Well, it's a document that Enrique

18 Tarrio acquired through an associate. And the

19 document was -- like I said, it was a blueprint. It

20 had logistics in terms of how to go about attacking

21 the Capitol. It had scenarios, you know, vantage

22 points in terms of different location spots,

23 vulnerabilities, and so forth.

24   So it was, you know, a recipe of sorts,

25 you might say.

1   Q.   Now I want to turn from far-right

2   extremists generally and focus on their relationship

3   and communication with Donald Trump.

4   Can you describe these -- oh, sorry, I'm

5   getting ahead of myself -- the relationship between

6   Donald Trump and far-right extremists?

7   A.   Well, in my years of studying this --

8   and, again, this is confirmed among other scholars --

9   far-right extremists generally would perceive national

10 political leaders with a lot of skepticism and

11 cynicism because of their view of the government being

12 basically corrupt and so forth.

13   So the relationship that developed

14 between Donald Trump and far-right extremists really,

15 in many respects, is somewhat unprecedented, certainly

16 at least in recent history, in that far-right

17 extremists really were galvanized by his candidacy

18 starting in 2015. And a relationship really emerged

19 between Donald Trump and far-right extremists, with

20 far-right extremists really seeing him as speaking

21 their language and, you know, really addressing many

22 of their key grievances.

23   Q.   So on the screen we have an excerpt from

24 Donald Trump's campaign launch speech in 2015.

25   Tell us why you chose to highlight this

1 portion of Donald Trump's 2015 speech.

2   A.   Yes. And if I may just very briefly.

3   Even before 2015, you know, Donald Trump

4 was promoting -- you know, one of the kind of leading

5 figures for promoting birther as the challenging --

6 conspiracy theory challenging Barack Obama's

7 legitimacy to serve as President.

8   And that put him in the orbit of folks

9 like Alex Jones, you know, far-right media influencer.

10 And so that was really the beginning.

11   And then when he announced his candidacy

12 to run for President there in June of 2015 and used

13 this language, that was a real kind of clarion call

14 for far-right extremists, that this is somebody we

15 want to pay attention to.

16   And you can see here in the quote

17 referring to when Mexico sends its people, "They're

18 sending people . . . They're bringing drugs. They're

19 bringing crime. They're rapists. And some, I assume,

20 are good people."

21   And using terms like "they're rapists,"

22 that phrase, that would be the kind of conversations

23 the far-right extremists have and the kind of

24 terminology they use both on- and offline.

25   So there was a real kind of alignment in

1 terms of language with what they heard in his

2 announcement speech and, you know, the things that are

3 important to them.

4   Q.   Is calling people from Mexico --

5 claiming they're bringing drugs, crime, and that

6 they're rapists -- is that consistent with the Western

7 chauvinism --

8   A.   Absolutely.

9   Q.   -- belief structure you mentioned

10 earlier?

11   A.   Yeah. Absolutely.

12   Q.   Okay. Tell us a little bit about what

13 Western chauvinism is.

14   A.   Well, Western chauvinism is a way of

15 claiming that Western civilization is basically

16 superior and that other non-Western cultures and

17 civilizations are deficient. And they use terms like,

18 you know, "West is right" and so forth to kind of

19 underscore this point.

20   And so it's -- that's, you know, Western

21 chauvinism in a nutshell.

22   Q.   And here Donald Trump ends this quote by

23 saying "Some, I assume, are good people."

24   Why doesn't that sort of undo the

25 earlier language?

1   A.   Well, this is -- we get back to what we

2   were discussing earlier in terms of plausible

3   deniability. So you get this kind of negation that's

4   inserted after using this inflammatory language. And

5   that then provides the speaker with "Well, I didn't

6   say 'all.'"

7   But for far-right extremists, they hear

8   the rapist part. They hear that language, and so

9   consistent with the kind of conversations they're

10   having, as I mentioned, and understand that the

11   negation is necessary. They understand because this

12   is how they communicate amongst themselves as well.

13   And their own leaders use and establish

14   plausible deniability, so they understand that a

15   national, you know, individual who is running for the

16   office of the presidency is also going to need to

17   establish plausible deniability.

18   Q.   Now, I want to turn to a specific aspect

19   of Donald Trump's communications over the years, and

20   that's the Stop the Steal movement and Trump's role in

21   it.

22   Could you describe the movement

23   generally to the Court?

24   A.   Yeah. It's, you know, the conspiracy

25   theory that focuses on different aspects of how the

1   2020 presidential election was corrupt, stolen,

2   fraudulent, you know, marked by, you know, substantial

3   amount of fraud, and, you know, a variety of different

4   kind of aspects of that conspiracy.

5   Q.   And you've chosen a couple of tweets

6   here.

7   Before I talk about the tweets, did

8   Donald Trump start the Stop the Steal language

9   questioning elections in 2020, or did it start before

10 then?

11   A.   No, it really predates 2020.

12   Q.   Okay.

13   A.   Yes.

14   Q.   What do we see on the screen here?

15   A.   Yeah, so you see here the upper tweet

16 there from 2012 where Donald Trump is referring to the

17 Romney-Obama election and that there were election

18 machines that switched the votes from Romney to Obama.

19 And "Don't let your vote be stolen." So, again, using

20 that language, that verbiage about, you know,

21 elections being stolen.

22   And then below that, you see from

23 midterms in 2018 references to, you know, election

24 corruption. "We must protect our democracy" because

25 elections are being stolen, so . . .

1   Q.   What relationship did you find between

2   the far-right extremists and the Stop the Steal

3   movement?

4   A.   A lot of overlap really. Starting at

5   the beginning when it really starts to emerge in full

6   force in 2020, you see one of the first rallies, for

7   example, in Arizona. Alex Jones is present there as a

8   speaker. Armed antigovernment militia types are there

9   at that rally in Arizona, and then that continues to

10 be the case.

11   As more and more Stop the Steal rallies,

12 you know, transpired during that time, you see a

13 substantial presence of folks like Proud Boys and

14 others.

15   Q.   Now, moving forward to the 2020

16 election, in your work did you see Donald Trump

17 spreading doubt about the 2020 election?

18   A.   Yes, I did.

19   Q.   Okay. Let's look at a couple of videos

20 you highlighted.

21   Why did you choose this video from

22 August 17, 2020?

23   A.   Because it's, you know, multiple months

24 prior to the election, and it's a very clear kind of

25 statement about the election being fraudulent unless

1   Donald Trump is reelected.

2   MR. OLSON: Okay. And this video is

3   P-61. It's another one of these deemed admitted but

4   not yet admitted video exhibits, Your Honor.

5   And I guess I forgot to move for the

6   admission of P-120.

7   So would you like to play the video?

8   And then I'd like to move to admit both of these.

9   THE COURT: So on P-120, which was the

10 Fuentes --

11   MR. OLSON: Yes.

12   THE COURT: -- I'm actually going to

13 just consider that a demonstrative and a basis for his

14 report but not admit it into evidence.

15   MR. OLSON: Right.

16   THE COURT: The two speeches we're about

17 to see, which are -- are which numbers?

18   MR. OLSON: Well, P-61 is Trump's speech

19 and has not yet been admitted. The one on the right

20 has already been admitted. That's P-47.

21   THE COURT: Okay. So I'll admit 61, the

22 Trump speech.

23   (Exhibit 61 admitted into evidence.)

24   MR. OLSON: Okay. So I'll play the

25 video on the left.

1   A.   Okay.

2   (Video was played.)

3   Q.   (By Mr. Olson) Why did you choose to

4 highlight this video, Dr. Simi?

5   A.   Well, again, it's multiple months, and

6 we're already getting this narrative, this, you know,

7 conspiracy theory.

8   Q.   Multiple months? I'm sorry?

9   A.   I'm sorry. Before the election itself

10 in November. And it's, you know, very clear, you

11 know, what the message is.

12   Q.   Now, let's play the video on the right.

13   And this is from the early-morning hours

14 of election night, right?

15   A.   That's correct.

16   Q.   Okay. At this point in time that Trump

17 is giving this speech, have the election results been

18 determined?

19   A.   No. It's still unclear, undecided.

20   (Video was played.)

21   Q.   (By Mr. Olson) Why did you choose to

22 highlight this speech?

23   A.   This underscores the strategy that had

24 been discussed by people like Steve Bannon, for

25 instance, about claiming victory no matter what on

1 election night. Irregardless of what the results

2 suggest, claim victory.

3   Q.   Is there anything else notable about how

4 Trump talked about these elections in these two

5 speeches that you'd like to draw our attention to?

6   A.   Yeah. Very, very much.

7   Again, this is the language of

8 corruption, of elections being stolen. For far-right

9 extremists, that's going to resonate because it's

10 central to their worldview, to their perspective that,

11 you know, there's this corrupt system that's

12 preventing them from electing somebody that they

13 support, that the system is rigged.

14   And so, again, you're going to have a

15 high degree of alignment there and resonance for

16 far-right extremists with that kind of language.

17   Q.   Did you select some examples of how

18 far-right extremists responded to this language from

19 Donald Trump?

20   A.   Yes, I did.

21   Q.   All right. What are we -- what example

22 did you put on the screen here?

23   A.   Yeah. So this is -- these are messages

24 on the Parler social media platform. And this is from

25 Joe Biggs who at the time was a prominent member of

1   the Proud Boys. And you can see the time stamps there

2   to my left and -- beginning at 5:03 p.m.

3   The first message, "The left is stealing

4   the election," so there's that and that alignment

5   there. They're "not even trying to hide it. We have

6   no justice, no law and order, and no democracy."

7   And these are followed up. The second

8   message is, I'd say, additional intensification in the

9   second message which is about 17 minutes later where

10   there's reference to "The Democrats are shameful,

11   un-American, Commie pieces of shit. I hope you all

12   have shitty, fucking lives. Fuck you."

13   So this is representative of a certain

14   kind of intensification, amplification that's

15   happening among far-right extremists as it relates to

16   the idea of the election being stolen.

17   THE STENOGRAPHER: And if you can please

18   watch your speed for me. Thank you.

19   THE WITNESS: Apologies.

20   Q.   (By Mr. Olson) I want to turn from

21   Trump -- I want to turn to Trump's relationship or use

22   of some of these techniques to call for political

23   violence that we talked about earlier. And I want to

24   go to the next slide.

25   And did you see Trump use these same

1 doublespeak and other communication strategies to call

2 for violence?

3   A.   Yes, I did.

4   Q.   Okay. Can you -- we'll look at a couple

5 of examples, but tell us generally the kinds of things

6 you saw in your work.

7   A.   What you see is this kind of

8 relationship develops. With the relationship that

9 develops between Donald Trump and far-right

10 extremists, one facet of it -- and it's a multifaceted

11 relationship, really, so it's happening in many

12 different ways.

13   But one facet is certainly through

14 rallies where violence is occurring. And there are

15 both promotion and endorsement of violent incidents or

16 violent assaults that are occurring in rallies. So

17 that would be one facet. Again, I would underscore,

18 though, that the relationship is emerging between

19 Donald Trump and far-right extremists on a lot of

20 different aspects.

21   MR. OLSON: All right. So the video on

22 the left, Your Honor, is P-53. It's another

23 admissible but not yet admitted exhibit.

24   THE COURT: And that's a video of

25 President Trump?

1   MR. OLSON: Yes.

2   THE COURT: Okay. 53 will be admitted.

3   (Exhibit 53 admitted into evidence.)

4   MR. OLSON: We'll play the video.

5   (Video was played.)

6   Q.   (By Mr. Olson) How does this exchange

7 support your opinion in this case?

8   A.   Well, this was a press conference.

9 Actually, Ben Carson had just dropped out, and this

10 was to announce his support for Donald Trump's

11 candidacy.

12   But during the Q and A portion of the

13 press conference, one of the journalists asked Donald

14 Trump about violence at rallies, and so Donald Trump

15 was responding to that question, specifically

16 referring to what appears to have been violence that

17 had just recently occurred prior to this at a rally in

18 Las Vegas.

19   And what you hear there is, again, this

20 focus on self-defense, violent self-defense. So he's

21 setting up this scenario that you have these

22 counterprotesters that are kind of antagonizing things

23 and that his supporters then used violence as a form

24 of self-defense. And he's really endorsing that, and

25 he's pretty clear in the comments.

1   MR. OLSON: And, Your Honor, the second

2   video is P-56. We'd also move for its admission.

3   THE COURT: And that is also a speech of

4   President Trump?

5   MR. OLSON: Yes.

6   THE COURT: P-56 is admitted.

7   (Exhibit 56 admitted into evidence.)

8   (Video was played.)

9   Q.   (By Mr. Olson) So set the stage in the

10   video first, and then tell us what you saw in the

11   video.

12   A.   Sure. So this was, you know, a press

13   conference on the heels of the Unite the Right rally

14   which was, again, just to underscore, a deadly Unite

15   the Right rally where one person is murdered and

16   dozens of others injured by white supremacists who had

17   planned and organized an event to be violent, showed

18   up in Charlottesville, Virginia, and executed dozens

19   of acts of violence throughout the day, including

20   murder.

21   And during this press conference, we

22   hear the President refer to there being "fine people."

23   And one of the things -- as part of this group of

24   white supremacists who had gathered that day.

25   And one of the things certainly that we

1 know is white supremacists and other far-right

2 extremists heard that message as an endorsement. And

3 they tell us that; they thanked the President

4 afterwards for the comments.

5   Q.   Who thanked the President?

6   A.   David Duke, who was present that day at

7 the Unite the Right rally; longtime neo-Nazi,

8 Clansman, Richard Spencer, one of the key organizers

9 of Unite the Right who was present that day; Andrew

10 Anglin, the founder of the Daily Stormer, who wasn't

11 present at the Unite the Right, but a leading kind of

12 influencer among far-right extremists.

13   All three of those folks thanked the

14 President for the comments and said that they

15 understood some degree of kind of condemnation in the

16 comments was necessary on his part. But in large,

17 they took it as an endorsement.

18   Q.   And in your work on leaders of political

19 extremism, have you ever seen a national leading

20 political figure endorse violence in the way that you

21 see Donald Trump endorse violence?

22   A.   No, I have not.

23   Q.   Now, let's go to a rally in Alabama.

24   And tell us what we're going to see

25 here.

1   A.   So on the -- my left there, the rally,

2 you know, in Alabama, in Birmingham, you're going to

3 hear Donald Trump comment about a protester at the

4 rally and needed to be removed.

5   Q.   And then what do we see on the right?

6   A.   And then the following day is Fox News

7 saying that -- where Donald Trump is calling in on the

8 phone and is being asked a question about what

9 happened at the rally.

10   MR. OLSON: And, Your Honor, this is

11 Exhibits P-50 and -48. We move for both of their

12 admission.

13   THE COURT: Let me -- I'll admit P -- is

14 this the one on the left? P --

15   MR. OLSON: P-50 is on the left.

16   (Exhibit 50 admitted into evidence.)

17   THE COURT: P-50. And let me --

18   MR. OLSON: Okay.

19   THE COURT: -- see the interview before

20 I --

21   MR. OLSON: Great.

22   THE COURT: -- make a ruling.

23   MR. OLSON: All right. Let's play P-50.

24   A.   Sure.

25   (Video was played.)

1   Q.   (By Mr. Olson) And then now it seems

2 he's referring to a protester?

3   A.   He's referring to a protester, yeah.

4   Q.   And now let's play the interview, P-48.

5   A.   Yeah.

6   (Video was played.)

7   THE COURT: That is -51?

8   MR. OLSON: P-48.

9   THE COURT: P-48 is admitted.

10   MR. OLSON: Thank you, Your Honor.

11   (Exhibit 48 admitted into evidence.)

12   MR. OLSON: Thank you, Your Honor.

13   Q.   (By Mr. Olson) So tell us, Dr. Simi,

14 what did you see in Trump's reaction the next day

15 about his relationship to political violence?

16   A.   He made an endorsement. Again, the

17 built-in kind of defense -- self-defense argument

18 there in terms of his comments. But you get an

19 endorsement, "Maybe he should have been roughed up."

20 You get the "maybe" inserted which qualifies it a bit.

21   But what far-right extremists hear is

22 they hear the comments at the rally, the strong

23 language about getting him out of here, the person's

24 assaulted at the rally by multiple people, and then

25 the next day Donald Trump essentially endorses the

1   assault that is committed.

2   Q.   Okay. And we have one more series of --

3   or pair of Trump videos. Let's go to that slide.

4   MR. OLSON: And, Your Honor, these are

5   both Trump speeches, P-123 and P-56. And they're both

6   just Trump speaking.

7   THE COURT: Okay. 123 and 126 are

8   admitted.

9   MR. OLSON: Sorry. It's P-56 and 123.

10   THE COURT: P-56 and 123.

11   (Exhibit 123 admitted into evidence.)

12   MR. OLSON: Thank you very much.

13   (Video was played.)

14   Q.   (By Mr. Olson) So tell us about the

15 communication strategies Donald Trump is using in that

16 video.

17   A.   Well, he makes this proposition about

18 "If I say go get him" -- which I have no idea why a

19 national political figure would ever say "Go get

20 him" -- right? -- that -- kind of use that kind of

21 language.

22   So that's that unconventional aspect

23 that we were just talking about that for far-right

24 extremists is something that they are galvanized by,

25 that they're -- you know, they're really mobilized by

1   that lack of convention.

2   But he says -- you know, if he says

3   that, then he gets in trouble, but if he says "Don't

4   hurt him," then they say he's weak. And so it's this

5   very kind of mixed message.

6   But certainly, there's no clear,

7   consistent message about condemning violence in any,

8   you know, way, shape, or form, which you would expect,

9   again, among our leaders.

10   MR. GESSLER: Your Honor, I'm going to

11   object. The witness continues to say "you would

12   expect this among our leaders. Historically, I'm not

13   aware of any leader like this."

14   We'll accept -- or the Court has

15   accepted his expertise in far-right-wing extremism.

16   He is not an expert on political discourse, political

17   campaigns, issues along those lines, historical

18   behavior of other presidents.

19   So we'd object to that. He has very

20   limited expertise here, and that's what he's here for.

21   THE COURT: I will strike it,

22   Professor Simi's statement regarding what one would

23   expect of political leaders.

24   Q.   (By Mr. Olson) Dr. Simi, in your

25   27 years working on far-right extremism, do you look

1 at the relationship between far-right extremists and

2 politicians as part of that work that you've done?

3   A.   Yes, I do.

4   Q.   Both local and national politicians?

5   A.   That's right.

6   Q.   In your 27 years of experience, have you

7 ever seen either a statewide or a national politician

8 use the kind of language that we're seeing here from

9 Donald Trump about violence?

10   MR. GESSLER: Same objection, Your

11 Honor.

12   THE COURT: Overruled.

13   A.   No, I have not.

14   Q.   (By Mr. Olson) Okay. Let's turn to the

15 second video. And before we play the second video on

16 the screen, tell us what you see -- tell us what we're

17 going to see.

18   A.   Okay. This is also from the press

19 conference after Unite the Right, so same press

20 conference where we saw the earlier clip about "fine

21 people." And we're going to see additional comments.

22   (Video was played.)

23   Q.   (By Mr. Olson) Why does Donald Trump

24 saying "there was some rough, bad people" sort of

25 serve as a condemnation that you said you were looking

1   for?

2   A.   Far-right extremists understand that

3   those kinds of engagements, that kind of condemnation

4   is going to be necessary on some level. And, again,

5   they tell us that. So it's very clear that from an

6   audience perspective, far-right extremists realize

7   that the -- that that part of the comments were

8   necessary, but that still the overall message for them

9   they received was affirmation.

10   Q.   And as part of your work on far-right

11 extremism, have you looked at how Trump supporters

12 react to these kind of statements that we've seen?

13   A.   Yes, I have.

14   Q.   And as a general matter, what did you

15 see?

16   A.   Yeah. Well, I mentioned, for instance,

17 you know, Andrew Anglin and the comments that he made,

18 where he actually literally says that basically Trump,

19 you know, gave us, you know, encouragement,

20 affirmation. Gave us a little bit of condemnation,

21 which we understand is necessary. Overall, it's good

22 for us.

23   And, you know, many, you know,

24 nonleaders, rank-and-file, similar sentiments

25 expressed, on, you know, various social media

1 platforms and so forth.

2   Q.   Okay. Now, in your work have you seen

3 other politicians use language like "fight," et

4 cetera, in their speech?

5   A.   Oh, sure.

6   Q.   And what observed differences do you see

7 between Donald Trump's use of rhetoric like that and

8 other political speakers?

9   A.   Well, this is all about context, what

10 we've been discussing, this relationship between

11 Donald Trump and far-right extremists. It's -- you

12 know, it has to be understood within a pattern that

13 developed over multiple years.

14   And so the meaning of words within that

15 pattern, within that context, take certain shape. The

16 same word, though, in a different context without that

17 pattern would obviously have different meanings.

18   Q.   All right. In your study, have you ever

19 seen any other national political figure have the same

20 kind of repeated violence occurring in their presence

21 and refusal to condemn or endorsement of it as you see

22 with Donald Trump?

23   A.   No, I have not.

24   Q.   I want to turn now to the events leading

25 up to January 6. We've talked about sort of Donald

1 Trump's relationship with far-right extremists

2 generally, and I want to focus on the lead-up to

3 January 6.

4   And I want to start with the admitted

5 exhibit about Donald Trump saying to the Proud Boys,

6 "Stand back and stand by."

7   So let's play this, and then I have a

8 couple questions for you about this statement.

9   (Video was played.)

10   Q.   (By Mr. Olson) What impacts did Trump's

11 statement of "Stand back and stand by" to the Proud

12 Boys have?

13   A.   Well, it's powerful. It's influential

14 almost immediately. Well received. Received as,

15 again, affirmation, as an endorsement of sorts. You

16 start to see Proud Boys turn the mantra into T-shirts

17 that are being sold.

18   And it's not just the Proud Boys that

19 received that message. Far-right extremists more

20 broadly saw and heard that message as affirmation, as

21 an endorsement.

22   Q.   In this exchange, who -- well, who used

23 the word "Proud Boys"? Was he asked a question about

24 the Proud Boys, or did he pick that out of his own

25 brain to say it?

1   A.   Yeah. Can you replay it?

2   Q.   Sure.

3   A.   It's right there on the screen.

4   (Video was played.)

5   Q.   (By Mr. Olson) Did replaying it help

6   answer the question?

7   A.   Yeah. There's some crosstalk, so, you

8   know, it's a little bit harder in terms of the

9   audible. It sounds -- I mean, he obviously says

10 "Proud Boys."

11   Q.   Yeah. And you mentioned that Proud Boys

12 and other extremist groups took this as an

13 endorsement.

14   Did Trump eventually issue a statement

15 that these groups understood as a call to stop

16 standing by, but rather to act?

17   THE COURT: Before you go there, I mean,

18 I don't -- I mean, what does "Stand back, stand by" --

19 what -- how did they, in your view, interpret it?

20 Because it doesn't mean anything to me.

21   THE WITNESS: Sure. Yeah. They

22 interpreted it as a preparedness, as an endorsement to

23 be prepared and to kind of be on alert, you might say.

24   THE COURT: For something?

25   THE WITNESS: For something.

1   Q.   (By Mr. Olson) And did Donald Trump

2   then tell them what that something was?

3   A.   Yes, he did.

4   Q.   Okay. Let's show the next slide.

5   What do we see on the left on this

6   slide?

7   A.   A tweet from Donald Trump.

8   Q.   And in your work, what importance does

9   this tweet have?

10   A.   Very substantial. You see the reference

11   to a 36-page report about election fraud. And then at

12   the end of the statement is the final kind of line,

13   "Big protest in D.C. on January 6. Be there. Will be

14   wild," with an explanation point.

15   Q.   And in your work did you look at how the

16   far-right extremists reacted to this tweet?

17   A.   Yes, I did.

18   Q.   Okay. Let's play Exhibit P-80.

19   MR. OLSON: And, Your Honor, this was on

20   the admitted -- or admissible exhibits based on Your

21   Honor's earlier ruling.

22   Let's just play this as a demonstration

23   rather than admissible evidence, okay?

24   THE COURT: Okay.

25   (Video was played.)

1   Q.   (By Mr. Olson) What did you see in the

2   reaction of right-wing extremists to Trump's tweet in

3   that video?

4   A.   Well, there's quite a bit there. You

5   have various references, including specific references

6   to attacking the Capitol, storming the Capitol,

7   pushing indoors. You have a reference to a "red

8   wedding," which is a reference to a TV show, a

9   massacre that occurs on a TV show. You have general

10 kind of calls to action based on the tweet and the

11 tweets that followed in terms of, you know,

12 encouraging, urging people to go to January 6.

13   Q.   In your review of this, did you also

14 look at other reactions of right-wing extremists to

15 Donald Trump's "Will be wild" tweet beyond this?

16   A.   Yes, I did.

17   Q.   And in your general review of the

18 reaction to the "Will be wild" tweet, did you see

19 folks understand the purpose of being there?

20   A.   Yeah, absolutely. Including that it's

21 now time to take action. We were on standby, and now

22 it's time for action.

23   Q.   Okay.

24   A.   So there's actual explicit references

25 and statements made by far-right extremists about that

1   understanding.

2   Q.   Now, I want to play Exhibit P-73 next,

3   which is the video that Trump retweeted the same day

4   as the "Will be wild" speech. And I want -- let's

5   play the video, and then I'm going to ask you how you

6   connect -- what connection you see between the "Will

7   be wild" tweet and the video.

8   (Video was played.)

9   Q.   (By Mr. Olson) So, Dr. Simi, I have a

10 few questions about this video.

11   Tell us how the communication strategies

12 used in this video relate to communication strategies

13 used by other leaders of far-right extremists.

14   A.   Well, the "Fight for Trump" and "Save

15 the World, Save America."

16   So, again, this goes back to something

17 we've, you know, been talking a lot about, which is

18 this idea of an existential threat. And that's --

19 requires certain kinds of action, violent action, to

20 fend off these threats.

21   I should point out that the video is

22 reposted from TheDonald.win, a site that became a

23 hotbed for violent, far-right extremists'

24 comments/statements, including specifically related to

25 the attack on the Capitol. And that's that context

1   that's also important that we've been talking a lot

2   about, looking at the larger context from where the

3   video comes -- you know, comes from and the

4   consistency --

5   Q.   And let me stop you there.

6   What do you mean by reposted from

7   TheDonald.win?

8   Tell us how this video came to be -- did

9   Donald Trump post it from his Twitter feed, right?

10   A.   Correct.

11   Q.   Okay. So what do you mean it was

12 reposted from TheDonald.win?

13   A.   It originally appeared on

14 TheDonald.win --

15   Q.   Okay.

16   A.   -- as -- you know, a video appears on

17 any platform; it can be reposted on a different

18 platform. And so prior to Donald Trump posting on

19 Twitter, it appeared on TheDonald.win site.

20   Q.   And what significance to you does that

21 context have?

22   A.   Again, as I mentioned, TheDonald.win,

23 you know, had -- for quite some time had been a hotbed

24 for far-right extremists' comments/statements

25 involving violence. And then ultimately in the

1   lead-up to the attack on the Capitol, there were

2   specific statements about attacking the Capitol and

3   committing various acts of violence on January 6.

4   So that's --

5   THE COURT: And this is Donald.win.com,

6   or something?

7   THE WITNESS: Net, I believe. Yeah.

8   Which it's actually now Patriots. And so the name --

9   the domain name has changed since January 6.

10   Q.   (By Mr. Olson) So it was

11 Donald.win.net?

12   A.   At the -- yeah, at the time.

13   Q.   Okay.

14   A.   At that time. I couldn't tell you

15 exactly when the domain name change happened.

16   Q.   And how -- based on your work, how do

17 followers -- the right-wing extremist followers of

18 Donald Trump, interpret this "Fight for Trump" mantra

19 that we hear chanted over and over again in the video?

20   A.   Far-right extremists view the word

21 "fight" in political terms. And "fight" implies the

22 need to commit violence to fend off threats. And,

23 again, they -- from their perspective, they would see

24 fighting as a form of self-defense.

25   Q.   Now, based on your work --

1   THE COURT: When you say "self-defense,"

2   it's more of, like, an existential self-defense of

3   democracy?

4   THE WITNESS: It's a -- well, yeah, they

5   tend to be antidemocratic, so I would leave off the

6   last part. But, yes, definitely an existential threat

7   that needs to be fended off.

8   THE COURT: And a threat to democracy as

9   they see it because they feel like it's corrupt,

10 et cetera? I mean . . .

11   THE WITNESS: Yeah. So in that respect,

12 yeah.

13   Q.   (By Mr. Olson) And talk to us,

14 Dr. Simi, about how this self-defense language, the

15 Stop the Steal movement in the fall of 2020, how that

16 plays into the extremists' view of the election

17 process that is going to play out from November

18 through January.

19   A.   I'm sorry. Could you repeat the

20 question?

21   Q.   Yeah. Sure. Just following up on the

22 judge's question.

23   In terms of the existential threat that

24 you've talked about far-right extremists seeing and

25 their framing it in terms of self-defense -- let me

1   ask a preliminary question first.

2   How does self-defense, that viewpoint,

3   relate to the way the extremists looked at the

4   election and the process that followed the election?

5   A.   Again, it's about, you know, this idea

6   of theft and being -- still having things taken,

7   things stolen. So the election was stolen, the system

8   is corrupted, all of that. It's consistent with the

9   broader kind of worldview that they tend to have.

10   Q.   Okay. And what did they view, based on

11 your work, as the existential threat that the election

12 posed to them?

13   A.   To no longer have Donald Trump in power

14 and to have that taken from them.

15   Q.   Now, based on your work, how did

16 far-right extremists react to Trump's calls to come to

17 Washington, D.C., on January 6?

18   A.   That they were galvanized, mobilized,

19 energized.

20   Q.   Beyond organizing them to come to

21 Washington, D.C., what did you see about other

22 reactions they had to Trump's call for them to be

23 there?

24   A.   Well, a number of things happened after

25 the December 19 tweet, and certainly lots of messaging

1 occurred in terms of far-right extremists, you know,

2 being energized, mobilized in terms of January 6.

3   Q.   And on the next slide we have a couple

4 examples of some extremist reactions to the "Will be

5 wild" tweet.

6   Tell us what we see on the left. First,

7 who is the group, the Three Percenters, originally?

8   A.   Well, as I mentioned at the beginning,

9 the Three Percenters are, you know, organized in

10 different kinds of sects. The Three Percenters

11 Original would be one kind of sect of Three

12 Percenters, and you might have another one, Three

13 Percenters Kansas, so forth and so on across the

14 country.

15   So this was one of those.

16   Q.   And what do you see in the quote -- the

17 first quote where they said "Stand ready and are

18 standing by to answer the call from our President"?

19   A.   Yeah. This is -- you know, goes to, you

20 know, the way in which the comment about -- you know,

21 that was made during the debate really resonated with

22 far-right extremists. Not just the Proud Boys, but

23 here you see the Three Percenters referencing the

24 statement that Donald Trump made during the debate and

25 saying they're, you know, ready for action.

1   Q.   And the next quote says "Pure evil that

2   is conspiring to steal the country away from our

3   American people."

4   Do you see that?

5   A.   Uh-huh. Yes.

6   Q.   How does that fit into the pattern of

7   communication?

8   A.   Again, it represents the worldview in

9   terms of seeing these imminent threats, these

10   existential threats deeply tied to the idea of a

11   stolen election. But also more broad than that.

12   That, you know, basically our country is on the verge

13   of being completely taken away from us.

14   Q.   And the next quote from the Three

15   Percenters Original is instructing "any member who can

16   attend . . . to participate on January 6 because 'the

17   President of the United States has put out a general

18   call for patriots of this nation to gather in

19   Washington, D.C.'"

20   Did you see other examples of far-right

21   extremists viewing the "Will be wild" tweet as a

22   general call for patriots of this nation to gather in

23   Washington, D.C.?

24   A.   Yes. It was very -- I'd say very

25   substantial -- a general -- I'd say, across far-right

1 extremists, that was a substantial presence of that

2 reaction.

3   Q.   On the right we see another message.

4   Why don't you read the message and tell

5 us how that fits into what you see in those patterns

6 of communication.

7   A.   Yeah. So here you have a message that

8 says "Trump is calling for Proud Boys to show up on

9 the 6th." So pretty straightforward in terms of

10 the -- you know, the -- that's how the message was

11 received in terms of the tweet.

12   Q.   Now, beyond using social media to bring

13 people to Washington, D.C., on January 6, did Trump

14 say or do anything else to communicate his support for

15 protesters who were coming out to support him?

16   A.   Yes, he did.

17   Q.   Okay. Were there rallies between --

18 after the election and before January 6 in D.C.?

19   A.   Yes, there were.

20   Q.   Okay. Was there one in November?

21   A.   Yes, there was. The Million MAGA March.

22   Q.   And at the Million MAGA March, did it

23 turn violent?

24   A.   Yes, it did.

25   Q.   Okay.

1   MR. OLSON: And, Your Honor, I'd like to

2   show a video for demonstrative purposes only. This is

3   a video that -- on the left is Donald Trump's

4   motorcade sort of driving through the march.

5   It hasn't been admitted, but I think

6   just for demonstrative purpose only, if I can show it

7   for the expert?

8   THE COURT: Yep. That's fine.

9   (Video was played.)

10   Q.   (By Mr. Olson) So what do we see in

11   that video, Dr. Simi?

12   A.   Well, you see a presidential motorcade

13   driving, you know, through the protest, the site of

14   the protest. And obviously, they're responding very

15   favorably to the motorcade and are very excited, and,

16   you know, viewing this as what seems to be an

17   affirmation of sorts.

18   Q.   In your work on political violence and

19   extremism, have you ever seen a national politician

20   show support like this for a rally that turned

21   violent?

22   MR. GESSLER: Objection. Your Honor.

23   That's a leading question.

24   MR. OLSON: I'll re-ask it.

25   THE COURT: If you can rephrase.

1   The objection is sustained.

2   Q.   (By Mr. Olson) Dr. Simi, how does the

3   video we just watched relate to your study of other

4   national politicians?

5   MR. GESSLER: Objection. Your Honor. I

6   don't think he's testified that he's studied other

7   politicians. It's beyond the scope of expertise.

8   THE COURT: He did actually previously

9   testify that a part of his work includes studying

10 national politicians in general and their relationship

11 to extremism.

12   So I'm going to let him answer the

13 question to the extent he can.

14   A.   I've never seen anything -- certainly in

15 recent history that's similar to this -- what

16 happened in the video.

17   Q.   (By Mr. Olson) On the right, what do we

18 see?

19   A.   So this is a tweet by Donald Trump

20 responding to what happened ultimately in terms of the

21 violence that occurred.

22   And you see it starts with "Antifa scum

23 ran for the hills today when they tried attacking

24 people at the Trump rally, because those people

25 aggressively fought back. Antifa waited until

1 tonight" -- ultimately, it says "to attack innocent,

2 hashtag, MAGA people. D.C. police, get going. Do

3 your job and don't hold back."

4   THE COURT: So was the violence before

5 or after the drive-through?

6   THE WITNESS: After.

7   THE COURT: After?

8   THE WITNESS: Yeah. It was in the

9 evening.

10   Q.   (By Mr. Olson) How did far-right

11 extremists view Donald Trump's comments on the

12 violence?

13   A.   Endorsement. It's pointing, you know,

14 essentially responsibility for -- at Antifa. And

15 using, you know, a language that would be consistent

16 with the kind of language they would use to describe

17 Antifa as scum.

18   So again, there's alignment in terms of

19 the language, and then there's the, you know, at least

20 perceived endorsement of the violence that, again,

21 framed as self-defense, that the violence directed

22 towards Antifa was necessary for self-defense

23 purposes.

24   Q.   Were there events outside of rallies

25 that show you how extremists reacted to Trump's

1   rhetoric about Stop the Steal and invocation of

2   political violence?

3   A.   Yes, there were.

4   Q.   Okay. Let's look, next, at the video --

5   the video that's already been admitted into evidence.

6   And before we play the video, tell us,

7   what are we looking at here?

8   A.   As the Stop the Steal conspiracy theory

9   started galvanizing far-right extremists, one of the

10 things we saw was a substantial increase in threats to

11 election workers and election officials.

12   And so here we're about to hear from one

13 of the officials in Georgia in the Secretary of

14 State's office essentially ask President Trump to stop

15 inciting violence. So that would be his comments --

16   Q.   Okay.

17   A.   -- in the video.

18   Q.   So let's play the video, and then let's

19 talk about how Trump responded to that request.

20   A.   Okay.

21   (Video was played.)

22   Q.   (By Mr. Olson) Who was he telling to

23 stop encouraging people to engage in violence?

24   A.   President Trump.

25   Q.   Okay. How did President Trump respond

1 to that specific call from the Georgia Secretary of

2 State worker to stop telling people to engage in

3 violence?

4   A.   So to the right of the video you just

5 played is Donald Trump tweeting a message, but also

6 retweeting the video that -- it's a clip of the video

7 that we just saw. So we see in the comment, "Rigged

8 election. Show signatures and envelopes. Expose the

9 massive voter fraud in Georgia."

10   So we get the video where he's being

11 asked to condemn violence, stop inspiring violence.

12 And the response is to double-down on the very thing

13 that Mr. Sterling has claimed is inspiring the threats

14 of violence towards the election workers and officials

15 in Georgia.

16   So the double-down on the thing that's

17 inspiring it, no reference to condemning violent

18 threats or saying there's no place for that. That's

19 completely omitted in the --

20   THE STENOGRAPHER: In the what?

21   A.   In the video clip.

22   Q.   (By Mr. Olson) Based on your work, how

23 would far-right extremists perceive Trump's response?

24   A.   Endorsement. Support. This is --

25 there's no condemnation. There's -- so you get that

1   omission that we talked about earlier, which is often

2   perceived by far-right extremists as a sign of

3   support. But also the doubling-down on the very thing

4   that's galvanizing the threats in the first place

5   would be a sign of support from the perspective of

6   far-right extremism.

7   Q.   I want to turn now to the days leading

8   up to January 6.

9   In your review of what happened, did you

10 find evidence that helped you understand why some

11 attacked the Capitol?

12   A.   Yes, I did.

13   Q.   Okay. I want to play for demonstrative

14 purposes only a video, P-81, and then we can talk

15 about the context that these speeches fit into the

16 larger January 6 event.

17   (Video was played.)

18   Q.   (By Mr. Olson) So what do we see here,

19 Dr. Simi? Why is this important for your work in this

20 case?

21   A.   In the first portion of the video clip,

22 you see Ali Alexander talking about 1776 -- speaking

23 to 1776 being an option. And you see the references

24 to the deep state being degenerates. So, again, we're

25 back to the dehumanizing language, which is an

1 important piece of this in terms of enabling violence.

2 So that's that portion of the beginning.

3   And then the second kind of portion is

4 Alex Jones shouting repeatedly, "1776." And, again,

5 within this cultural context, that term is going to

6 have a very specific meaning that's different than it

7 would for outsiders outside of that context.

8   Q.   And in the video we see a couple banners

9 in the background.

10   Tell us what those banners show.

11   A.   Well, you see one to my right, a white

12 banner that says "Stop the" -- "Stop the Steal." It's

13 sort of -- "Stop the Steal" in black lettering.

14 There's a "Trump" banner, "2020." There's -- you

15 know, so . . .

16   Q.   Okay. And now, do you know which people

17 on January 6 stormed the Capitol saw which political

18 speech the day before?

19   A.   I mean, certainly not across the board,

20 no.

21   Q.   Yeah. And does that undercut your

22 ability to explain what happened on January 6?

23   A.   No, I don't think so.

24   Q.   Why not?

25   A.   We're talking about a lot of different

1   sources of influence. We're talking about what

2   happened specifically on January 6 in terms of the

3   speech at the Ellipse. We're talking about various

4   tweets. We're talking about various events in the

5   lead-up to January 6.

6   So, you know, for saying one thing is

7   the source of the influence would, you know, not be

8   really accurate.

9   What we can see, though, is among

10   far-right extremists how these different sources of

11   influence ultimately resulted in terms of producing

12   the attack on the Capitol.

13   Q.   And in your work, did you see Donald

14   Trump as leading that influence?

15   A.   Yes, I did.

16   Q.   Now, let's talk about what happened on

17   January 6.

18   THE COURT: So before -- I think what

19   we're going to do, since it's been almost two hours --

20   MR. OLSON: Okay.

21   THE COURT: -- is -- let's take a break.

22   But, Mr. Gessler, I just want to make

23   sure that you'll do cross probably immediately

24   following without a break in between.

25   Because I'm assuming, Mr. Olson, that

1   you're kind of getting towards the end?

2   MR. OLSON: Yeah. I probably have

3   another 20 to 30 minutes.

4   THE COURT: Okay. So we'll go straight

5   into direct after Mr. Olson finishes -- or we'll go

6   straight into cross after Mr. Olson finishes his

7   direct. And we will be back at --

8   MR. OLSON: Just -- before we break, I

9   just want to make sure we have a common understanding

10 about the -- our interaction with witnesses during

11 breaks that are on the stand.

12   I assume we're not to talk to them about

13 the subject of testimony --

14   THE COURT: Yes. Yes, please.

15   MR. OLSON: -- while on a break? Okay.

16 Great. Thank you.

17   THE COURT: So we will be back at 10:15.

18   (Recess from 10:01 a.m. to 10:19 a.m.)

19   THE COURT: Everyone may be seated.

20   So I think we were at the day of?

21   MR. OLSON: Yes.

22   THE COURT: Okay.

23   MR. OLSON: Thank you, Your Honor. Just

24 one quick housekeeping matter.

25   Q.   (By Mr. Olson) Dr. Simi, over the break

1   I was looking at your report, and in your report you

2   talked about a website called TheDonald.win.

3   A.   Yes.

4   Q.   Is that what we were talking about

5   before?

6   A.   Yes.

7   Q.   Okay.

8   A.   Forgive me.

9   Q.   Thank you.

10   I want to turn now to the morning of

11 January 6.

12   Did Trump make any statements or remarks

13 that you focused on before the speech?

14   A.   Yes, I did.

15   Q.   You --

16   A.   I'm sorry. Yes, I did.

17   Q.   Okay.

18   A.   Yes, sir.

19   Q.   What do we see here on the morning of

20 January 6 before the speech?

21   A.   Two tweets from Donald Trump, both

22 referencing Vice President Mike Pence. In the upper

23 tweet:

24   "If Vice President Mike Pence comes

25 through for us, we will win the presidency. Many

1 states want to decertify the mistakes they made in

2 certifying incorrect and even fraudulent numbers in a

3 process not approved by the state legislators. Mike

4 can send it back."

5   THE COURT: So, Professor Simi, when you

6 read, then you're even faster. And I have the vantage

7 point of being able to see the court reporter

8 struggling.

9   THE WITNESS: Okay.

10   THE COURT: So --

11   THE WITNESS: My sincere apologies.

12   THE COURT: I'm just trying to protect

13 the record.

14   THE WITNESS: Sure. Sure.

15   THE COURT: Did you get it?

16   THE STENOGRAPHER: I believe so.

17   Q.   (By Mr. Olson) So let's not read the

18 second tweet, Dr. Simi.

19   But I do want to ask you, both focus on

20 Mike Pence, right?

21   A.   That's correct.

22   Q.   What significance does these early

23 warning statements focusing on Mike Pence from Donald

24 Trump have in your study?

25   A.   It's part of the -- this stolen

1   election, that if Mike Pence takes certain actions,

2   then, you know, Donald Trump would remain in power.

3   Which, again, for far-right extremists, they're seeing

4   this in terms of the -- what's necessary to prevent

5   the transfer of power for Donald Trump to remain

6   President.

7   Q.   Now let's turn to some of the speech

8   that Donald Trump gave on the Ellipse.

9   But before we do that, can you tell us,

10   did you see similarities or differences between the

11   speeches of Donald Trump that we looked at earlier

12   today and the speech he gave on the Ellipse in terms

13   of his use of language?

14   A.   Yeah. Many similarities.

15   Q.   Okay. Can you give us some examples we

16   should be looking for?

17   A.   Sure. A certain aggressive kind of

18   words in terms of phrasing of things, the really

19   strong emphasis, again, on this issue about an

20   existential threat, the idea that something is going

21   to be taken from you -- your country, your culture,

22   your way of life. These kind of themes that we've

23   been discussing, very prevalent.

24   Q.   Okay. Let's watch the speech, and then

25   I want to ask you some questions about it -- or

1   portions of the speech.

2   (Video was played.)

3   Q.   (By Mr. Olson) What did we see in this

4   speech that related to Trump's use of language?

5   You mentioned it was similar to what

6   he's used before. What do we see here in terms of his

7   use of language before that led to violence?

8   A.   "Fight" or "fighting," some variation is

9   mentioned approximately 20 times in the speech. There

10   was a strong emphasis on this. There's at one point

11   the association between fighting and playing by a

12   different set of rules when you have fraud.

13   So there's this kind of -- what you

14   might call permission in terms of using other -- other

15   actions than one might take. There is a -- the focus

16   on losing your country is a consistent theme. And

17   there is a mention of peaceful and patriotic, which is

18   also consistent with many things we've been talking

19   about in terms of plausible deniability.

20   Q.   Based on your understanding of political

21   extremism, how would extremists have understood

22   Trump's repeated calls to fight in that speech?

23   A.   A call to violence.

24   Q.   Why?

25   A.   It's -- within far-right extremist

1 culture, fighting is meant to be taken literally. A

2 call to fight for far-right extremists, especially

3 within the context as it's laid out, that these

4 threats are imminent and that you're going to lose

5 your country, then fighting would be understood as

6 requiring violent action.

7   Q.   Trump in the speech said, "We're going

8 to walk peacefully and patriotically."

9   Why wouldn't the extremists in the

10 audience have understood Trump calling only for a

11 protest, a peaceful protest?

12   A.   Part of it has to do with the emphasis.

13 So we get back to contextual cues which are extremely

14 important in terms of understanding how communication

15 operates. And in this case there's such a balance in

16 favor of the fighting versus only the one reference to

17 the peaceful -- you know, marching peacefully down to

18 the Capitol.

19   So there's a clear -- for far-right

20 extremists, there would be a clear understanding that

21 fighting is the real message, not being peaceful.

22   THE COURT: Is it your testimony that if

23 you had watched that speech that -- and nothing had

24 happened, that you would have the same view? I mean,

25 I guess, what worries me with all of this is it's all

1 kind of in sort of 20/20 hindsight. You know, we know

2 what happened.

3   So if -- and first of all, did you watch

4 the speech in real time?

5   THE WITNESS: No, I did not.

6   THE COURT: Okay. But is it your

7 testimony that had you watched it in real time prior

8 to knowing the ultimate result that you would have

9 considered it a call to violence?

10   THE WITNESS: Yes, that is my testimony.

11 Yeah. I was already concerned, certainly, about the

12 precursors to January 6. And that speech in real

13 time, given the language, the reference, the amount of

14 emphasis on fighting, that would have given me very,

15 very substantial concern that violence would be soon

16 to follow.

17   Q.   (By Mr. Olson) And, Dr. Simi, if I can

18 follow up on that.

19   Did you have an interview with a

20 reporter prior to the election in 2020?

21   A.   Yes, I did.

22   Q.   And in that interview to the reporter --

23 a reporter for The Atlantic, I think?

24   A.   That's correct.

25   Q.   Okay. And in that interview with The

1   Atlantic, did you -- what did you say about the

2   likelihood of political violence led by Donald Trump?

3   A.   I said it was quite high, especially in

4   a scenario if he was not reelected. That my concern

5   was not necessarily the election itself. It would be

6   post-election, in particular as we get closer to

7   inauguration time.

8   Q.   Did what we saw on January 6 reflect

9   your concern that you made before the election?

10   A.   Yes, it did.

11   Q.   About political violence led by Donald

12   Trump?

13   A.   Yes, it did.

14   Q.   Okay. Now we've heard some testimony

15   that some of the Proud Boys and Oath Keepers already

16   had a plan to attack the Capitol. You mentioned the

17   "1776 Return" sort of planning document.

18   How could this speech by Donald Trump

19   affect them if they already had a plan and were

20   already executing the plan?

21   A.   Well, two things I would just want to

22   mention.

23   First, the plan among those like the

24   Proud Boys to, you know, go directly to the Capitol

25   and essentially begin executing the attack, that was

1 largely influenced by things that happened prior to

2 January 6 that involved Donald Trump. Not the least

3 of which would have been the December 19 "Will be

4 wild."

5   In terms of what happens on January 6,

6 though, the individuals who ultimately marched to the

7 Capitol and take -- for those that take part in the

8 attack on the Capitol, they are going there at the

9 urging of Donald Trump. What that ends up doing, it

10 creates a situation where you have this very -- you

11 know, much larger crowd than you would have had, you

12 know, with just those that went directly to the

13 Capitol.

14   And, of course, that -- you know, as

15 Officer Hodges testified to yesterday, that becomes a

16 weapon of sorts itself. It certainly becomes a force

17 multiplier. And so that large number of individuals

18 who then appear at the Capitol, some of whom then

19 directly take part in the attack, all of that becomes,

20 you know, a reinforcement to those who went there

21 directly.

22   Q.   And earlier you talked about sort of the

23 violence implementers, the violence planners.

24   Remind us the term for the folks that

25 are maybe open to it but don't show up with a plan.

 1   A.   There -- well, we refer to them exactly

 2   in those terms. So there's also the term "sympathetic

 3   bystander" which would fit some of those who, you

 4   know, marched to the Capitol as well who may not have

 5   necessarily directly partaken in the violence, but

 6   were there.

 7   And, you know, as was, I think,

 8   illustrated yesterday, just the size of the crowd

 9   became, you know, a very substantial obstacle that

10   prevented the Capitol from being protected.

11   Q.   And you spoke -- well, let me ask a

12   threshold question first.

13   Based on your review of what happened on

14   January 6, did the crowd have a unity or purpose that

15   you saw?

16   A.   Yes, it did.

17   Q.   Okay. Even though some were more prone

18   to violence than others?

19   MR. GESSLER: Objection. Leading, Your

20   Honor.

21   THE COURT: Why don't you just answer

22   the first question.

23   The original question was did the crowd

24   have unity or purpose that you saw?

25   THE WITNESS: Yes, it did. I can go

1 ahead and expand.

2   THE COURT: Can you explain?

3   THE WITNESS: Yeah. Sure.

4   A.   It certainly wasn't that every single

5 person -- there was a kind of single mind to the

6 crowd. But you can see, as demonstrated in some of

7 the video footage, some of the things that people said

8 after the fact, some of the things we learned from

9 some of the court documents, for example -- you can

10 see there were certainly, you know, a degree of unity

11 of purpose in terms of coordination and cooperation

12 and collaboration during the attack on the Capitol.

13   Q.   (By Mr. Olson) Okay. Let's play some

14 videos from the Capitol.

15   MR. OLSON: And, Your Honor, P-117

16 similarly is a list -- is an exhibit that you deemed

17 admissible. We'll play it just for demonstrative

18 purposes here because it involves folks other than

19 Trump.

20   But let's play this video, and then I

21 have a couple of questions.

22   THE COURT: Okay.

23   (Video was played.)

24   Q.   (By Mr. Olson) So I want to first focus

25 on the first call that "This is our house; this is a

1   revolution."

2   Based on your understanding of the

3   communication patterns of far-right extremists, what

4   does "This is a revolution" -- how would that be

5   interpreted?

6   A.   It's a violent revolution. Yeah. And,

7   of course, by this time, you know, there had been

8   various violent acts taken.

9   Q.   And on the second clip we see with the

10 language still on the screen, you see "Fight back.

11 They touch us, we hit them back."

12   How does that relate to some of the

13 communication patterns we talked about today?

14   A.   Very consistent with this theme of

15 self-defense, so framing the violence that one might

16 be committing, but setting it up as necessary to

17 defend oneself.

18   Q.   And who is the "they" in here?

19   A.   The members of the crowd that are saying

20 it.

21   Q.   No. I'm sorry. "They touch us" --

22   A.   Oh, I'm sorry. Yeah. The police

23 officers.

24   Q.   Now, on the right we see a flag flying

25 there. We see two flags.

1   What's the meaning of the symbolism in

2   the bigger flag?

3   A.   Yeah. So it's a -- you know, a U.S.

4   flag there, but it has a Three Percenter symbol in the

5   blue portion. And then you can see in the background

6   there's a Confederate flag, which is a pretty

7   prominent symbol used among far-right extremists to

8   represent the Confederacy and the U.S. Civil War.

9   Q.   Now, did you see -- in your review of

10 what happened in the Capitol, did you see other

11 indicia that folks came, planned to commit violence

12 there.

13   A.   Yes, I did.

14   Q.   Talk to us about what you saw, evidence

15 of folks came planning to commit violence?

16   A.   Based on equipment the people brought,

17 including weapons. But also things like tactical

18 gear, headgear, various sorts of kind of

19 preparation -- you know, things that would indicate a

20 certain person had planned ahead of time that they

21 would be engaged in violence.

22   Q.   You mentioned weapons. And I believe

23 Mr. Gessler said yesterday there were no weapons

24 discovered at the Capitol.

25   Were there weapons discovered at the

1 Capitol?

2   A.   Yes. Absolutely.

3   Q.   Okay. What kinds of weapons?

4   A.   A wide range. Certainly knives. There

5 were, of course, flagpoles that were used as weapons.

6 Officers in some cases had their own weapons taken

7 from them and used. And, of course, you know --

8   MR. GESSLER: Your Honor, we're going to

9 object to this. He's testifying on items that he has

10 no personal knowledge of.

11   Obviously, he is able to base his expert

12 report and develop his opinions based on hearsay, but

13 here he's actually testifying as a fact to things he

14 has no personal knowledge of.

15   To the extent the petitioners want to

16 prove weaponry, they can use sources and whatever they

17 seek to do, but they don't get it in through expert

18 testimony.

19   MR. OLSON: Your Honor, if may I

20 respond?

21   THE COURT: Sure.

22   MR. OLSON: This goes directly to

23 Dr. Simi's observation that many of the right-wing

24 extremists at the Capitol came prepared to be violent.

25 Just like they brought tactical gear, the fact that

1 they brought weapons supports his claim or his opinion

2 and finding that the people were there with a purpose

3 of committing violence and engaging a violent

4 political attack on the Capitol.

5   THE COURT: And was this disclosed?

6   MR. OLSON: Yes. This was on page 33 of

7 his report.

8   MR. GESSLER: Can you just give me a

9 moment to look at page 33?

10   THE COURT: Sure. Of course.

11   MR. GESSLER: Your Honor, his opinion is

12 that people coming armed to the Capitol is consistent.

13 That is different than, you know, him providing

14 substantive testimony that people actually were armed.

15 If he wants to accept that information as a

16 hypothetical, then he can base an opinion on it.

17   But the fact of the matter is, Your

18 Honor, when Mr. Olson said, "Can you," he's basing

19 that on his observations. If he was at the Capitol on

20 January 6, he can certainly testify to that. And if

21 that's a premise of his opinion, that's fine.

22   But he doesn't get to testify as to the

23 actual testimony of that -- the actual facts.

24   THE COURT: Okay. Well, he was here and

25 he watched the videos where we all saw people armed.

Proceedings Day 2
October 31, 2023

1   But . . .

2   MR. OLSON: Your Honor, if I may --

3   THE COURT: I'm taking it for what it's

4   worth, Mr. Gessler. He obviously was not a -- he

5   didn't -- he wasn't at the Capitol, I presume?

6   THE WITNESS: That's correct.

7   THE COURT: And so his testimony is

8   based on -- in part on what he's observed in court.

9   And I'm not going to strike his testimony that it's

10   his understanding that people were armed.

11   MR. OLSON: Your Honor, if I could? I

12   just want to correct a significant misrepresentation

13   that Mr. Gessler just made about the report.

14   I put a page on the screen about what

15   Dr. Simi actually said. And he didn't say what

16   Mr. Gessler said. He says, in the first line there,

17   "Many who attended came prepared for violence from

18   those armed with weapons, including guns to tactical

19   gear."

20   Then he talks through a list of

21   significant examples where there were findings by

22   people. Either they refused to go through the

23   magnetometers or folks were arrested.

24   So this is a significant and substantial

25   disclosure that Mr. Gessler misrepresented.

1   THE COURT: Okay. So the objection

2   is --

3   THE STENOGRAPHER: The objection is

4   what?

5   THE COURT: Overruled.

6   Q.   (By Mr. Olson) Let me get us back to

7   where we were. So we'll pick up where we left off,

8   Dr. Simi. We talked about this slide.

9   Now, in addition to coming armed and

10   with tactical gear, was there other evidence that you

11   relied on in understanding the mob's purpose at the

12   Capitol?

13   A.   Sure. A variety of things. Things that

14   were, you know, apparent on the video footage, things

15   that were learned after the fact in terms of

16   statements that individuals made. And then, of

17   course, you know, prior to January 6 itself, the

18   information that was available on open source, on

19   social media about the plans in terms of committing an

20   attack on the Capitol, so . . .

21   Q.   Okay. Did you review as part of your

22   work a collection of sort of social media statements

23   that participants in the -- that the mob made

24   describing why they were there and what their purpose

25   was?

1   A.   That's correct.

2   MR. OLSON: Okay. I'm not offering this

3   for admissibility, but just to talk about the basis

4   for Dr. Simi's opinion.

5   If I could bring up Exhibit P-25 just to

6   show the kind of things he relied on. I just wanted

7   to -- Your Honor, instead of hearsay, we're not

8   offering it as direct evidence, but it's a

9   demonstration of the kind of material that Dr. Simi

10   relied on.

11   THE COURT: Well, that's -- let's get

12   him to confirm that first.

13   MR. OLSON: Okay. So can I show it to

14   him to make sure we're talking --

15   THE COURT: Yeah.

16   MR. OLSON: Okay. Great. Thank you.

17   Q.   (By Mr. Olson) So, Dr. Simi, on the

18   screen should be -- nope. This is -- I'm sorry. I

19   have the wrong exhibit.

20   MR. OLSON: We'll move on, Your Honor.

21   I apologize.

22   Q.   (By Mr. Olson) But did you rely on a

23   compilation of statements on social media as to why

24   people were there at the Capitol?

25   A.   Yes, I did.

1   Q.   And can you just tell us at a high level

2 what that was -- or the kind of statements they made?

3 Excuse me.

4   A.   Yeah. To -- you know, to attack the

5 Capitol to prevent the certification of the election

6 results, to disrupt the democratic --

7   THE STENOGRAPHER: To disrupt the what?

8   A.   The democratic transfer of power.

9   Q.   (By Mr. Olson) Did you -- great.

10   And then did you look at -- sorry. We

11 already saw that.

12   Did you look at some videos of the mob

13 itself in terms of their unity of purpose?

14   A.   Yes, I did.

15   Q.   Okay. I think we've seen the video on

16 the right a couple of times. This is when Danny

17 Hodges was attacked, so let's not play that.

18   But tell us what the video on the left

19 is.

20   A.   In this you're going to see a

21 substantial number of folks start chanting,

22 "Heave-ho." And so that's a coordination and kind of

23 vocalization that they're engaged in as they're moving

24 in a particular direction.

25   Q.   And what are they trying to do?

1   A.   They're trying to essentially push

2   through the barricade of officers in this kind of

3   tunnel -- tunnel area.

4   (Video was played.)

5   MR. OLSON: And, Your Honor, that was

6   Exhibit P-21. And we -- it's on the -- the objection

7   was overruled. It was on the to-be-admitted exhibit

8   list. We move for admission of P-21.

9   THE COURT: Admitted.

10   (Exhibit 21 admitted into evidence.)

11   Q.   (By Mr. Olson) Now, we've talked --

12   I'll skip to the next one.

13   We've talked about the mob's purposes.

14   Did you see any evidence in your review

15   of the material in this case that showed Trump's role

16   in the attack as the attackers -- what they thought

17   Trump's role in the attack was?

18   A.   Yeah. There was definitely consistent

19   themes in terms of individuals reporting that they --

20   they believed Donald Trump had sent them there,

21   that -- you know, indicating substantial influence

22   from Donald Trump.

23   MR. OLSON: And if we -- this is video

24   P-96. Again, it is the video of what happened on

25   January 6, Your Honor.

1   We would -- it's on the to-be-admitted

2   list from October 27. We move for its admission as

3   well.

4   THE COURT: Is this the one that was

5   prepared by the January 6 --

6   MR. OLSON: Yes.

7   THE COURT: -- Committee?

8   MR. OLSON: Yes.

9   THE COURT: I will admit.

10   MR. OLSON: Thank you.

11   Q.   (By Mr. Olson) Let's play the video,

12   Dr. Simi.

13   (Video was played.)

14   Q.   (By Mr. Olson) And in addition to this

15   compilation put together by the January 6 Committee,

16   do you see other evidence of the stated purpose why

17   people were there?

18   A.   Yes, I did.

19   Q.   Okay. And actually, I think I had the

20   right exhibit up. I was looking at the wrong page

21   from before. So let's try this again. I apologize.

22   MR. OLSON: Again, for demonstrative

23   purposes only, Your Honor, let's look at P-25.

24   Q.   (By Mr. Olson) And if we scroll down

25   here -- and I can just -- can you read that okay, or

1   do I need to make that bigger?

2   A.   No, I can read that fine. Thanks.

3   Q.   Okay.

4   A.   That helped.

5   Q.   And, for instance, we see -- is this

6   what you -- part of what you looked at in your work on

7   this case?

8   A.   That's correct.

9   Q.   And we see statements like this that

10 were collected as part of legal proceedings: "I am

11 here to see what my President called me to D.C. for."

12   Do you see that?

13   A.   Yes, I see that.

14   Q.   And then we see this sort of statement

15 after statement of a similar vein. We can just pull

16 up this page.

17   And -- like we see a statement here from

18 a Watson about why they went to D.C.

19   Are these the kind of statements you

20 relied on to see the purpose for why these folks went

21 to D.C.?

22   A.   Yes. This would be consistent.

23   Q.   Okay. Now, I want to turn back to the

24 attack on the Capitol.

25   And did we --

1   THE COURT: Before we move on, I am

2   going to exclude 96. I apologize. I think I only --

3   I must not have watched the whole thing, but I'm going

4   to exclude it as hearsay. That doesn't mean if that's

5   something that Mr. Simi would consider in forming his

6   opinions that he can't do that, but I'm not going to

7   admit it into evidence.

8   So 96 is excluded.

9   MR. OLSON: Okay. Thank you, Your

10   Honor.

11   Q.   (By Mr. Olson) And just to make sure

12   the record is clear: Dr. Simi, did you look at

13   Exhibit 96 and other statements by folks at the

14   Capitol as part of forming your opinion?

15   A.   Yes, I did.

16   Q.   Okay. Great.

17   Now, did Trump do anything during the

18   attack that influenced the extremists engaging in it?

19   A.   I'm sorry. Can you repeat the question?

20   Q.   Did Trump do anything during the attack

21   that influenced the extremists engaging in it?

22   A.   Yes.

23   Q.   What was that?

24   A.   Well, there's a -- the tweet we're

25   reading -- or we're looking at here from Donald Trump

1 indicates that Mike Pence didn't have the courage to

2 do what was -- he was expecting and what he wanted and

3 that, you know, the fraud would not be rectified,

4 basically, that Mike Pence was supposed to rectify the

5 stolen election and that --

6   THE STENOGRAPHER: And that what?

7   A.   And that did not happen.

8   Q.   (By Mr. Olson) We saw the tweets

9 earlier in the day where Trump was focused on Mike

10 Pence, right?

11   A.   Yes. That's correct.

12   Q.   And did Trump talk about Mike Pence's

13 courage in the Ellipse speech?

14   A.   Yes, he did.

15   Q.   Okay. And so now he says "Mike Pence

16 didn't have the courage."

17   Now, we've seen the video of the person

18 reading his tweet with a bullhorn, so I'm not going to

19 replay that now. But I do want to ask you about one

20 image from that video, which is the noose that we see

21 there.

22   Based on your study of the right-wing

23 extremists, does a noose have any particular meaning

24 in that movement?

25   A.   Within far-right extremist culture,

1 there is a particular book that has a substantial

2 amount of influence called "The Turner Diaries." It

3 was published in 1978. And it's a -- it's a fantasy

4 fictional novel, but it envisions a revolution within

5 the United States.

6   And there's a passage in the book that's

7 referred to as the Day of the Rope. And the Day of

8 the Rope in the novel, what they call as race

9 traitors, political opponents of various sorts, are

10 hung from lightposts or lampposts, and this is a mass

11 killing. And that term, "Day of the Rope," has a lot

12 of salience among far-right extremists.

13   We actually saw it used by one of the

14 members of the Proud Boys specifically referencing

15 what was going to happen on January 6 use the term,

16 "It's going to be 'Day of the Rope.'"

17   And I'm paraphrasing, but something to

18 that effect, yes.

19   Q.   Okay. Now, did Trump eventually say

20 something that caused the crowd to stop their attack?

21   A.   Yes, he did.

22   Q.   Okay. Let's look at -- was this video

23 what you had in mind?

24   A.   Yes.

25   Q.   Okay. I know we've played this video

1 before, but let's play it one more time. I'd like to

2 get your input on the video based on some of our

3 earlier conversations today.

4   (Video was played.)

5   Q.   (By Mr. Olson) Dr. Simi, based on our

6 discussions of how leaders of right-wing extremists

7 communicate to their followers, how does this speech

8 fit into that context of the communication style?

9   A.   From the perspective of far-right

10 extremists, I think there's three things happening

11 here. One is a continuing affirmation of the stolen

12 election conspiracy theory. So really continuing to

13 emphasize the idea that the election was stolen.

14   Two, an affirmation of the attackers and

15 the attack that just happened.

16   And then, three, there is consistent

17 messaging in terms of going home.

18   Q.   Why is it -- consistent messaging in

19 terms of going home notable in your experience?

20   A.   It's not just a one-off. It's not just

21 something that seems more about developing plausible

22 deniability. But it does come across as a consistent

23 theme that this is what Donald Trump wants us to do.

24   Q.   Did he, in this speech, condemn the acts

25 of violence?

1   A.   No, he did not.

2   Q.   I want to turn to one last tweet from

3   Donald Trump.

4   This is at -- this is -- was this before

5   or after the speech we just saw?

6   A.   This is after.

7   Q.   Okay.

8   A.   About two hours approximately.

9   Q.   And how does this tweet about what

10   happened that day fit into the pattern of

11   communication of leaders of far-right extremism?

12   A.   Again, there is no condemnation; there's

13   affirmation. Again, further emphasizing the stolen

14   election, referring to patriots -- "great patriots,"

15   actually.

16   So for far-right extremists, that is a

17   very substantial, meaningful term, because they see

18   themselves as patriots, and this emphasis on being

19   treated unfairly.

20   Q.   Does Donald Trump continue to enjoy

21   strong support from far-right extremists?

22   A.   Yes, he does.

23   Q.   Now, I forgot to ask this earlier.

24   Before we get to your sort of headline

25   or your conclusions here, Dr. Simi, have you been paid

1   for your work in this case?

2   A.   Yes, I have.

3   Q.   Tell us how much you've been paid and

4   what your hourly rate is.

5   A.   Approximately $35,000.

6   Q.   Okay. And what's your hourly rate?

7   A. $300 an hour.

8   Q.   Okay. Is that your standard rate?

9   A.   That's my standard, yeah.

10   Q.   All right. Thank you.

11   Let's look at sort of the conclusion

12 slide here. Could you describe for the Court your

13 conclusions about the issues that you were asked to

14 address in this case?

15   A.   January 6 in terms of the attack on the

16 Capitol certainly should be seen within a larger,

17 longer context of political violence committed by

18 far-right extremists.

19   There is certainly a high degree of

20 evidence supporting that the violence was committed

21 for political goals, political purposes. Certainly,

22 there's a large number of people in planning or

23 organization that was present, apparent in terms of

24 the attack on the Capitol. And that the goal really

25 was focused on preventing the democratic transfer of

1   power.

2   Now, within that context of far-right

3   extremist violence, January 6 does have some unique

4   aspects to it that are also important to underscore.

5   So the size, the intensity, and the scope would stand

6   out in terms of the -- what's represented by the

7   attack on the Capitol.

8   And there's most notably the role that

9   Donald Trump played in terms of influencing the

10   events. The nurturing of the violence ultimately

11   committed in terms of the attack on the Capitol, that

12   would certainly be distinctive from other -- you know,

13   other types of violence committed by far-right

14   extremists.

15   Q.   How confident are you in your conclusion

16   that Donald Trump played a central role leading these

17   events?

18   A.   Very confident.

19   Q.   Why is that?

20   A.   It's in the evidence. It's from my

21   years of studying how far-right extremists, you know,

22   perceive communication; the relationship that they

23   developed with Donald Trump over multiple years; the

24   various signals, including everything from the things

25   we discussed at the rallies in terms of promoting or

1   endorsing violence; the things done over social media;

2   the messages in regards to various types of out-groups

3   that are identified by far-right extremists that are

4   aligned with many of the things Trump said over the

5   years.

6   So that relationship that was

7   established and built really, I think, underscores how

8   much influence he has for far-right extremists and how

9   much they perceive him as essentially on their side or

10   one of them.

11   Q.   And in this pattern -- repeated pattern

12   of communications, do you have any doubt in your mind

13   that Donald Trump is aware of the influence his words

14   have on right-wing extremists?

15   A.   It seems pretty clear to me. You know,

16   I'm not in Donald Trump's mind, obviously, but the --

17   you know, in terms of observable patterns, in terms of

18   the repeated nature of the things we've been

19   discussing, that's all pretty apparent.

20   MR. OLSON: Okay. All right. Your

21   Honor, these are all the questions I had. But I want

22   to -- if you had any additional things you wanted to

23   ask Dr. Simi about, I wanted to make sure we covered

24   those before I sit down.

25   THE COURT: I'll follow up on that last

1 question about -- you know, how obviously you're not a

2 mind reader, you don't know what President Trump was

3 thinking.

4   I guess, what more can you say about the

5 possibility that this just isn't how -- isn't just he

6 speaks this way versus deliberately speaking in a way

7 that would cause people to react?

8   THE WITNESS: Well, again, I would come

9 back to this point about, yes, social scientists, we

10 are trained to try and identify observable patterns.

11   And so, you know, I completely am not in

12 Donald Trump's mind. But there are patterns that

13 we've been discussing that were observable that

14 occurred over multiple years where you have these kind

15 of repeated, you know, occurrences and things of

16 similar nature kept repeating to occur.

17   And we also, from a far-right

18 extremist's perspective, have a lot of evidence about

19 how they saw the relationship and how they saw his

20 influence, how they saw him -- what they believe to be

21 endorsing and promoting their violence, their cause

22 more broadly.

23   THE COURT: Right. But, I guess, how

24 it's perceived is one -- one element of -- but that,

25 again, doesn't -- I mean, you don't have any evidence

1 that President Trump was trained on this kind of form

2 of communication or anything like that, correct?

3   THE WITNESS: That is correct.

4   THE COURT: Thank you.

5   MR. OLSON: And can I just ask a couple

6 quick follow-up questions?

7   Q.   (By Mr. Olson) The Unite the Right

8 rally, when was that?

9   A.   2017. August 2017.

10   Q.   And we saw that -- the speeches from

11 when Trump was President commenting on "very fine

12 people on both sides," right?

13   A.   That's correct.

14   Q.   Okay. And the Proud Boys were involved

15 in some of the Unite the Right rally?

16   A.   Yes, they were.

17   Q.   Okay. So when you have a political

18 rally where people are -- or someone is murdered and

19 other people are hurt -- right?

20   A.   Yeah.

21   Q.   I'm sorry.

22   A.   I thought there was an objection.

23   Q.   And then you later have the President,

24 unprompted, identifying that group by name, right?

25   A.   Correct.

1   MR. GESSLER: Objection. I'm not sure

2   that was quite a question, but there was an answer to

3   it. This is clearly leading and argumentative.

4   MR. OLSON: Okay. Well, I'll rephrase

5   my question.

6   THE COURT: Okay. I'm going to sustain

7   the objection, not on the argumentative part but the

8   leading.

9   MR. OLSON: Okay.

10   Q.   (By Mr. Olson) You just talked about

11   patterns, observable patterns to the social

12   scientists?

13   A.   That's correct.

14   Q.   Okay. Is what we see between the 2017

15   rally, 2019 comment, is that an observable pattern or

16   not in your mind?

17   A.   Yes. It's certainly part of one.

18   Q.   Okay. Why is that?

19   A.   Well, you know, things that are said,

20   things that are done, these are things that we can

21   point to as happening or not happening. We can look

22   at how the statements or actions are interpreted by

23   others, how they are perceived by others. These are

24   all things that we can, you know, observe.

25   Again, when we're talking about being in

1 somebody's mind, that's not really observable.

2   Q.   But in terms of when you're talking

3 about observable patterns, this is an example of one,

4 right?

5   A.   Yes. Yeah, exactly.

6   MR. OLSON: Okay. Thank you very much,

7 Dr. Simi. I have no further questions at this time.

8 We may get to talk again after Mr. Gessler, but thank

9 you.

10   THE WITNESS: You're welcome.

11   MR. GESSLER: Your Honor, might I have

12 about three or four minutes to fumble around with the

13 technology? And I can't promise my fumbling will be

14 over at that point, but I just want to get set up

15 here, Your Honor.

16   THE COURT: Okay.

17   MR. GESSLER: Okay. I'm just going to

18 try and go somewhat technology-free. We'll see how

19 that works, Your Honor.

20   CROSS-EXAMINATION

21 BY MR. GESSLER:

22   Q.   Good morning, Dr. Simi.

23   How are you today?

24   A.   Doing well.

25   Q.   Good.

1   A.   Good morning to you.

2   Q.   And we shook hands briefly yesterday --

3   A.   That's correct.

4   Q.   -- outside the men's room. So thank you

5 for being here.

6   So since you've been a witness before,

7 you know how this works. I'll ask you some questions.

8 If I'm not clear on something, please just tell me.

9   A.   Sounds good.

10   Q.   So I want to ask you a little bit about

11 your methodology here.

12   So you've, it says, done about

13 217 interviews, you said, of far-right-wing

14 extremists?

15   A.   That's correct.

16   Q.   And over how many years is that?

17   A.   Beginning in 1997.

18   Q.   Okay. So 20 -- over about 26 years?

19   A.   Yeah.

20   Q.   Okay.

21   A.   That's correct.

22   Q.   And 14 of the Proud Boys, Oath Keepers,

23 and Three Percenters; is that correct?

24   A.   That's correct.

25   Q.   Okay. And how many of those interviews

1 were people who participated in the January 6 riots?

2   A.   So that's -- it sounds like a question

3 that's a little bit complicated.

4   There's Institutional Review Board

5 regulations that provide confidentiality, so I

6 certainly wouldn't be able to name individuals that

7 I've interviewed. I don't know if that was -- you

8 know, if that's kind of where you were going with the

9 question, but . . .

10   THE COURT: Was that where you were

11 going?

12   MR. GESSLER: I may, but I'm -- but

13 probably not.

14   THE COURT: Okay. Yeah. I took the

15 question just as a -- whether the people in your 14

16 were involved in the January 6 protests.

17   A.   None to my knowledge; however, it's

18 certainly possible that -- you know, obviously, I

19 don't know the identity of every single person, you

20 know, that participated in January 6, so . . .

21   Q.   (By Mr. Gessler) Right. So --

22   A.   None to my knowledge.

23   Q.   So you may have interviewed Person A,

24 and that person may have shown up on January 6, but

25 you just don't know?

1   A.   That's right.

2   Q.   Okay.

3   A.   Yeah.

4   Q.   So it would be fair to say that you

5   interviewed these people well before January 6, those

6   14?

7   A.   Yes. That's correct.

8   Q.   Okay. Did you interview any

9   participants, far-right-wing extremist participants in

10   the January 6 after January 6?

11   A.   No, I have not.

12   Q.   Okay. Did you live with any families or

13   people who participated in the January 6 riots?

14   A.   Not to my knowledge.

15   Q.   Okay. So your field -- so your

16   interviews and sort of fieldwork living with people --

17   I'm sorry. This -- okay.

18   Does fieldwork -- fieldwork consists of

19   interviews and sort of embedding yourself or living

20   with people; would that be correct?

21   A.   That's correct. The interviews are --

22   can be either formal in nature or more informal.

23   Q.   I just want to make sure I'm properly

24   describing fieldwork.

25   So your fieldwork also occurred with

1 respect to this group of people before January 6; is

2 that fair to say?

3   A.   Yes. That's correct.

4   Q.   Okay. And then as far as embedding

5 yourself or living with families, did you embed

6 yourself or live with any families that participated

7 in the January 6 riots, to your knowledge?

8   A.   To my knowledge, no.

9   Q.   Okay. As far as the archives go, so

10 which archives did you rely on here? I saw a

11 number -- let me -- let me back up.

12   So I saw a number of -- we counted your

13 expert report citations.

14   A.   Sure.

15   Q.   And I'm going to represent to you we

16 counted about 78 citations to the January 6 report.

17   Does that sound about right to you?

18   A.   I counted the same number.

19   Q.   Well, that's good. Thank you for

20 answering my question on that.

21   What other archives did you rely on?

22   A.   So as I mentioned, archives can be more

23 formal in natural or informal in nature. So social

24 media, for example, would be -- those would be -- the

25 various platforms are all types of archives which has

1 been a big -- big part of, you know, my research and

2 what I looked at, including in this case.

3   So various, you know, social media

4 platforms would fit there.

5   Certainly, videos. Again, I mentioned

6 at the outset, YouTube really is an important type of

7 archive. It's widely used among researchers in terms

8 of accessing different kinds of collections of

9 material. They're housed in that. Again, it's not

10 established for research purposes, but it provides

11 information that --

12   Q.   So let me ask you a question.

13   And I'm sorry. I don't mean to

14 interrupt.

15   A.   No.

16   Q.   I might do that a little bit, but --

17   A.   Sure.

18   Q.   So in determining -- how do you

19 determine whether you're going to look at one social

20 media archive versus another archive? Or do you just

21 choose every single archive you can get your hands on?

22   I mean, how does that selection process

23 occur?

24   A.   Yeah. It -- you know, some -- some

25 archives are -- have a greater presence of far-right

1 extremists than others. But you certainly want to try

2 and sample from as many different archives as

3 possible. You're certainly--it's unlikely to be able

4 to use every single social media platform. But I

5 certainly utilize the kind of major social media

6 platforms. They're more what you might call the

7 mainstream-type platforms like Twitter or what used to

8 be Twitter, Facebook, Instagram.

9   But then also more what you might call

10 niche or fringe social media platforms like Telegram.

11 But it has a substantial concentration of far-right

12 extremists.

13   Q.   So let me ask you this.

14   So if there's a body of opinion, say a

15 body of opinion among sort of far-right extremists,

16 what measurements do you have in your profession to

17 determine whether or not a particular archive is

18 representative of that body of opinion?

19   A.   What you would look at is really, A, the

20 presence of, you know, trying to make some

21 determination about their presence on that particular

22 platform.

23   Q.   Okay. So it would be fair to say that

24 the -- that the ones that are sort of -- have a

25 greater presence or sort of more commentary, perhaps

1   louder commentary? I don't know quite how you measure

2   loud in the social media world; they type in all caps?

3   A.   Yeah. You look at intensity.

4   Q.   Intensity?

5   A.   Yeah.

6   Q.   Okay.

7   A.   So, for instance, a call to violence

8   would be, obviously, a more intense statement on a

9   social media platform than a statement that didn't

10   involve a call to violence.

11   Q.   Okay. So that's, in part, how you

12   choose what to look at? You look at the intensity and

13   the amount of presence?

14   A.   Those are two things, yeah.

15   Q.   Okay. Anything else?

16   A.   Well, you'd want to look at how the

17   social media platforms compare to each other as well.

18   That way, you get a sense of their kind of differences

19   in terms of how one platform is used versus another.

20   Q.   Okay. And is any one platform in your

21   experience more representative of sort of the body of

22   far-right-wing opinions?

23   A.   I don't think there is in my opinion.

24   And certainly in the literature there's never been to

25   my knowledge any kind of published scholarly

1   identification of one platform being most

2   representative.

3   Q.   Okay. So I want to apply that, maybe

4   take it down one level for the January 6 rioters,

5   okay?

6   Did you -- what -- did you look at any

7   particular platform that you believe represents the

8   entire spectrum of views -- best represents the entire

9   spectrum of views of people who rioted on January 6?

10   A.   Well, I don't think there is one single

11 platform. But I certainly looked at a number of

12 different platforms, yes, to include some of the ones

13 already mentioned -- Telegram, for example.

14   Q.   And you chose those platforms in part

15 based on the intensity of the commentary on there and

16 the volume of commentary?

17   A.   Well, not quite.

18   Q.   In part?

19   A.   Just want to back up on the intensity.

20   The intensity is something you look at

21 in terms of no matter what their presence is on the

22 platform. You would look at -- that would be one

23 indicator of the kind of the nature of the speech and

24 whether there are calls to violence or not.

25   Q.   So --

1   A.   You wouldn't assume necessarily that

2   there is a high degree of intensity.

3   Q.   So how do you measure or identify the

4   opinions of people who aren't on social media

5   platforms?

6   A.   Well, that's why you don't exclusively

7   rely on social media certainly. There's -- that's

8   what the fieldwork is.

9   Q.   So interviews?

10   A.   Interviews, yeah, absolutely.

11   Q.   Fieldwork?

12   A.   Absolutely.

13   Q.   Okay.

14   A.   Yeah.

15   Q.   Okay.

16   A.   Surveys can be done.

17   Q.   Okay. Did you do any surveys of

18   participants in the January 6 riots?

19   A.   No, I did not.

20   Q.   So you looked at social media platforms.

21   You looked at the January 6 report,

22   correct?

23   A.   Those are two things, but . . .

24   Q.   What else?

25   A.   Well, again, scholarly research that's

 1 related to the topic. Certainly looked at --

 2   Q.   May I interrupt you just for a second?

 3   A.   Yeah.

 4   Q.   So what scholarly research did you

 5 look -- specifically with respect to January 6?

 6   A.   Oh, I'm sorry. I thought you meant

 7 political violence more broadly.

 8   Q.   No. I understand.

 9   But I'm talking -- that's why I

10 interrupted you.

11   A.   Sure.

12   Q.   So specifically with January 6, I saw

13 that you wrote a scholarly work, a published work on

14 that; is that correct?

15   A.   That's correct.

16   Q.   Have you consulted any others?

17   A.   Yeah. Oh, yeah. Absolutely.

18   Q.   Okay.

19   A.   I certainly have looked at other expert

20 testimony in regards to --

21   Q.   For this report?

22   A.   What's that?

23   Q.   For the report that --

24   A.   Yeah --

25   Q.   -- you produced today?

1   A.   -- for the report. Yeah.

2   Q.   Okay.

3   A.   There's an archive of expert testimony.

4   Q.   Okay. So you looked at other people's

5   opinions on January 6?

6   A.   That's correct.

7   Q.   Okay. Let me ask you a little bit about

8   patterns of behavior. So we talked about patterns of

9   behavior. And I want to make sure I understand sort

10   of correctly what -- some of these patterns of

11   behavior.

12   One, you said, was a sort of conspiracy

13   belief, a belief in conspiracy or shadowy forces?

14   A.   Yeah. That's a central core belief.

15   Q.   Okay. And the us-versus-them?

16   A.   That's a central dynamic within --

17   Q.   Sort of an antidemocratic ethos is what

18   you called that, authoritarianism?

19   A.   That would be another element.

20   Q.   Okay. And you said violence?

21   A.   That is a practice. Yes. That's

22   correct.

23   Q.   Okay. And then you talked about using

24   various communication strategies?

25   A.   That's correct.

1   Q.   Okay. Now, I want to take each one of

2   those.

3   My understanding is -- from your

4   testimony is that, probably except for violence, a lot

5   of these others are sort of commonly used in political

6   discourse by others?

7   Is that fair to say?

8   A.   They're generic features of social life,

9   human behavior, which is what makes them so powerful.

10   Q.   Okay. So, for example, conspiracy

11   theories and shadowy forces, is that -- that, would be

12   fair to say, is often used in political discourse,

13   correct?

14   A.   I'm sorry. I misinterpreted. I thought

15   you were speaking exclusively about the communication

16   strategies.

17   Q.   Yeah.

18   A.   Conspiracy theory. There's obviously --

19   when you look at, for instance, surveys that measure

20   belief in conspiracy theory, there's quite a bit of

21   variability. So that's not necessarily the same -- it

22   doesn't have the generic feature the way, say, the use

23   of doublespeak does, but . . .

24   Q.   Okay. And let's focus on conspiracy

25   theories, for example.

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 1          A.    Okay.

 2          Q.    So are you familiar with political

 3  discourse where people will complain about shadow --

 4  special interests controlling our government?

 5          A.    Yes, I've heard those phrases.  Yes.

 6          Q.    Okay.  And you agree with me, that's a

 7  common feature for people sort of across the political

 8  spectrum to be angry or upset about special interests

 9  controlling their world?

10          A.    I think that's fair.

11          Q.    Okay.  People will talk about big oil or

12  big corporations or big labor.

13                Those are all sort of a variant of a

14  conspiracy theory; is that fair to say?

15          A.    They could be.

16          Q.    And, in fact, that goes back quite a

17  way.

18                Are you familiar with the political

19  scientist, Richard Hofstadter?

20          A.    Yes, I am.

21          Q.    And he wrote a very famous book in 1964

22  called "The Paranoid Style in American Politics,"

23  right?

24          A.    Yes.

25          Q.    And he sort of talked about conspiracy
```

1   theories as -- in American politics, how they were a

2   consistent feature as far back now as 60 years ago.

3   Is that fair to say?

4   A.   It is. And a group of scholars that

5   Richard Hofstadter was associated with did identify,

6   though, what they called right-wing radicalism was

7   especially kind of characterized by conspiratorial

8   beliefs.

9   Q.   But they also said that it was common --

10   a common feature throughout American politics?

11   A.   Yeah. Fair enough.

12   Q.   Okay. How about -- let's talk about

13   us-versus-them.

14   That's -- would it be fair to say that

15   that's a common theme in American politics as well?

16   A.   Sure.

17   Q.   Is that fair to say?

18   A.   Yeah.

19   Q.   Okay. Democrats are angry at

20   Republicans; that's an us-versus-them element. And

21   Republicans can get angry at Democrats as an

22   us-versus-them element.

23   It fits both sides of the political

24   spectrum; is that fair to say?

25   A.   Sure. What we're talking about here as

1   us and them is associated so closely with violence,

2   which --

3   Q.   Understood.

4   A.   -- wouldn't be a common feature.

5   Q.   Understood.

6   A.   Yeah.

7   Q.   But I'm trying to isolate each one --

8   A.   Okay.

9   Q.   -- to give me a better sense of --

10   A.   Sure.

11   THE STENOGRAPHER: If you could both

12   please be careful about speaking one at a time for me,

13   please.

14   MR. GESSLER: I'm sorry.

15   Q.   (By Mr. Gessler) And then, an

16   antidemocratic ethos or authoritarianism.

17   I think you would -- would you agree

18   with me that there -- that's also a very frequently

19   occurring or common feature in American politics?

20   A.   I don't know that I would agree with

21   that.

22   Q.   Okay.

23   A.   Yeah.

24   Q.   So would you agree with me that people

25   on both sides of the political spectrum are sometimes

 1 frustrated to say that the legislature or Congress

 2 can't be trusted?

 3   A.   That's a statement I've heard from

 4 various political orientations, sure.

 5   Q.   Okay. You've heard -- in fact, we've

 6 heard Presidents talk about how, if Congress isn't

 7 going to do something, they're going to take matters

 8 into their own hands.

 9   You've heard that from both sides of the

10 spectrum; would that be fair to say?

11   A.   Is that -- could you repeat that?

12   Q.   We've heard that from both sort of

13 political parties, that Presidents who get frustrated

14 with Congress not moving forward on legislation talk

15 about how they're going to take things into their own

16 hands?

17   A.   Okay. Yeah.

18   Q.   Okay. You've heard arguments where --

19 I'll ask you.

20   Would it be fair to say you've heard

21 arguments where people on both sides of the political

22 spectrum throughout will argue that the legislature

23 should not be taking action, that it's up to the

24 courts to decide.

25   Is that fair to say?

     1   A.   Generally.

     2   Q.   Okay. And so your point is that the

     3   thing that characterizes far-right extremism is that

     4   they have sort of these three -- these elements, and

     5   they add to the mix of violence.

     6   Would that be fair to say?

     7   A.   Yes, that's a defining feature of

     8   extremism --

     9   Q.   Okay.

    10   A.   -- the close relationship with violence.

    11   Q.   Okay. Let's talk about communication

    12   strategies.

    13   So you talked a little bit about

    14   doublespeak --

    15   A.   That's correct.

    16   Q.   -- right?

    17   And if I remember correctly, you said

    18   that we sort of all do doublespeak to some effect?

    19   A.   I --

    20   Q.   Just --

    21   A.   Oh --

    22   Q.   To some extent.

    23   I'm sorry. We all do doublespeak to

    24   some extent?

    25   A.   That's correct.

1   Q.   Okay. And I think you used the example,

2   sometimes we'll put -- we'll emphasize a particular

3   aspect towards a job interviewer and a different

4   aspect or a different face towards perhaps a romantic

5   partner or something like that?

6   A.   Actually, I used that example to

7   illustrate the front- and backstage behavior

8   distinction, which is a different concept.

9   Q.   Okay. I'll get to that in a little bit.

10   A.   It's --

11   Q.   Let me continue to focus on the

12   doublespeak.

13   So doublespeak would be saying one thing

14   in public and a different thing in private.

15   Is that fair to say?

16   A.   That could be an example. It's also

17   saying one thing, irrespective of whether it's public

18   or private, that could be interpreted different ways

19   depending on the audience's understanding.

20   And so it might be understood in one way

21   by outsiders who don't have a good contextual

22   understanding of a particular culture, and then a

23   different way by insiders within a specific culture

24   will understand it to mean something different than

25   what outsiders would.

1   Q.   Okay. So is --

2   A.   The same or different understanding.

3   Q.   Okay. That's what I'm asking.

4   A.   Yeah.

5   Q.   So I'm asking, a person will use the

6   same word in front of one audience, which has a

7   particular meaning, and then they'll use the same word

8   in front of a different audience that has a different

9   meaning.

10   Is that doublespeak?

11   A.   That would be an example of doublespeak

12 or a facet of doublespeak.

13   And, again, I would say -- underscore

14 again this is a generic facet of communication.

15 Oftentimes it's innocuous. Sometimes it can even have

16 well-intentioned aspects to it in terms of maybe not

17 wanting to use certain language that could be

18 interpreted in a different way so as to not offend

19 someone; for example, to try and be polite or kind of

20 adhere to some form of etiquette.

21   Again, though, I'm underscoring that for

22 far-right extremists, it's deeply connected to the

23 violence issue.

24   Q.   But it's --

25   THE COURT: I'm sorry. You said it's

1   deeper connected to what?

2   THE WITNESS: Deeply connected to the

3   violence issue.

4   THE COURT: Okay.

5   Q.   (By Mr. Gessler) I'm sorry. Did you

6   see "deeper" or "deeply" connected?

7   A.   Deeply.

8   Q.   Okay. So your characteristic -- your

9   application to far-right extremists is that they'll

10   use doublespeak just like everyone else, but they also

11   connect it to violence.

12   Is that fair to say?

13   A.   That's fair to say.

14   Q.   Okay. And then you talked about a

15   couple other communications. I wanted to just sort of

16   go through these. Front- and backstage. That was one

17   of them.

18   Where you're sort of favorable and you

19   put a favorable foot forward in front of someone, and

20   then a different aspect or personality in front of

21   someone else.

22   Is that fair to say?

23   A.   Yeah. That's a fair characterization.

24   Q.   Okay. And that was the example of a

25   person will behave one way in a job interview and

1   behave a different way towards a romantic partner?

2   A.   That's correct.

3   Q.   And that would sort of be a form of

4   doublespeak?

5   A.   A form of front- and backstage.

6   Q.   I'm sorry. That would be a form of

7   front and back?

8   A.   Yes, sir.

9   Q.   I'll work on my sociology degree during

10   this cross-examination.

11   And one -- so would one example of sort

12   of doublespeak be a politician who presents him- or

13   herself in a very moderate way in front of one group

14   and in a very radical way in a different group? Would

15   that be a form of doublespeak?

16   A.   That would involve -- that would likely

17   involve language that would kind of fit the

18   characteristics of doublespeak --

19   Q.   Okay.

20   A.   -- based on what you've described here.

21   Q.   So doublespeak, you use different

22   language between the two audiences?

23   A.   Well, you may use different language or

24   you may use the same language with the understanding

25   that audiences will potentially receive it

1 differently.

2   Q.   Okay. Okay. So I say okay, but I'm not

3 understanding.

4   A.   Okay.

5   Q.   So doublespeak -- why don't you give me

6 doublespeak in your words --

7   A.   Sure.

8   Q.   -- and we'll go from there.

9   A.   Sure. I mean, we talked about 1776.

10   THE STENOGRAPHER: Would you speak a

11 little closer to the microphone for me, please?

12   THE WITNESS: Sure.

13   A.   When we talked about 1776, for example.

14 So the term for insiders within far-right extremist

15 culture is understood in a way that would likely be

16 different for outsiders who aren't steeped in that

17 culture.

18   So it's the same term, but it has --

19 it's understood differently depending on kind of

20 cultural context, which is really what doublespeak is

21 all about. It's about basically contextual

22 understandings and how they vary depending on a whole

23 host of different factors, including the situation,

24 the audience, what their understanding is, tone of

25 voice.

1   And you can imagine there's lots of

2   different things that go on to how sort of contextual

3   cues shape understanding.

4   Q.   (By Mr. Gessler) Okay. So let me see

5   if I can understand that.

6   So let's say -- let's say I'm involved

7   in politics, and I'm running for office or I'm an

8   officeholder. And I go to a Fourth of July parade,

9   and I give a speech. And the speech says "Remember

10 the Spirit of 1776. This is why our forbearers fought

11 and died," sort of a rousing patriotic speech. And I

12 frequently use the term "1776," okay? And there's

13 far-right-wing extremists in that audience, okay?

14   And then let's say I do the same speech

15 at a different -- I'm going to a bunch of Fourth of

16 July parades. So I go to one Fourth of July parade

17 and give that rousing speech, and there's

18 far-right-wing extremists in it.

19   And then I go to another Fourth of July

20 parade, I give the same rousing speech or something

21 pretty close, because I've practiced it a lot. So I'm

22 giving a pretty close speech. Maybe I even wave a

23 1776 flag as part of my speech in both audiences. And

24 that one contains no far-right-wing extremists.

25   Is that a form of doublespeak?

1   A.   Yeah. Again, you're going to have

2   different understandings.

3   Q.   Okay. Because one crowd will understand

4   it in a particular way, and the other crowd will

5   understand it in a different way?

6   A.   Yes.

7   Q.   That's doublespeak?

8   A.   Based on kind of cultural context --

9   Q.   Okay.

10   A.   -- and how they understand it.

11   Q.   Now, as a speaker, do I have to know

12   that there's far-right-wing extremists in one

13   audience? And do I have to know that there aren't

14   far-right-wing extremists in the other audience in

15   order for that to be doublespeak?

16   A.   Not necessarily.

17   Q.   So if I'm -- now, I want to make sure

18   I -- so if I'm a politician and I'm running for office

19   or I'm holding office and I give my rousing Fourth of

20   July speech in front of far-right-wing extremists --

21   and I don't know they're far-right extremists. I

22   mean, some of them have salt-and-pepper beards like

23   they're grandfathers. I don't know. Maybe, maybe

24   not.

25   But let's say there are people, but I

1   just don't know.

2   A.   Okay.

3   Q.   And then I go to this other rally; same

4   speech, no far-right-wing extremists.

5   I have engaged in, from a sociological

6   standpoint, doublespeak; would that be fair to say?

7   A.   What I've described here in terms of

8   far-right extremism is the doublespeak tends to be

9   intentional.

10   Q.   I --

11   A.   So, you know, you described something

12   that may not be intentional.

13   Q.   I understand that. And I've been very

14   clear on my hypothetical, where it's not intentional.

15   But I'm asking, is it still doublespeak

16   if it's not intentional?

17   A.   Well, it would have -- it may have

18   similar consequences. So the consequence or the

19   effect of it in terms of how it's received, then that

20   would constitute an aspect of doublespeak. It

21   wouldn't be kind of true doublespeak without more of

22   an intentional aspect to it, though.

23   Q.   Okay. So it would be fair to say it's

24   characteristic of doublespeak, but absent

25   intentionality, it's not true doublespeak; is that

1 fair to say?

2   A.   As far as how doublespeak is practiced

3 by far-right extremists, it's associated with, you

4 know, a high degree of intentionality.

5   Q.   Okay. So far-right extremists will be

6 intentional about how they do that?

7   A.   Part of the culture.

8   Q.   Okay. But you can have someone doing

9 the same time thing unintentionally and they're not a

10 far-right extremist?

11   Let me rephrase that question. It's a

12 terrible question.

13   A.   Thank you.

14   Q.   So you're saying far-right-wing

15 extremists, they're intentional about it, correct?

16   A.   Within far-right extremist culture,

17 doublespeak is used in an intentional fashion.

18   Q.   Okay. And so it's fair to say that when

19 you define doublespeak with respect to far-right-wing

20 extremism, you're implying intentionality; the speaker

21 intends to have a different effect on different

22 audiences?

23   A.   That's correct. And part of that has to

24 do with the violence aspect.

25   Q.   Right. And to some extent, that would

 1   imply that the speaker knows that there's different

 2   audiences and that's why he or she is using the

 3   doublespeak, because they understand their audiences?

 4   A.   Or they suspect.

 5   Q.   Or they maybe suspect?

 6   A.   Yeah. They may not be sure about

 7   potential differences, but they may have some reason

 8   to believe.

 9   Q.   Okay. And -- all right. So you have to

10   understand the intentionality first before really

11   understanding whether it's a far-right-wing speaker

12   using doublespeak; is that fair to say?

13   A.   Can you rephrase that question?

14   Q.   Do you need to understand intentionality

15   before you can understand whether a far-right-wing

16   speaker is actually using doublespeak?

17   A.   Well, you can observe the practice. So

18   the practice certainly can be observed.

19   Q.   Okay. So you can observe the practice,

20   and you can say, well, one audience here, one audience

21   there. It correlates. It correlates with

22   doublespeak.

23   Would you say that?

24   A.   It correlates, consistent, yep.

25   Q.   But you don't really know if that

1   speaker is engaging in doublespeak absent some

2   understanding of their intent?

3   A.   Yes. That's why the fieldwork and

4   interviews is so important.

5   Q.   I see.

6   A.   And also the archival material in some

7   cases will oftentimes betray the intent in some

8   fashion, as the example of Robert Ray, for example.

9   Q.   As an example of -- I'm sorry?

10   A.   The example from the organizer of Unite

11   the Right that we discussed earlier when he was

12   talking about how humor is used in terms of a way to

13   establish uncertainty among audiences so folks don't

14   know when they're seriously promoting violence or

15   versus joking about it.

16   Q.   Okay. Now, you've also talked about how

17   someone will have -- make a statement. And I think

18   you spoke about this in the context of some of

19   President Trump's speeches.

20   But how someone will make a statement

21   and then negate that statement --

22   A.   Yes.

23   Q.   -- correct?

24   A.   Yeah. A certain negation of sorts.

25   Q.   Okay. So something like, you know, "Go

1 do something terrible, but I'm just joking," or don't

2 really do it.

3   Would that be an example?

4   A.   Yeah. That's a fair -- the video clip

5 we saw of Nick Fuentes doing that.

6   Q.   Okay. And you say that's very common

7 among right-wing extremists?

8   A.   What we found in our research as well as

9 a number of other scholars have found.

10   THE COURT: I'm sorry. What was the

11 last thing you said?

12   THE WITNESS: That's what a number of

13 other scholars have found.

14   THE COURT: Ah. Thank you.

15   THE WITNESS: Sure.

16   Q.   (By Mr. Gessler) Okay. And I think --

17 and I think you had talked about -- if I remember

18 correctly, there was a video from President Trump's

19 press conference after a Unite the Right rally in

20 Charlottesville; is that correct?

21   A.   That's correct.

22   Q.   Okay. And I have in my notes that you

23 used that as an example of a failure to condemn.

24   Was that right?

25   A.   I said there was a statement that was

1 perceived by far-right extremists as promotion

2 despite -- we showed two clips, if you recall. The

3 first clip about "fine people on both sides." The

4 second clip had a type of condemnation and that that,

5 for far-right extremists, was overridden by the "fine

6 people on both sides" comment.

7   Q.   Okay. So the "fine people on both

8 sides." So the right-wing extremists listened to the

9 "fine people on both sides," and they said, "That

10 speaks to us." And then the condemnation in the

11 second clip, they said, "Oh, President Trump is just

12 saying that because he has to"?

13   A.   It's almost a verbatim quote from Andrew

14 Anglin that you just said, so yeah, I agree with your

15 comment.

16   Q.   I don't exactly know who he is.

17   A.   He was the -- he is the founder the

18 Daily Stormer and --

19   Q.   Okay. So maybe that's an example of

20 how, I will represent to you, a lawyer who is not a

21 far-right extremist may use similar language as a

22 far-right extremist?

23   A.   Well, I -- you or --

24   Q.   As an example in front of you, so . . .

25   A.   I interpreted your comments paraphrasing

 1 what a far-right extremist might say.

 2   THE COURT: You're both talking over

 3 each other.

 4   Q.   (By Mr. Gessler) I'm not accusing you

 5 of calling me a far-right extremist.

 6   A.   Thank you.

 7   Q.   Okay. Let's --

 8   THE COURT: But, Professor Simi, make

 9 sure to allow him to finish his questions before you

10 start answering them.

11   THE WITNESS: Okay. I apologize.

12   MR. GESSLER: And my paralegal just sent

13 me a note admonishing me too, my behavior.

14   Your Honor, can we take a one- or

15 two-minute break? I just need to figure out a way to

16 get the right video loaded.

17   THE COURT: Okay.

18   MR. GESSLER: Thank you.

19   (Pause in the proceedings.)

20   Q.   (By Mr. Gessler) So I'm going to show

21 you a clip, and I think this is a clip you testified

22 about earlier.

23   A.   Okay.

24   MR. GESSLER: Can we play that, please,

25 starting at -- starting at :55.

1   (Video was played.)

2   Q.   (By Mr. Gessler) So I'm going to stop

3   there.

4   So it's your -- sort of based on your

5   study. And it's your analysis that sort of the first

6   part of his talk where he said, you know, "fine people

7   on both sides," that the far-right extremists sort of

8   took comfort in that, took inspiration.

9   And then the second part where he said,

10   you know, "Neo-Nazis, they should be condemned

11   entirely," and whatnot, they view that as doublespeak?

12   A.   Yeah. Establishing plausible

13   deniability.

14   Q.   Okay.

15   A.   Inserting negation after offering a

16   source of affirmation.

17   Q.   Okay. So I'm going to show you a video

18   from the day before this, okay?

19   MR. GESSLER: And that's Number 1059,

20   please. And start that at 1:40.

21   (Video was played.)

22   MR. GESSLER: Let's go back. How did we

23   practice law before?

24   (Video was played.)

25   Q.   (By Mr. Gessler) So I'm going to

1   represent to you that that speech at the White House

2   took place the day before.

3   So in -- when put in conjunction with

4   the April 15, how did far-right extremists interpret

5   those statements?

6   Did they view that -- let me be more

7   specific.

8   Did they view that as an example of

9   plausible deniability?

10   A.   They -- remember, this -- these remarks

11 at that time, real time. And it was -- no, it was not

12 taken because these set of remarks were very clear.

13 And when they -- what I think really -- you have to

14 understand, there was already a relationship between

15 Donald Trump and far-right extremists prior to 2017.

16 And far-right extremists were already perceiving him

17 in certain ways.

18   But those set of remarks, if that had

19 been the final word, it's possible their understanding

20 obviously would have been different, at least as it

21 pertained to the Unite the Right rally.

22   But they weren't. They were followed by

23 the comments that we saw previously about "fine people

24 on both sides." And so that's ultimately what

25 far-right extremists took from Donald Trump in terms

1   of his characterization of what happened in

2   Charlottesville.

3   Q.   Okay. So let me understand this

4   correctly. So Donald Trump goes to the White House.

5   He makes a statement where he's condemning people from

6   both sides, and far-right extremists sort of look at

7   that.

8   But then they -- then the next day,

9   Donald Trump in his press conference says, "There are

10   very fine people on both sides," and then about a

11   minute later he condemns the KKK and neo-Nazis.

12   And so you're saying that what the

13   far-right extremists took from this was really "the

14   fine people on both sides." That's what inspired

15   them. And that they essentially disregarded the press

16   conference before, and they disregarded the

17   comments -- I'm sorry -- they disregarded the White

18   House press conference before, and they disregarded

19   the latter remarks subsequent to "the very fine

20   people."

21   Is that fair to say?

22   A.   Yeah. I'm saying --

23   Q.   Okay.

24   A.   -- that far-right extremists actually

25   are pretty clear on that in terms of confirming

 1 what -- how you just characterized it.

 2   Q.   Okay. So I guess, you know, the analogy

 3 that came to my mind is -- have you ever seen the

 4 movie "Dumb and Dumber"?

 5   A.   You know, I never have.

 6   Q.   Okay. I'm going to describe to you a

 7 scene. Maybe you've heard this scene.

 8   A.   Okay.

 9   Q.   There's a scene where sort of the

10 protagonist -- I think it was played by John [sic]

11 Carrey. He's the guy who -- I don't know if he's the

12 dumb or dumber guy.

13   But he's talking to a woman he has a

14 crush on, and he says something along the lines of "If

15 we were the only people left on earth, okay, would

16 you" -- "would you like me or would you want me?"

17   And she says, "Well, you know, maybe" --

18 something along the lines of "one in a million

19 chance."

20   And he gets this big smile on his face,

21 and he says to her, "So you're telling me there's a

22 chance?"

23   Did you ever hear that scene?

24   A.   No.

25   Q.   No?

1   A.   Vaguely familiar, but not any --

2   Q.   Was that sort of --

3   A.   -- specific --

4   Q.   -- would that seem to sort of describe a

5   far-right extremist, where they're always looking for

6   something -- something to latch on to that they

7   believe inspires them and will disregard any other

8   evidence to the contrary?

9   A.   No. I don't think that's consistent

10   with the pattern in terms of the relationship between

11   Donald Trump and the far-right extremists.

12   Now, I will say going back to the Unite

13   the Right and "the fine people," you -- we have to put

14   that in context in terms of him saying "fine people."

15   This is not something far-right extremists are used to

16   hearing coming from the President of the United

17   States. And that -- so that did have a substantial

18   overriding effect. I think you can understand why

19   given their views typically of politicians and

20   conventional politicians.

21   And so I think the way you just

22   characterized it is not really consistent with that

23   history in terms of the relationship between Donald

24   Trump and the far-right extremists.

25   Q.   Okay. Let me ask you about this 1776

1 thing. I think you had said that sort of far-right

2 extremists view the number 1776 or the phrase

3 involving 1776 as a call to violence, right?

4   A.   Within -- yeah, within --

5   Q.   Within their circles?

6   A.   Yeah, within --

7   Q.   And you said --

8   THE STENOGRAPHER: I'm sorry. I did not

9 hear your answer.

10   A.   Within their circles and certain

11 contexts.

12   Q.   (By Mr. Gessler) And you said that it

13 takes -- it takes time for someone to develop that

14 understanding; is that correct?

15   A.   Yes. I said that in terms of how

16 culture operates in terms of the more people become

17 immersed over time, the more understanding they'll

18 develop.

19   Q.   So if I'm someone who's not a part of

20 the far-right-wing extreme movement and I see the

21 number 1776 or the Spirit of 1776, I won't -- it's

22 unlikely I'll view that as a call to violence; is that

23 fair to say?

24   A.   Yes.

25   Q.   Okay.

1   A.   I think that's fair to say.

2   Q.   And then I start hanging out with these

3   far-right extremists, and they start using this term

4   "1776." And it will take a while, but eventually, if

5   I subscribe to the far-right extremism, I'll view that

6   as a call to violence, a coded call to violence when

7   it's used?

8   A.   Well, the amount of time it takes is

9   going to vary a lot depending on a whole host of

10 different factors. There's no formula, certainly,

11 that says it's going to take X number of hours or days

12 or weeks or months. It's going to depend on how much

13 exposure the person has, the types of exposure.

14   But generally speaking, yes, as a person

15 becomes more familiar with the culture, they'll start

16 to develop an understanding.

17   Q.   Okay. Let me ask you a little bit about

18 the Stop the Steal.

19   A.   Okay.

20   Q.   Okay. Is it your testimony that talking

21 about stealing -- a stolen election is consistent with

22 far-right extremism?

23   A.   The word "stolen," in particular the

24 idea of political corruption, the idea of fraud, these

25 have high degrees of salience within far-right

1 extremist culture.

2   It doesn't mean every time those terms

3 are used that that's indicative of far-right

4 extremism. But within far-right extremist culture,

5 those terms are very meaningful and would tend to

6 resonate with their worldview.

7   Q.   Would you agree with me that concerns or

8 being upset about a stolen election is a common

9 feature of modern American politics?

10   A.   Yeah.

11   Q.   And you'd agree with me that people who

12 were opposed to Donald Trump thought that the -- or

13 voiced concerns, some of them, that the 2016 election

14 was stolen because of Russian interference?

15   A.   Yeah. I am familiar with those --

16   Q.   Okay.

17   A.   -- those claims.

18   Q.   And that, in fact, there was an election

19 in Georgia in which the person who lost, she argued

20 that the election wasn't valid and was essentially

21 stolen because of voter suppression.

22   Do you remember that?

23   A.   I do remember that.

24   Q.   Okay. So it's been a -- the stolen

25 election theme, unfair election forces that stole the

1   election is -- that's not uncommon, correct?

2   A.   It's not my opinion that it's exclusive

3   to far-right extremism in --

4   Q.   Okay.

5   THE STENOGRAPHER: In terms of what?

6   THE WITNESS: In terms of these issues.

7   THE STENOGRAPHER: And if you could

8   speak into the microphone, please.

9   Q.   (By Mr. Gessler) But what makes it

10   connected to far-right extremism is the connection

11   towards violence; is that correct?

12   A.   Connection towards violence and, again,

13   the contextual issues that when certain allegations

14   are made as it relates to a stolen election, it would

15   have more meaning in some cases for far-right

16   extremists than some of the examples for -- you know,

17   the instance that you just pointed to.

18   Q.   Okay. So if Hillary Clinton, the loser

19   of the 2016, says "Our election was stolen. Donald

20   Trump is an illegitimate President because of Russian

21   interference," that would not have resonance for

22   far-right-wing extremists?

23   A.   No. Far-right extremists would perceive

24   Hillary Clinton -- or do perceive Hillary Clinton in

25   very antagonistic terms.

1   Q.   Right. And if Donald Trump were to say

2   the same thing -- and I understand he didn't blame

3   Russia for the 2020 election.

4   But were he to say almost the same thing

5   word for word and blame a foreign power, that would

6   resonate with far-right-wing extremists; is that fair

7   to say?

8   A.   Exactly. Because of this relationship

9   that we've been talking about in terms of this pattern

10   over time that developed between Donald Trump and

11   far-right extremists. Those claims would have a very

12   different meaning for far-right extremists than, as

13   you pointed out, Hillary Clinton making similar claims

14   in that scenario.

15   Q.   Okay. Now, let's --

16   MR. GESSLER: So, Your Honor, before I

17   continue, I would like to move to admit the exhibit --

18   I believe that's 1060 -- I'm sorry. Let me make sure

19   I have my numbers correct. Yeah. Number -- I believe

20   Number 1060 has already -- that's the same video

21   that's already been admitted, the press conference.

22   And we move to admit Number 1059, the

23   press conference at the Oval Office.

24   THE COURT: Admitted.

25   (Exhibit 1059 admitted into evidence.)

1   Q.   (By Mr. Gessler) So let me also

2   understand that -- so when Donald Trump talked

3   about -- President Trump talked about the, you know,

4   immigrants from Mexico, some of them being rapists and

5   assuming some of them are very fine people, your

6   testimony was that was a clarion call for the

7   far-right extremists?

8   A.   They heard that, those messages, those

9   terms, and it was a substantial alignment that it had

10 with their own conversations. As it relates to

11 immigration, it was a very close alignment. And they

12 found that speech and especially that part of the

13 speech to be very powerful. And you certainly had a

14 lot of discussion among far-right extremists after his

15 announcement and when he was -- given that the

16 announcement included those terms.

17   Q.   Okay. And that if -- so there's been a

18 lot of debate, I'll submit to you, about

19 immigration -- immigrants that some people refer to as

20 illegal immigrants or illegal aliens, there's a number

21 of phrases, but of people who have recently entered

22 the United States being in northern cities. And

23 there's mayors that are sort of getting upset by that.

24   If a mayor like that -- let's call it a

25 Democratic mayor, someone who is not viewed as a

1 conservative or sympathetic to the far right. So if a

2 Democratic mayor were to use those same words, would

3 that be a clarion call to the far right?

4   A.   You know, in a hypothetical situation

5 without any other contextual information, it's hard to

6 say. It would depend on that person, their history,

7 what the far right knew or didn't know about the

8 person.

9   Which is why, again, I mentioned that

10 with the 2015 -- the campaign announcement, you can't

11 take that in isolation. You also have to take into

12 consideration the currency he had developed based on

13 the Birtherism claims and the involvement he had in

14 terms of promoting that conspiracy theory, which was a

15 major facet of far-right extremism in terms of

16 challenging Barack Obama's legitimacy to serve as

17 President, and, frankly, just being very antagonistic

18 about his election.

19   Q.   Okay. So it would be fair to say that

20 it takes a period of time, a consistent pattern of

21 behavior by a politician before the far-right-wing

22 extremists will view his or her comments as a clarion

23 call to action?

24   Is that fair to say?

25   A.   Yeah. It's hard to say exactly how long

1 it would take, you know. But certainly these -- it

2 would have a pattern, and patterns take time to

3 emerge.

4   Q.   Okay. So it could be a couple of

5 months, a couple of years, but it requires a pattern

6 of behavior?

7   A.   Correct.

8   Q.   I'm going to be jumping around a little

9 bit, so I will apologize to you for lack of thematic

10 development.

11   A.   No problem.

12   Q.   I want to go back to sort of the

13 deniability. Can we -- where you said President Trump

14 would say one thing and then immediately negate it

15 afterwards.

16   Do you remember that?

17   A.   I don't remember saying "immediately."

18   Q.   Okay. But would negate it afterwards?

19   A.   That's a common feature --

20   Q.   Okay.

21   A.   -- for far-right extremist leaders in

22 general. And, you know, much of what we've been

23 discussing fits that pattern in terms of the

24 relationship between Donald Trump and the far-right

25 extremists.

1   Q.   Okay. I'm going to show you a video and

2   ask you if -- certain speech, if that fits that

3   pattern.

4   A.   Okay.

5   MR. GESSLER: Your Honor, I may take a

6   few minutes here, so I apologize if I do.

7   Q.   (By Mr. Gessler) All right. I'm not

8   going to be able to find the video quickly, so I'm

9   just going to talk to you about it.

10   THE COURT: So it's noon, so . . .

11   MR. GESSLER: So a respite to find my

12   video.

13   THE COURT: I'm going to give you a Hail

14   Mary here to find all your videos so you are not

15   eating away time on finding videos.

16   MR. GESSLER: Thank you, Your Honor.

17   THE COURT: So why don't we just

18   reconvene your cross at 1:00.

19   MR. GESSLER: Okay. Thank you.

20   THE COURT: We're off the record.

21   (Recess from 11:58 a.m. to 1:07 p.m.)

22   THE COURT: You may be seated.

23   Mr. Gessler, are you ready to proceed?

24   MR. GESSLER: Yes, ma'am.

25   Q.   (By Mr. Gessler) Okay. So, Dr. Simi,

1   I'm going to start with some exhibits here. And I

2   want to -- I'm going to talk about some intentionality

3   and interpretation --

4   THE STENOGRAPHER: I'm sorry. Can you

5   speak a little louder for me, please?

6   Q.   (By Mr. Gessler) I'm going to talk

7   about --

8   THE COURT: Mr. Gessler --

9   MR. GESSLER: Yes, ma'am.

10   Q.   (By Mr. Gessler) Let's try that again.

11   I'm going to talk about intentionality

12   and interpretation for sort of the next part of what

13   we're going to talk about.

14   So let's bring up 1074. Okay.

15   (Technical difficulties.)

16   A.   I thought that was a trick question

17   there for a second.

18   Q.   (By Mr. Gessler) Okay. Can we play

19   just the first five speakers on this video, please.

20   (Video was played.)

21   Q.   (By Mr. Gessler) So you heard a number

22   of speakers use the term "fight," correct?

23   A.   That's correct.

24   Q.   And I'd represent to you that those are

25   leading members of the Democratic party in office.

1   Are you able to tell from their speech

2   whether or not they're intending to provide a message

3   to the members of the far-right wing -- you know,

4   far-right-wing extremists.

5   A.   If I may explain my answer?

6   Q.   Let's just start off on small bits, then

7   I'll certainly give you a chance.

8   So from what they're saying, so using

9   the word "fight," are you able to tell if they're

10   intending to speak with far-right extremists?

11   A.   No. Absolutely not.

12   Q.   And it'd be fair to say that you can

13   infer that they're not intending to speak with

14   far-right extremists because they tend towards a

15   different side of the political spectrum?

16   Would that be fair to say?

17   A.   I wouldn't necessarily want to make that

18   kind of inference on limited information, but I see

19   where you're -- I understand your characterization.

20   Q.   Would it be fair to say that in order to

21   understand whether they're -- well, let me back up.

22   Can you tell from what they're saying

23   whether or not the members of the far -- you know,

24   far-right-wing extremists would view that as a

25   communication to them?

1   A.   Ten-second clips? Absolutely not.

2   Q.   You'd need more context, correct?

3   A.   More information and more context.

4   Q.   And what is some of that more

5 information you need?

6   A.   You'd want to look at past communication

7 patterns. You want to understand the historical

8 context between the speaker and whatever, you know,

9 community or culture you're trying to understand,

10 whether they have a relationship. You'd want

11 information from that culture's perspective -- in our

12 case, right-wing extremists -- and how they receive

13 messages and in particular as it relates to that

14 specific person.

15   So there's, you know, a number of

16 different types of information you'd want to, you

17 know, more fully assess and try and identify whether

18 there's any patterns --

19   Q.   Okay.

20   A.   -- that are present.

21   Q.   Let's play a little bit more. I'm

22 guessing your answers are going to be the same, but

23 we're going to go through this.

24   A.   All right.

25   (Video was played.)

1   Q.   (By Mr. Gessler) Would you answer the

2   same for those five?

3   A.   Yes, it is.

4   Q.   Okay. Let's just finish the clip, and

5   I'll ask you a few more questions at the end of this

6   clip, okay?

7   (Video was played.)

8   Q.   (By Mr. Gessler) Okay. You heard a few

9   speakers in there say, "We're going to take the fight

10   to the streets."

11   Do you remember hearing that among some

12   of the speakers? A few of them, I believe, said that.

13   A.   Okay. I trust your characterization.

14   Q.   You don't want me to play that whole

15   thing again, do you?

16   A.   I'd rather not.

17   Q.   Okay. And so there's a couple of

18   speakers that said, "We're going to take the fight to

19   the streets."

20   If -- if they were at a rally with

21   far-right-wing extremists in it, and they used the

22   term "fight" and "We're going to take the fight to the

23   streets," would those far-right-wing extremists

24   interpret that as a call to violence?

25   A.   If they had a relationship with the

1 speaker that involved a history of that speaker

2 promoting and endorsing violence, both before and

3 after violent incidents had occurred; had developed a

4 relationship, you know, signaling various things that

5 were important to that community, that culture;

6 signaling things in terms of their support for various

7 grievances; using language representing threats as

8 existential in nature and requiring, you know, violent

9 action -- if all of those things were present, then,

10 yeah, quite possibly they would interpret it in that

11 fashion.

12   Q.   Okay. And if those things weren't

13 present, it's unlikely they would interpret those

14 terms "fight" and "take the fight to the streets" as a

15 call to violence, correct?

16   A.   It's always hard to, you know,

17 predict -- you know, you take something out of the

18 equation. Again, if you're just saying in isolation

19 one thing, and if that one thing is not present, then,

20 yeah, that would make sense that it would have a

21 substantial influence in terms of a lack of action

22 that might not be taken.

23   Q.   Okay. So let me give you a

24 hypothetical. Let's say there's a speaker. Say one

25 of those speakers in there that says, you know, "We're

1 going to fight like hell" and "We're going to take the

2 fight to the streets." That's what they say. And

3 they say that at a big rally, and that rally has

4 far-right extremists in it.

5   But they don't have a history of

6 promoting violence, at least none that the right-wing

7 speakers know of, and they don't have any perceived

8 relationship with the far-right-wing extremists. So

9 they don't have those two factors.

10   Would that be considered a call to

11 violence?

12   A.   What are the other contextual factors

13 present? That would make a big difference too.

14   So again, you know, some of these

15 hypotheticals, when they're asked without enough

16 information, it's hard for me to answer that question

17 and -- depending on what's the context of that speech

18 that's being given, why were they saying certain

19 things, what was it related to.

20   You know, the audience is going to

21 receive -- even with a lack of information, you could

22 still imagine that an audience would receive certain

23 calls to action in a particular way depending on the

24 situation.

25   Q.   Okay. Let's take a look at a few more

1 videos. And I think they'll provide a little more

2 context, but perhaps not enough. So we'll talk about

3 that.

4   A.   Okay.

5   MR. GESSLER: Exhibit 1026, please.

6   (Video was played.)

7   MR. GESSLER: Okay. Let's stop it right

8 there.

9   Q.   (By Mr. Gessler) So you saw the woman

10 in there. And I'll represent to you that she's a

11 congresswoman. And she's speaking to a crowd, and

12 she's telling them, the crowd, to push back and make

13 people not feel welcome there. And people are

14 cheering her on.

15   Is that a call to violence, or would you

16 need additional contextual information?

17   A.   It would -- you know, one of the factors

18 that would be important in terms of additional

19 contextual information is, is there -- you know, are

20 there individuals and groups present in the audience

21 that have known violent histories for committing acts

22 of political extremism -- violent political extremism?

23   Saying -- you know, making a statement

24 like that with a crowd that has that known history is

25 different than saying those things in a crowd where

1   that's not present.

2   Q.   Okay. This is Congressman Waters. She

3   may or may not know if people have that history are --

4   who have that history are in that crowd.

5   A.   Okay.

6   Q.   So you're saying, well, maybe it's a

7   call to violence if there are people with that history

8   in the crowd, and maybe it's not a call to violence if

9   there's people without that history in the crowd.

10   Is that a fair characterization?

11   A.   Yeah. That would be one -- again, one

12 aspect. There's -- we're only talking about one

13 aspect, though.

14   Q.   So what other aspects would I need?

15   A.   I would go back to what we just

16 discussed, which is the history in terms of

17 relationship between the speaker and members of the

18 audience.

19   Q.   Okay. Great.

20   MR. GESSLER: Let's look at Number 147.

21   (Video was played.)

22   Q.   (By Mr. Gessler) Okay. So they're

23 joking about smacking people there, and she's laughing

24 at it.

25   Does that give you enough context to

1 know whether or not that would be perceived as an

2 endorsement of or a call to violence?

3   A.   No, it really doesn't. I mean, again,

4 fairly short clip. I'm not familiar with the speakers

5 as far as the radio hosts. I -- there's just not much

6 contextual information for me to say much about it.

7   Q.   Okay.

8   MR. GESSLER: Let's look at Number 1048,

9 please.

10   (Video was played.)

11   Q.   (By Mr. Gessler) Okay. Let's talk

12 about that one a little bit.

13   Do you know who that is speaking, or do

14 you understand the context behind that?

15   A.   I know who the speaker is.

16   Q.   Okay. And you understand the context,

17 that that was involved in a debate with respect to

18 abortion and the possibility of the United States

19 Supreme Court issuing a decision?

20   A.   Yes. That's my understanding based on

21 what I saw.

22   Q.   Okay. Did you have a preexisting

23 understanding before looking at this video?

24   A.   Of this particular clip?

25   Q.   Yeah.

1   A.   No, I did not.

2   Q.   Okay. So you heard Senator Schumer. He

3   talked about how women are coming under attack, how

4   people are waging war on them and taking fundamental

5   rights.

6   Is that language characteristic of some

7   of the language used by far-right-wing extremists?

8   I'm not saying he is one, but does it

9   have the same characteristics of some of the language

10 used by far-right-wing extremists?

11   A.   One of the things I would want to know

12 more about in order to more fully answer your question

13 would be the history of the speaker's use of the term

14 "war" and whether there's, you know, evidence

15 basically that would suggest that the speaker really

16 believes that a literal war is taking place and that

17 some type of action is required or whether the speaker

18 is using a more figurative type of term in terms of

19 "war."

20   So without that information, that --

21 it's really hard to assess kind of this -- how the

22 speaker is using that term, "war."

23   Q.   Okay. Does the speaker using the phrase

24 "we're coming under attack" -- does that create a

25 sense of self-defense and an us -- does that create a

1 sense of self-defense among the listeners?

2   A.   It could. Again, you know, how the --

3 the history of the speaker's use of the terms and

4 their understanding of the terms -- how they used it

5 in the past, whether they used it in the past -- these

6 would all be important, you know, kind of, again,

7 contextual factors to look at.

8   Q.   So you can't really tell just looking at

9 the words?

10   A.   I don't think there's a social scientist

11 in the world that would say you can take just words at

12 face value. Context is always important, whether

13 we're talking about violence or otherwise.

14   Q.   Okay.

15   MR. GESSLER: Let's take a look at 1054,

16 please.

17   (Video was played.)

18   Q.   (By Mr. Gessler) Okay. So -- and

19 take -- when -- I believe it was President Joe Biden.

20 He may not have been President yet at that clip.

21   But at the time President -- I'll call

22 him President Joe Biden, because I don't know the

23 time, out of respect.

24   At the time he made that comment, could

25 or would that have been interpreted by the far -- by

1   far-right-wing extremists as a call to violence?

2   A.   Well, let me just first say that any one

3   of the contextual factors in looking at that statement

4   is he said, "I wish I were in high school." So -- and

5   that that -- and I think you said important aspect of

6   the statement in terms of understanding.

7   Would far-right extremists --

8   Q.   So let me interrupt you a second.

9   Couldn't him saying "I wish you were in

10 high school," be treated as a case of plausible

11 deniability, almost like a joke to mask his violent

12 tendencies?

13   A.   That is possible. Again --

14   Q.   Okay.

15   A.   -- with more context, we can make a

16 better determination.

17   Q.   So it would require context to

18 understand whether he's engaged in -- is that

19 doublespeak or front/back behavior?

20   A.   Doublespeak.

21   Q.   Doublespeak.

22   A.   But front/backstage would have other

23 application.

24   Q.   Okay. So we would need context to

25 understand whether one of those two methods of

1 communication were to apply?

2   A.   Yeah. I hate to sound like a broken

3 record, but we'd want to know whether there was a

4 relationship between Joe Biden and far-right

5 extremists such that there had been a pattern

6 developed where he would have far-right extremists who

7 would understand certain things in a certain way based

8 on the speaker's words.

9   Q.   Okay. Great. I'm not going to subject

10 you to any more of these types of videos.

11   So thank you very much for that. Let me

12 move on.

13   I want to go to the -- there's a

14 demonstrative exhibit -- picture you used. Picture

15 Number 4, if I remember correctly.

16   Do you remember looking at that?

17   A.   Yes, I do.

18   Q.   Okay. I want you to look at that

19 picture on the left.

20   A.   Okay.

21   Q.   I'm guessing -- and I'm wondering if

22 this is your opinion as well that those are two people

23 fighting.

24   Does that look like two people fighting?

25   A.   When you say "two people," you're

1 referring to, on my left, a person in a kind of

2 light-blue-colored shirt that's holding the flag that

3 appears to be as a weapon -- using as a weapon?

4   Q.   And the person in the green.

5   A.   And the person in the green.

6   Q.   Okay.

7   A.   To me, it appears that the person in the

8 blue is getting ready to, I guess you might say, stab

9 the person in the green with a flagpole.

10   Q.   Okay. And the person -- well, let's

11 look at those people.

12   So the person in the blue has a helmet,

13 right?

14   A.   Yes. That's correct.

15   Q.   And the person in the green has a gas

16 mask on?

17   A.   It appears to be, yes.

18   Q.   Yeah. So it looks as though maybe they

19 both prepared for violence.

20   Would that be fair to say?

21   A.   I think that's fair.

22   Q.   Okay. And the person in the blue -- and

23 I see what you're saying. It looks as though that

24 person is preparing to stab.

25   But I had wondered -- it would be fair

1 to -- it could be that that person in the blue had

2 just -- was pulling the flag away from the person in

3 the green trying to grab it.

4   The person in the green's arms -- their

5 arms are outstretched, right?

6   A.   Yeah. It appears that way.

7   Q.   Okay. So it could be that they are --

8 and I don't know if it is, but they could be trying to

9 pull it away from the person in the green.

10   That's a fair interpretation of that

11 photo, isn't it?

12   A.   That's fair in this particular photo. I

13 will say that --

14   Q.   Well, let's just stick with the photo.

15 I'll let you explain. I'm not going to entirely cut

16 you off.

17   A.   Sure. Sure. Appreciate it.

18   Q.   And it could be that the person in the

19 blue is preparing to try and stab the person in the

20 green or hit the person in the green with that

21 flagpole, and the person in the green is sort of

22 reaching out to defend themselves.

23   Could that be the case?

24   A.   Yes.

25   Q.   That could be the case.

1   And it could be maybe that the person in

2   the green has swung that flagpole, and the person in

3   the blue caught it, and the person in the green just

4   released it.

5   That could be an interpretation?

6   A.   It could be.

7   Q.   That could have been --

8   A.   Yeah, it could be.

9   Q.   So from that photo, we're not really

10 sure who's the instigator of the violence, whether

11 it's the person in the green or the person in the

12 blue, right?

13   A.   That's correct.

14   Q.   Okay. And from what I could tell, just

15 looking at the attire, I mean, the person in the blue,

16 I didn't, you know, see any, like a -- like a 1776

17 emblem or a Betsy Ross that we had talked about that

18 would necessarily indicate that that person in the

19 blue was a -- or is a member of a far-right-wing

20 extremist group. I mean, is there some attire -- and

21 it looks like it's a woman, a she. Long hair. It

22 looks like that from the back. I could be wrong.

23   But you'd agree with me, there's nothing

24 in that person's attire that signifies it was a

25 far-right-wing extremist?

1   A.   Other than the fact that they attended a

2   Unite the Right rally which was attended by far-right

3   extremists.

4   Q.   Right. That's fair. So the context,

5   where they're located, but not necessarily their

6   attire themselves?

7   A.   No.

8   Q.   Okay. All right.

9   A.   Some people at Unite the Right had more

10   kind of group-specific attire; many others did not.

11   That was pretty common that day.

12   Q.   And you'd agree with me, same person --

13   same with the person in the green? There's nothing

14   necessarily in their attire that signifies that

15   they're a far-right-wing extremist or a member of that

16   group?

17   Would you agree with me on that?

18   A.   I would agree with you.

19   Q.   Okay. So you had talked about --

20   MR. GESSLER: And we can turn that off

21   for a second.

22   A.   You did say I could explain a little

23   bit. Is that --

24   Q.   (By Mr. Gessler) All right. I'll let

25   you explain.

1   A.   Very briefly. The reason I selected

2   that photo is because dozens of people were assaulted

3   by far-right extremists that day using various

4   weapons, including flagpoles.

5   Q.   Okay.

6   A.   And that's -- that's a documented fact.

7   Q.   And so you selected that photo?

8   A.   To be representative of the type of

9   violence that happened at Unite the Right that was

10   committed by far-right extremists.

11   Q.   Okay. Now, did you attend? Did you

12   attend that rally?

13   A.   No, I did not.

14   Q.   Were you an observer of the rally?

15   A.   No. I was in Montreal at the time.

16   Q.   Okay. So you were out of the country

17   during the rally?

18   A.   Correct.

19   Q.   Let's talk about the -- you talked a

20   little bit about the million MAGA -- the Million MAGA

21   March; is that correct?

22   A.   That's correct.

23   Q.   Okay. And you -- and there was a video

24   where a car that you said was President Trump's

25   motorcade drove through it?

1   A.   That was my understanding.

2   Q.   That was your understanding.

3   And what's that understanding based on?

4   A.   It's been documented in multiple places.

5   Q.   Okay.

6   A.   And I --

7   Q.   And the reason I ask that is I just saw

8 one vehicle drive through. I mean, I guess in my

9 experience, it seems like usually there's sort of a

10 whole convoy.

11   A.   I think we might have seen a little

12 different aspect of the video. There's several

13 vehicles.

14   Q.   Okay. And you testified, if I remember

15 correctly, that the vehicle went through, and then

16 after that, violence broke out?

17   A.   No, that wasn't my testimony.

18   Q.   How did I misunderstand that?

19   A.   The way you're characterizing it now, it

20 sounds like it kind of almost immediately broke out.

21 I said, "at some point later."

22   Q.   Oh, at some point later.

23   A.   Yeah, yeah.

24   Q.   Okay. I'm sorry.

25   A.   Yeah.

1   Q.   I was just trying to get the sequence

2   right.

3   A.   Sure.

4   Q.   I didn't mean to imply that it was

5   immediate.

6   A.   Okay.

7   Q.   So the vehicle drove through, people

8   cheered it, and then at some point later, violence

9   broke out?

10   A.   Correct.

11   Q.   And did you attend that event?

12   A.   No, I did not.

13   Q.   Okay. Now, you also -- there was a

14   tweet in which President Trump said that Antifa -- I

15   think he called them scum -- but he said Antifa

16   attacked and they were driven off, and then later on

17   other people attacked.

18   Do you remember that tweet?

19   A.   I do.

20   Q.   Okay. And I remember your testimony

21   very clearly, because I tend to do a fair amount of

22   writing. I mean, that's all that lawyers produce is

23   words and hot air. And so I'm always sort of keenly

24   attuned to the passive tense.

25   A.   Okay.

1   Q.   And you said that after the -- you know,

2   after President Trump's motorcade drove through,

3   sometime later violence -- it turned violent.

4   Were you there to witness who instigated

5   violence?

6   A.   I was not present then.

7   Q.   Okay. Is it your testimony that members

8   of far-right extremists started attacking people?

9   A.   It's my testimony that members of

10 far-right extremist groups like the Proud Boys

11 committed acts of violence that night.

12   Q.   Okay. Is it your testimony that they

13 were defending themselves from an attack from Antifa?

14   A.   It's my testimony that President Trump

15 framed it that way in the tweet.

16   Q.   Okay. But we don't, at this point,

17 stand and watch and say at this point -- you know,

18 where you are now, you don't know who may have started

19 the violence?

20   A.   My understanding is that certainly some

21 of the members of the Proud Boys instigated the

22 violence, so there were arrests made and so forth.

23 So . . .

24   Q.   And what's that understanding based on?

25   A.   Public documents.

 1   Q.   And I guess the reason I'm asking is I

 2   didn't see a public document in your expert report

 3   that would indicate who caused any of that violence.

 4   A.   I mean, I'd have to review my report.

 5   Q.   Okay. Let's talk about -- let's talk

 6   about that Million MAGA March.

 7   President Trump did not organize that

 8   march; is that correct?

 9   A.   That's correct.

10   Q.   Okay. And he didn't invite the speakers

11   to it, did he?

12   A.   No, he did not.

13   Q.   And he did not invite who attended to

14   it -- he didn't invite the attendees, did he?

15   A.   That's correct.

16   Q.   The only thing he did was drive through

17   it, correct?

18   A.   Presidential motorcade, correct.

19   Q.   Okay. Let me ask you another question.

20   So there was another video, and I think

21   it's Number 73. And I'm just going to play a portion

22   of it to remind you. I'm not quite sure how to

23   describe it.

24   (Video was played.)

25   Q.   (By Mr. Gessler) So you remember

1 talking about this video?

2   A.   That -- yes, I do.

3   Q.   And you said that that was posted on

4 that Donald -- Donald.win?

5   A.   Donald win, yeah. Donald.win.

6   Q.   Donald.win website?

7   A.   Yeah, so it's a website. So it

8 originally started as a subreddit, and then got weird

9 and turned into more of a website.

10   Q.   Okay. But that's not President Trump's

11 official website, is it?

12   A.   That's correct.

13   Q.   And it's not his personal website?

14   A.   That's correct.

15   Q.   And there's no evidence that he put it

16 on there, is there?

17   A.   No, I didn't testify to that.

18   Q.   And you testified that there was some

19 traffic or other postings or conversations on that

20 website?

21   A.   A substantial amount. These were --

22 these are large sites that have for years had a

23 substantial amount of extremist right-wing --

24 far-right extremists' posts, including ones of a

25 violent nature.

1   Q.   And there's no post on that website from

2   Donald Trump, is there?

3   A.   Not to my knowledge.

4   Q.   Okay. In fact, there's no evidence that

5   President Trump is even aware of that website, is

6   there?

7   A.   I mean, I'm not inside Donald Trump's

8   mind in terms of what he's aware of in terms of

9   specific sites. But I can tell you that it was -- as

10   indicated in the report, that there was a specific

11   situation in terms of some of Trump's advisors, staff,

12   that involved some of the posts on that particular

13   site as it related to January 6. And certainly there

14   were a number of posts that specifically addressed the

15   plans to commit violence on January 6.

16   Q.   Now, was one of those posts by Steve

17   Bannon? You had mentioned a post by -- a comment by

18   Steve Bannon. I don't remember if you said he had

19   posted on that website or it was elsewhere.

20   A.   No. When I referenced Steve Bannon, it

21   was in regards to comments he had made about claiming

22   victory no matter what the election results were.

23   Q.   Okay. And do you know the relationship

24   between Steve Bannon and President Trump?

25   A.   I know he served initially as his

1   primary campaign manager. And then after Donald Trump

2   was elected President, he served as a White House

3   adviser and that they're, at least according to Steve

4   Bannon, maintaining communication.

5   Q.   So Steve Bannon claims that he's

6   maintaining communication with President Trump?

7   A.   I've heard in the public record that

8   he's made statements in regards to that.

9   Q.   Okay. Would it surprise you if -- to

10   learn that President Trump had fired Steve Bannon?

11   A.   No. I recall that.

12   Q.   Okay. And do you recall President Trump

13   saying "Steve Bannon has nothing to do with me or my

14   presidency. When he was fired, he not only lost his

15   job, he lost his mind"?

16   Do you remember President Trump saying

17   that?

18   A.   I do recall that, yes.

19   Q.   Okay. So you remember President Trump

20   disavowing Steve Bannon, correct?

21   A.   Yes. Correct.

22   Q.   Okay. So let's go back to the speech --

23   to sort of speech patterns. So you were talking about

24   relationships and whatnot.

25   So if President Trump were at a rally --

1 and we saw, I think, where he was -- there was a

2 protester or something, and he says, "Get that person

3 out of there."

4   That could be considered a call to

5 violence if there's far-right-wing extremists in that

6 group; is that fair to say?

7   A.   Yes, especially if it's part of a

8 pattern and it involves after-the-fact endorsements.

9   Q.   Okay. And then if he said, "Get that

10 person out of here," and then like a few seconds or

11 after a pause said, "but don't hurt him," would that

12 "but don't hurt him," in your view, be plausible

13 deniability?

14   A.   It certainly could be. Again, we'd have

15 to look at the specific instances and the context.

16 But that could certainly -- that statement could serve

17 certainly as a means of establishing plausible

18 deniability.

19   Q.   Okay. And so I'm going to give you --

20 well, let me ask you.

21   So let's say President Trump said, "Get

22 that person out of here, but don't hurt them," and

23 then members of the crowd pushed that person out and

24 roughed them up a bit, injured them a little bit

25 somewhat.

1   Would that change your opinion?

2   A.   I'm sorry. Could you --

3   Q.   Would that -- in your view, if President

4 Trump said, "Get that person out of here," and then

5 shortly after said, "but don't hurt them" --

6   A.   Right.

7   Q.   -- and members of the crowd interpreted

8 that to get the person out -- to physically, forcibly

9 remove that person.

10   A.   Including assaulting the person?

11   Q.   And there was -- that person was hurt,

12 injured, so --

13   A.   By means of assault?

14   Q.   By means of -- well, yeah, exactly what

15 those people did.

16   A.   Okay.

17   Q.   Would you view President Trump's

18 comments as a call to violence?

19   A.   I would view -- well, so that's what the

20 previous question was about, plausible deniability.

21   Q.   I understand. Let me -- I'll first ask

22 you --

23   A.   Okay.

24   Q.   -- if you view that as a call to

25 violence.

1   A.   Within context, if there's a pattern

2   established, if there's been endorsements for violence

3   after the fact, then certainly that would fit that

4   pattern.

5   Q.   Okay. And then if he said, "but don't

6   hurt them," would that be an example of plausible

7   deniability?

8   A.   If there was an after-the-fact

9   endorsement of the violence that occurred, then

10   certainly that would give credence to interpreting the

11   statement that you just mentioned as an effort to

12   create plausible deniability.

13   Q.   Okay. But I'm not going to give you

14   that part of the hypothetical.

15   A.   Okay.

16   Q.   I'm just going to say that President

17   Trump said, "Get him out of here," and then said, "but

18   don't hurt him," and that there was a crowd, and the

19   crowd, in fact, reacted -- or at least some members of

20   that crowd reacted with violence. They forcibly put

21   that person out of there, okay?

22   Is the phrase, "but don't hurt them," is

23   that plausible deniability? That's all we have to go

24   on.

25   A.   I mean, the answer to that is it

1 depends. It's going to depend on context. It's going

2 to depend on patterns. So giving one isolated example

3 as a hypothetical with small bits of information, you

4 know, it's difficult to know exactly how these things

5 should be interpreted or would be interpreted.

6   Q.   But in your view, there's a possibility

7 that it could be interpreted as a call to violence

8 plus plausible deniability? There's a possibility

9 that that could be the case?

10   A.   Yes.

11   Q.   Okay. And so I want to draw your

12 attention to January 6 or the events leading up to and

13 surrounding January 6. So you testified about a

14 number of tweets, and one of the tweets that you

15 testified was President Trump tweeting "Come to

16 January 6. Will be wild."

17   Do you remember that?

18   A.   Yes, I do.

19   Q.   And when I say "Come to January 6," I'm

20 paraphrasing that. But he was trying to drum up

21 support, and the last part he said, "Will be wild,"

22 right?

23   A.   That's correct.

24   Q.   Okay. Was that phrase, "Will be wild,"

25 a call to violence?

1   A.   By itself? Is that what you're asking?

2   Q.   I'm giving you the tweet. I can bring

3   it up again if you want.

4   A.   Not necessary.

5   Q.   Okay. Was that tweet in and of itself a

6   call to violence?

7   A.   It was -- for far-right extremists, they

8   wouldn't understand it in and of itself; they would

9   understand it within the context of a pattern. And in

10 that respect, certainly it was interpreted that way,

11 as a call to violence.

12   Q.   Okay. So knowing what you know of all

13 of President Trump's and the far-right-wing extremists

14 and their respective activities leading up to the day

15 where he says "Will be wild," your testimony is that

16 the far-right-wing extremists certainly interpreted

17 that as a call to action?

18   A.   That's correct.

19   Q.   Okay. Was it -- do you have evidence

20 that it was President Trump's intention to call them

21 to action?

22   A.   My, you know, opinion is not addressing

23 that issue. Again, not in President Trump's mind. I

24 could tell you about the patterns that have been

25 observed by myself and other scholars as it relates to

1 issues in terms of far-right extremism and issues.

2 And I can tell you what I've observed in terms of

3 patterns specifically relating to President Trump and

4 his relationship with far-right extremists.

5   Q.   Okay. So your testimony today, then,

6 it's fair to say, is really sort of limited to how

7 far-right-wing extremists interpreted President

8 Trump's remarks?

9   A.   It's -- it's referencing that. But

10 it's also -- certainly part of observing a pattern is

11 not just observing what far-right extremists do, but

12 also what the speaker, the sender of the message is

13 doing too.

14   And so that's part of the pattern. The

15 pattern is not just the far-right extremists and their

16 response, but also the messages that are being sent,

17 the things that are being done, the acts that are

18 taken, the words that are spoken -- all of that is

19 part of the pattern as well.

20   Q.   And what you just said is that it's

21 beyond your opinion today as to whether or not Trump

22 intentionally sought to mobilize people to violence on

23 January 6.

24   Is that right to say?

25   A.   I can say that he expressed a consistent

1 pattern of messages over time that encouraged

2 violence, he expressed messages over time that

3 endorsed violence. And that's very, you know, I think

4 clear in terms of this matter.

5   Q.   Okay. So on January 6 you saw his

6 speech, and you saw where he said, "Go down there and

7 march peacefully and patriotically to the Capitol."

8   Do you remember that part of the speech?

9   A.   Yes, I do.

10   Q.   Okay. And your testimony is that the --

11 or your conclusion -- and tell me if I'm wrong.

12   Your conclusion is that the

13 far-right-wing extremists interpreted that to be

14 plausible deniability because of this past history and

15 because your belief that President Trump had

16 aggressive language that outweighed the peacefully and

17 patriotic statement -- those two factors, the history

18 and the outweighing of the peaceful and patriotic; is

19 that correct?

20   A.   Those are two, yeah, very critical

21 factors. Yeah. I think that's a fair

22 characterization.

23   Q.   And the aggressive language had to do

24 with going down there and fighting and that type of

25 phrasing?

1   A.   As well as the existential threat type

2   of language, you might say, as well as the reference

3   to essentially a different set of rules applying. So

4   it was the aggressive language in terms of the

5   references to fighting, which there were a number of

6   times -- several times, but also some of these other

7   things I just pointed to as well.

8   Q.   Okay. But at the end of the day, you

9   don't -- I mean, like you said, you don't know what

10 was actually going through President Trump's head?

11   A.   I'm not in President Trump's mind.

12   Q.   Okay.

13   MR. GESSLER: Excuse me one moment, Your

14 Honor. I think I'm almost done.

15   Q.   (By Mr. Gessler) Oh, one other question

16 about plausible deniability.

17   If I heard you correctly, so if one of

18 the characteristics, would be fair to say, of

19 plausible deniability is that the speaker only says --

20 only makes that denying statement once, and it's a

21 different matter if the speaker makes that denying

22 statement multiple times in a speech?

23   A.   That could make a difference. It

24 would -- again, this is all contextual. So, you know,

25 it would depend on the overall statement, what portion

1 the specific efforts that plausible deniability kind

2 of consisted of. There's just a lot of factors we

3 have to take into consideration.

4   Q.   Okay. So probably it would be fair to

5 sum up your testimony as saying, when someone makes

6 certain comments or speeches, to understand the impact

7 of that speech, you need to understand not just the

8 words that are used but the contextual factors of

9 which there can be many.

10   Is that fair to say?

11   A.   Very fair.

12   MR. GESSLER: That's all I have. Thank

13 you, Your Honor.

14   THE COURT: Any redirect?

15   MR. GESSLER: Oh, Your Honor, I would

16 ask to be able to admit the videos I played -- 1046,

17 -47, -48, -54, and -74. Not for the truth of the

18 matter that those people wanted to fight, but

19 obviously as a basis for the witness's testimony here

20 in these proceedings.

21   THE COURT: Your response, Mr. Olson?

22   MR. OLSON: That's fine.

23   THE COURT: You're okay with that?

24   MR. OLSON: Yeah.

25   THE COURT: Okay. Then I will admit

1   them.

2   (Exhibits 1046, 1047, 1048, 1054, and

3   1074 admitted into evidence.)

4   THE COURT: But I -- yeah. Could you

5   repeat the list?

6   MR. GESSLER: Numbers 146, 147.

7   THE COURT: Okay. I think you meant

8   1046, right?

9   MR. GESSLER: I'm sorry. Let me get --

10 Numbers 1046, 1047, 1048, 1054, and 1074.

11   THE COURT: Thank you.

12   MR. GESSLER: Thank you.

13   REDIRECT EXAMINATION

14 BY MR. OLSON:

15   Q.   Good afternoon, Dr. Simi.

16   Do you have enough water?

17   A.   I think I should be fine. Thank you.

18   Q.   Okay. Great.

19   I want to start by talking about the

20 patterns of Trump's behavior that you referenced in

21 your conversations with Mr. Gessler. And to help us

22 keep track, I want to put some on the flip chart here.

23   Can you see that, or do I need to scoot

24 it over a little further so you can see it?

25   A.   I think I should be able to see it.

1   Some of it is blocked a little bit, but --

2   Q.   Well, let's --

3   A.   That's better.

4   Q.   Is that better?

5   MR. OLSON: Your Honor, can you see it

6   okay?

7   THE COURT: If you move over that screen

8   just like 6 inches. Now I can, yeah.

9   MR. OLSON: And I should ask,

10 Mr. Gessler, can you see it?

11   MR. GESSLER: Do I have to? No, I'm

12 good.

13   Q.   (By Mr. Olson) So I want to talk about

14 the pattern. And I want to do that by sort of using

15 the list you put in your report as a frame for this

16 discussion. And if you could turn to page 18 of your

17 report. And I have it here. And we're not going to

18 sort of read everything here, but I want to bring up

19 some of the sources you cite for this pattern in your

20 report and talk about them one by one.

21   And you see here in this -- we see at

22 the bottom it's November 2015. I think we've talked

23 about that already, right? We showed that video?

24   A.   Yes. That's correct.

25   Q.   And I can show it if you want.

1   Would that be helpful?

2   A.   I don't need to see it again.

3   Q.   Okay. But this is the one where we saw

4   both Trump told them to "Get the protesters the hell

5   out of there." And then the next day he said, "Well,

6   maybe the protesters should have been roughed up,"

7   right?

8   A.   That's correct.

9   Q.   Okay. So would this be a data point in

10   your pattern?

11   A.   Most definitely.

12   Q.   Okay. So I'm going to put here "2015."

13   And to help us remember, I'm just going to put a

14   couple phrases from each incident if we could.

15   What would you use as a two- or

16   three-word phrase?

17   A.   "Roughed up."

18   Q.   Roughed up. Okay. And you see the next

19   example there is 2000 --

20   MR. GESSLER: Can I interrupt just a

21   second? This is a different version of what we have

22   on the screen.

23   MR. OLSON: This is the revised report.

24   MR. GESSLER: All right. We'll

25   double-check.

1   MR. OLSON: Okay.

2   MR. GESSLER: Sorry.

3   MR. OLSON: No. It's fine. But do you

4 want to take a minute to make sure you have the right

5 thing?

6   MR. GESSLER: Why don't you keep --

7 we'll look while you're going, and if there's a

8 problem, we'll shout.

9   MR. OLSON: Great.

10   Q.   (By Mr. Olson) The next example you

11 give is February 2016.

12   Do you see that?

13   A.   Yes, I do.

14   Q.   And then at the bottom is a footnote --

15 and this is dangerous to do -- but you see the

16 footnote says "Knock the crap out of tomato throwers,"

17 and there's a web -- a link to Washington Post?

18   A.   Yes, I see that.

19   Q.   All right. Well, let's watch that video

20 and see what Trump says.

21   (Video was played.)

22   Q.   (By Mr. Olson) Okay. Is this another

23 example in your pattern of Trump's calling for

24 violence in his speeches?

25   A.   Yes. Absolutely.

1   Q.   Okay. What phrase should we use to

2   remember this one by?

3   A.   Well, I don't know. "Knock the crap"?

4   Q.   Okay. And this was 2016, correct?

5   A.   Correct. February.

6   Q.   Okay. And if we look back at your

7   report, we see the same example. The next one

8   about -- in February '16 about punching him in the

9   face; do you see that?

10   And do you see in Footnote 74 there's a

11   YouTube link there?

12   A.   Yes, I see that.

13   Q.   All right. Well, let's watch that

14   YouTube link.

15   (Video was played.)

16   Q.   (By Mr. Olson) How would you -- this

17   was in 2016.

18   What catchphrase should we use for this

19   one, part of the pattern?

20   A.   How about "punch"?

21   Q.   Okay. Well, there may be another one

22   that involves punch.

23   Can we say maybe "punch in the face"?

24   A.   Sure.

25   Q.   Now, if we go back to your report, we

1   see -- you have another example from March 2016 --

2   sorry, we don't have a video for that one. So let's

3   go to the next page, page 20. I'm sorry, I'm jumping

4   ahead of myself. I have my notes going from -- oh,

5   here we go.

6   From October 2018, do you see that one?

7   A.   Yes, I do.

8   Q.   All right. And that is a New York Times

9   link -- right? -- in the footnote?

10   A.   Yes, it is.

11   Q.   All right. And let's look and see what

12 that link says. Let's play the video.

13   (Video was played.)

14   MR. OLSON: Your Honor, I thought I got

15 rid of all the ads. I apologize. Give me seven

16 seconds.

17   MR. GESSLER: Your Honor, we want to see

18 all the ads.

19   THE COURT: We've all been there,

20 waiting for the ads.

21   (Video was played.)

22   Q.   (By Mr. Olson) Is this another example

23 of the work that you reviewed in your report about

24 Donald Trump's pattern of praising political violence?

25   A.   Yes, it is.

1   Q.   Okay. What --

2   MR. OLSON: The risk of doing it live.

3   Q.   (By Mr. Olson) What should we use for

4   that catchphrase?

5   A.   "Body slam"?

6   Q.   Great. Now I want to go to -- we talked

7   about a little bit at the end of our conversation, the

8   "Stand back and stand by" comment that Trump made.

9   Do you remember when he made that

10   comment to the Proud Boys, or should I pull the video

11   up?

12   A.   Oh, yes, I remember it.

13   Q.   When was it?

14   A.   Oh, well, it was at the debate, so --

15   gosh. I don't have the exact date off the top of my

16   head.

17   Q.   Okay. Well, I'll pull the slide up so

18   we can just make sure we all get it right on the

19   demonstrative.

20   A.   Okay.

21   Q.   Does seeing the slide help you remember

22   when the "Stand back, stand by" comment was made?

23   A.   Yes, it does.

24   Q.   Okay.

25   A.   September 29.

1   Q.   Okay. Do you need to see the video or

2 are we good?

3   A.   No.

4   Q.   Okay. And the comment, "Stand back,

5 stand by" here?

6   A.   Yeah, that sounds -- that makes sense.

7   Q.   And then another event in 2020 that we

8 talked about on direct, but I want to provide some

9 more context based on the conversation and -- that you

10 had with Mr. Gessler about what we can infer from

11 Trump's patterns. We played a short excerpt of this

12 video.

13   Do you remember that with your thing?

14   A.   Yes, I do.

15   Q.   Now, I'd like to play the whole video.

16   But before I do that, can you just

17 remind us again what was important about Trump's

18 response to the statement by the Georgia election

19 worker to stop calling for violence? What was

20 important about Trump's response?

21   A.   Well, I would say two things. One,

22 there's an omission of any kind of clear condemnation

23 to threats of violence or acts of violence. And

24 there's a doubling-down as it relates to the very

25 specific issue that's being referenced in terms of

1 what's inspiring people to threaten the lives of

2 election workers and election officials.

3   Q.   Okay. Well, I'm going to play the full

4 exhibit.

5   MR. OLSON: It's admitted, Your Honor.

6 It's P-126. And thanks for bearing with me while we

7 switch back between programs.

8   And we'll start at the beginning.

9   (Video was played.)

10   Q.   (By Mr. Olson) And I want to turn back

11 to President Trump's response. And on the right-hand

12 side of the screen, that's what we see.

13   Did President Trump at all do anything

14 to discourage his followers from committing those acts

15 of violence? After being specifically identified,

16 specifically requested, and with specific examples

17 given of harm that was caused, did he do anything to

18 stop that?

19   A.   Not a thing.

20   Q.   I know you're not a mind reader, but is

21 it consistent with someone who wants their followers

22 to behave peacefully to give this response to a

23 specific request for help?

24   A.   Not at all.

25   Q.   I want to put this example on our chart.

1   And our chart so far focuses on words that Trump has

2   used.

3   So what word -- what catchphrase should

4   we use for this -- Mr. Sterling -- plea for help and

5   Trump's response?

6   A.   Maybe "Help."

7   THE STENOGRAPHER: Can you repeat that,

8   please?

9   A.   Maybe "Help."

10   Q.   (By Mr. Olson) Well, again, I want to

11 focus on Trump with what we have here.

12   A.   Okay.

13   Q.   An dso what language --

14   A.   "No condemnation."

15   Q.   "No condemnation." Okay.

16   And can I put "Georgia" underneath to

17 help us remember?

18   A.   Sure.

19   Q.   And the last thing I'd like to talk

20 about on this demonstrative is the Ellipse speech on

21 January 2021. And in your conversation with

22 Mr. Gessler, I noticed it -- I'm sure it was a mistake

23 or a paraphrase by his part, but he said that

24 Mr. Trump said in that speech to "Go march

25 peacefully."

1   Did he say those words, or did he say

2 something different?

3   A.   It was something different.

4   Q.   Okay. Was it a command at all?

5   A.   It was not a command --

6   Q.   Okay.

7   A.   -- no.

8   Q.   I can play the speech. Do you remember

9 what it was? Well, we can play the speech if it's

10 helpful.

11   A.   If it's possible to get --

12   Q.   Yeah. We can do that.

13   A.   -- to that specific part of it.

14   Q.   I'm going to get close but not perfect.

15 So we'll start a little bit before when it happens.

16   A.   Okay.

17   (Video was played.)

18   Q.   (By Mr. Olson) So that's -- was that a

19 command?

20   A.   Not in my opinion.

21   Q.   And how did that differ from the

22 language that Trump used at the -- the speech at 4:17

23 that afternoon?

24   A.   The speech at 4:17 in the video would be

25 much more consistent with commands.

1   Q.   Why is that?

2   A.   Because they were directives. They were

3   very specific directives in terms of going home, and

4   they were repeated multiple times.

5   Q.   Now, I want to make sure we don't forget

6   to put the Ellipse speech on this demonstrative.

7   What catchphrase should we use for the

8   Ellipse speech?

9   A.   "Ellipse speech"?

10   Q.   Okay. Now, Dr. Simi, looking at these

11 patterns over and over of Trump's use and, again,

12 acknowledgment of political violence, what does this

13 tell you about his awareness of the effect of his

14 language on his supporters?

15   A.   It suggests -- it suggests a -- in terms

16 of when encouragement and promotion of violence

17 occurs, that people respond to that. And that it

18 suggests an awareness on the speaker's part -- in this

19 case, Donald Trump knowing that these acts of violence

20 occurred -- and is able to then basically endorse and

21 affirm the violence.

22   So that would be hard to do without an

23 awareness.

24   Q.   I want to turn now and talk about a

25 couple of specific things that you and Mr. Gessler

 1   talked about.

 2   You spent some time with him discussing

 3   Steve Bannon, right?

 4   A.   That's correct.

 5   Q.   Do you remember that?

 6   And as part of that conversation, you or

 7   he referenced sort of a plan to declare victory before

 8   the election.

 9   Do you remember that part of the

10   conversation?

11   A.   Yes, I do.

12   Q.   Okay. I'd like to play that clip now.

13   MR. OLSON: And, Your Honor, this is not

14   admitted evidence. I want to have it -- use it for

15   demonstrative purposes to give more context to the

16   conversation that he had with Mr. Gessler. And it's

17   just an audio clip, so there's no video.

18   (Audio was played.)

19   Q.   (By Mr. Olson) Well, I guess we have

20   half of a video there.

21   But, Dr. Simi, what kind of relationship

22   did Steve Bannon have with right-wing extremists?

23   A.   A very close one.

24   Q.   And Mr. Gessler mentioned that

25   Mr. Bannon was fired at some point by President Trump.

1   But didn't President Trump pardon Steve

2   Bannon?

3   A.   That's my understanding.

4   Q.   And you talked about this "Fight for

5   Trump" -- oops. Sorry. I know what's happening. My

6   apologies. I'm trying to do too much at one time. I

7   apologize.

8   Do you see the "Fight for Trump" on the

9   screen?

10   A.   Yes, I do.

11   Q.   Okay. And Mr. Gessler asked you a bunch

12   of questions about TheDonald.win and how Donald Trump

13   didn't have anything to do with that.

14   Do you remember that?

15   A.   I do remember that, yes.

16   Q.   Okay. But who tweeted this video to all

17   of their followers?

18   A.   Donald Trump.

19   Q.   And I want to talk -- and this will be

20   my last series of questions -- about -- one more

21   subject after this -- about Trump's personal

22   relationships with other leaders of right-wing

23   extremism.

24   Do you know who Roger Stone is? You

25   talked about him in your report.

1   A.   Yes, I do.

2   Q.   Okay. Who is Roger Stone?

3   A.   He's a longtime advisor for Donald

4   Trump.

5   Q.   And what relationship did Roger Stone

6   have with right-wing extremism?

7   A.   A very close one. Had been associated

8   with the Proud Boys for some number of years prior to

9   the Capitol attack. Had a relationship with the Oath

10   Keepers, using them as security.

11   Q.   And you said he was a close advisor of

12   President Trump?

13   A.   That's my understanding.

14   Q.   Okay. Was Roger Stone in D.C. around

15   January 6?

16   A.   That's my understanding.

17   Q.   Was he in D.C. with the Proud Boys

18   around January 6?

19   A.   Proud Boys and Oath Keepers.

20   Q.   And then lastly, you mentioned -- we saw

21   some speeches from Alex Jones about 1776. And you

22   talked about who he is. I want to talk about Alex

23   Jones' relationship with President Trump.

24   Did President Trump appear on Alex

25   Jones' radio show shortly after he announced his

 1 candidacy?

 2   A.   Yes, he did.

 3   Q.   Okay. And that they had other

 4 connections over time?

 5   A.   Yes, they have.

 6   Q.   Okay. And did Alex Jones -- you saw a

 7 speech of him speaking --

 8   MR. GESSLER: You know, Your Honor, I

 9 have two objections on this. One is this is, you

10 know, being -- questioning. Second, this is far

11 beyond the cross. Far beyond.

12   THE COURT: It seems like Stone is

13 beyond the cross.

14   MR. OLSON: Okay. I was just -- there

15 was an effort to distance Mr. Trump from these

16 right-wing extremist leaders, and I was putting that

17 effort that Mr. Gessler made in context. There were

18 very tight relationships. So that's what I was

19 attempting to do. But that was my last question on

20 that. I'm happy to move on.

21   THE COURT: Okay.

22   So objection sustained.

23   Q.   (By Mr. Olson) Okay. And then lastly,

24 you spent a fair bit of time with Mr. Gessler talking

25 about the "fine people on both sides" comment that

1   President Trump made?

2   A.   Yes. That's right.

3   Q.   And he showed you the video of the

4   earlier speech from the White House?

5   A.   That's right.

6   Q.   And it seemed to maybe seem somewhat

7   incredible that people would focus on just one snippet

8   from those series of speeches that Trump made about

9   "fine people on both sides"?

10   A.   Yes.

11   Q.   Well, how do you know that the far-right

12 extremists responded so strongly to Donald Trump's

13 statement of "fine people on both sides"?

14   A.   That's the research. That's the data

15 collection. The interviews, the archival materials

16 provides us with ample evidence from their own mouths

17 talking about how they interpreted that comment about

18 "fine people."

19   Q.   Can you give us -- I know you talked

20 about it in your report, but can you give us a couple

21 examples just offhand of --

22   A.   Sure.

23   Q.   -- the kind of material you're relying

24 on?

25   A.   Yeah. I think I might have mentioned

1   this earlier. But David Duke, Richard -- David Duke,

2   who was present at the Unite the Right rally. He was

3   one of the featured speakers who ended up speaking.

4   But Richard Spencer was one of the key organizers of

5   Unite the Right. And, again, Andrew Anglin. All

6   three of them were very public in their thanking of

7   Donald Trump for those comments.

8   And certainly those are just three

9   examples, but there were certainly many other, you

10   know, not-so-high-profile folks that were also

11   expressing similar sentiments in terms of interpreting

12   that message in that fashion.

13   MR. OLSON: Thank you, Dr. Simi. That's

14   all the questions I have.

15   But just one housekeeping matter, Your

16   Honor. I'd like to admit those videos of President

17   Trump speaking that I pulled up online because -- we

18   talked about them. They're not in the exhibit list;

19   they were responsive to the cross.

20   Oh, they are on the exhibit list. Oh.

21   So it's Exhibit -- I have exhibit

22   numbers. Exhibit P-51 is the -- "Knock the crap out"

23   video. Exhibit P-52 is -- my colleague used a

24   different catchphrase than I did, so we'll figure that

25   out and come back to that one. Exhibit P-57 is the

1 "body slam" video. And I will quickly figure out

2 which of the other two are here that have been

3 admitted at a break.

4   THE COURT: Okay.

5   MR. OLSON: But right now, P-51 and P-57

6 we move for admission.

7   THE COURT: And P-52, correct? 51, 52,

8 57?

9   MR. OLSON: Yes. I'm sorry. Thank you.

10 Yes. And then we'll -- yes.

11   MR. GESSLER: No objection, Your Honor.

12   THE COURT: Okay. They're admitted.

13   (Exhibits 51, 52, and 57 admitted into

14 evidence.)

15   THE COURT: So we are -- we are done

16 with --

17   MR. OLSON: Yes.

18   MR. GESSLER: I have a little bit of

19 recross, Your Honor.

20   THE COURT: It will be very short

21 because we're not -- I generally don't allow recross

22 at all, Mr. Gessler.

23   MR. GESSLER: Thank you for your

24 indulgence, Your Honor.

25   THE COURT: Sorry, Professor Simi.

1   THE WITNESS: No problem.

2   RECROSS-EXAMINATION

3 BY MR. GESSLER:

4   Q.   Look at it this way, Professor Simi.

5 You're getting more experience on the stand and just

6 for your own development there.

7   A.   I appreciate it.

8   Q.   Okay. Just a couple questions. So the

9 sources -- I want to talk about the sources that you

10 went to.

11   How did you choose -- I mean, what was

12 your process for choosing those sources?

13   A.   When you say -- can you ask the question

14 again?

15   Q.   What was your process for choosing these

16 sources upon which to base your opinion?

17   A.   The incidents themselves.

18   Q.   Okay. What was your process? Why did

19 you choose those incidents?

20   A.   Well, that's part of the research

21 process and studying what happens in terms of during

22 the campaign and what happened after Donald Trump was

23 elected. And so there's certain things that would be

24 relevant to focus on and study in more closer detail.

25 And as you're looking at far-right extremists --

1   Q.   So I'm going to cut you off a little bit

2   only because the Court has admonished me to be

3   brief --

4   A.   Sure.

5   Q.   -- and I don't want to be too long.

6   So did you listen to every single speech

7   President Trump gave since 2015?

8   A.   No, I did not.

9   Q.   You didn't listen to every single word,

10   no?

11   A.   No, I did not.

12   Q.   So there may have been lots of parts of

13   those -- lots of things he said outside of your scope

14   of review that, perhaps, endorse violence? There

15   could have been, right?

16   A.   You're saying there are additional

17   examples?

18   Q.   No. I'm asking, you don't know whether

19   there were?

20   A.   That's fair.

21   Q.   And you don't know whether there was

22   stuff outside of these examples that you didn't look

23   at that -- where he was advocating peacefulness? You

24   just don't know?

25   A.   That's right. In fact, I can guarantee

1 you that when you have a pattern, there will be

2 exceptions to the pattern. No pattern is ever

3 100 percent.

4   Q.   So you're familiar with the term

5 "selection bias," right?

6   A.   Of course.

7   Q.   Okay. So the only way to truly get a

8 representative of President Trump's speech would be to

9 listen to all of it and take a representative sample

10 out, correct?

11   A.   You wouldn't need to listen to the

12 entire total of the speeches to, you know, arrive at

13 an analysis of different segments of the speeches.

14 That wouldn't -- you would be -- you wouldn't be

15 sampling at that point. You would look at the entire

16 universe, which is different than sampling.

17   Q.   So you'd have to take a sample -- a

18 random sample of -- a line up of his speeches. You'd

19 have to line them all up, you'd have to provide

20 identifiers for each minute or each segment, and then

21 you'd sample each segment, correct?

22   A.   That would be one way of doing it,

23 although not the only way. Random samples are not the

24 only type of sampling strategy. And, again, if we're

25 talking about identifying patterns, you would not need

1 to do what you just described to identify a pattern.

2   Q.   What I'm getting at is it's true, isn't

3 it, that you basically focused on the stuff that you

4 thought was relevant to far-right-wing extremism, and

5 you ignored things that you didn't think was relevant

6 to far-right-wing extremism?

7   A.   I don't think that's fair. I think I

8 certainly looked at positive cases, which these would

9 be examples of what we call positive cases. I

10 certainly looked at negative cases. And, again, you

11 can identify a pattern by looking at positive cases

12 without looking at every single case in a sample or a

13 universe.

14   Q.   So let's look at these positive cases.

15   So the first one is the 2015 "roughed

16 up," right?

17   A.   That's correct.

18   Q.   And we saw a sample video of that,

19 correct?

20   A.   That's correct.

21   Q.   And that sample video did not -- after

22 Trump -- or before Trump spoke -- President Trump

23 spoke in that video, there was no evidence of someone

24 being roughed up, correct?

25   A.   I'm sorry. Can you repeat that?

1   Q.   There was no evidence in that video of

2   someone actually being roughed up?

3   A.   That's fair.

4   Q.   And in the "knock the crap" video, there

5   was no evidence of anyone actually having the crap

6   knocked out of them, right?

7   A.   These are positive cases of encouraging

8   or promoting violence --

9   Q.   I understand.

10   A.   -- not --

11   Q.   And my point that I'm making, and I'm

12   going through it bit by bit, is that every one of

13   these was speech, and there was no video in any of

14   these examples of actual violence occurring; is that

15   correct?

16   A.   These are positive cases of promoting

17   violence, so of course not.

18   Q.   So there's no violence that occurred in

19   that video, "body slam," after President Trump spoke

20   in the video?

21   A.   Yes, that's right.

22   Q.   Okay.

23   A.   Because these are about promoting

24   violence, not committing violence.

25   Q.   So it was all based on President Trump's

1   speech, correct?

2   A.   These are all, you know, video clips

3   that involve speech, yes.

4   Q.   There's -- you're not saying that

5   President Trump actually waded into the audience on --

6   in 2018 and body-slammed someone?

7   A.   As it pertains to this list, it's a list

8   of positive cases related to promoting violence.

9   That's the specific --

10   Q.   And --

11   A.   -- thing we're dealing with.

12   Q.   And the promotion of violence is his

13 speech, correct?

14   A.   That is correct.

15   Q.   Okay.

16   MR. GESSLER: That's all I have, Your

17 Honor.

18   MR. OLSON: I'm sorry. Mr. Gessler made

19 a gross mischaracterization of the record, and I'd

20 like a chance to just show one thing to the witness.

21   If I may, Your Honor?

22   THE COURT: Yeah. Go ahead.

23   MR. OLSON: My apologies. My . . .

24 //

25 //

1   CONTINUED REDIRECT EXAMINATION

2 BY MR. OLSON:

3   Q.   So, Professor Simi, we saw this. I

4 don't want to replay it.

5   But on the left we see Trump telling

6 someone to get roughed up, right?

7   A.   That's correct.

8   Q.   And on the right he's talking about the

9 fact they -- a person was roughed up, right?

10   A.   That's correct.

11   Q.   There's no doubt in anyone's mind that

12 what they were talking about on the right was a person

13 at a Trump rally getting roughed up, right?

14   A.   That's correct.

15   Q.   Okay.

16   MR. OLSON: Thank you, Your Honor.

17   THE COURT: So it's 2:25. I know we're

18 breaking at 1:00 [sic]. So let's -- who is the next

19 witness, and how long do you anticipate they will

20 take?

21   MR. GRIMSLEY: It's Professor Banks,

22 Your Honor.

23   THE COURT: Okay. So he was going to be

24 a short one?

25   MR. GRIMSLEY: Relatively short.

 1   THE COURT: Okay. So it sounds like we

 2   can for sure get through him?

 3   MR. GRIMSLEY: Depending on the

 4   cross-exam, yes.

 5   THE COURT: Okay. Were you planning on

 6   then having another witness start, or do you think

 7   we're in a position that we don't need to use up all

 8   the time?

 9   MR. GRIMSLEY: I don't think we need to

10   use up all the time, Your Honor. We could have a

11   witness start, but I think it would make more sense to

12   have the witness start fresh tomorrow.

13   THE COURT: Are they here? Are they

14   here?

15   MR. GRIMSLEY: They are here, Your

16   Honor.

17   THE COURT: Okay.

18   MR. GRIMSLEY: It's -- Professor

19   Magliocca would be the next witness.

20   THE COURT: Do we need a bathroom break?

21   Okay. I'm getting nods. So let's start -- Mr. -- is

22   it Mr. Banks?

23   MR. GRIMSLEY: Professor Banks.

24   THE COURT: Professor Banks. Let's

25   start with Professor Banks promptly at 2:40, and we'll

1 see how quickly it goes before we decide whether to

2 start the other -- the second, Magliocca, after that.

3 But we will stop before regardless.

4   (Recess from 2:28 p.m. to 2:43 p.m.)

5   THE COURT: You may be seated.

6   MR. GRIMSLEY: Stand up, Professor

7 Banks. She's going to swear you in.

8   THE COURT: I'm going to swear you in.

9 Will you raise your right hand, please.

10   WILLIAM BANKS,

11 having been first duly sworn/affirmed, was examined

12 and testified as follows:

13   THE COURT: Great. Thank you. And just

14 make sure to speak into the microphone.

15   THE WITNESS: Sure. Thank you.

16   MR. GRIMSLEY: And not too fast.

17   THE WITNESS: Got it.

18   DIRECT EXAMINATION

19 BY MR. GRIMSLEY:

20   Q.   Please introduce yourself to the Court,

21 sir.

22   A.   My name is William Banks.

23   Q.   What do you do for a living?

24   A.   I'm a law professor.

25   Q.   Where are you a law professor?

1   A.   I've been a law professor at Syracuse

2   University in Syracuse, New York, since 1978.

3   Q.   What do you teach at Syracuse?

4   A.   I teach courses in constitutional law,

5   national security law, counterterrorism law, the

6   domestic role of the military, various seminars in

7   subjects related to those areas.

8   Q.   Now, in addition to teaching, do you do

9   anything else at Syracuse?

10   A.   Yes. I founded an institute in 2003

11   called the Institute for National Security and

12   Counterterrorism, which was created to provide

13   opportunities for graduate students and law students

14   to engage in advanced study to enter careers in the

15   national security field, primarily in the government

16   and in military in Washington, D.C.

17   Q.   Is there anything else you do related to

18   national security issues?

19   A.   I've done a number of projects for the

20   Department of Defense and civilian agencies in our

21   government providing for emergency preparedness and

22   response exercises, case studies, simulations, the

23   like, where senior members have come to Syracuse or me

24   to Washington to work through some scenarios, red

25   teaming and the like, to better prepare for crisis

 1 situations.

 2   Q.   What have you been asked to do in this

 3 case?

 4   A.   I've been asked to prepare a report and

 5 then provide testimony on the legal authorities that

 6 President Trump had at his disposal to quell the

 7 violence on January 6.

 8   Q.   And are you prepared to testify about

 9 that here today?

10   A.   I am.

11   Q.   Have you ever served in the military?

12   A.   I have not.

13   Q.   But have you worked for the military?

14   A.   In those contract cases that I mentioned

15 a moment ago. I've had several relationships with

16 entities inside the Department of Defense over the

17 years, yes.

18   Q.   And have you ever advised the military?

19   A.   With respect to emergency preparedness

20 and response and follow-ups to those case studies and

21 simulations, I have, yes.

22   Q.   Well, if you never served in the

23 military, how did you get interested in national

24 security law?

25   A.   Short story. Please indulge.

1   1987. Presidents Reagan and Gorbachev

2   were at one of their well-known summits in efforts to

3   try to develop a framework for the reduction of the

4   nuclear stockpile.

5   After a few of those meetings, they had

6   become pretty friendly with one another. And they

7   approached the dais to have a press conference after

8   one such session, and they didn't realize that the

9   microphones were on. And they were joking with one

10   another about having their fingers on the nuclear

11   button.

12   That happened to be a Saturday, and for

13   reasons that I can't recall, I was in my office. And

14   my phone rang. And it was a reporter, a national

15   reporter from somewhere. And she asked could the

16   President of the United States just do that? Could he

17   whimsically launch nuclear weapons?

18   You know, thinking as quickly as I

19   could, I said, "I don't think so, but I'm not sure

20   why."

21   So on the basis of that gnawing concern

22   that I had, I gathered with some other colleagues

23   around the United States and American legal education,

24   and we essentially created a new field of study of

25   national security law, wrote a casebook which is now

1   in production and going into its eighth edition and

2   used in more than 100 American law schools.

3   Q.   What does your academic scholarship

4   focus on?

5   A.   It focuses on those same areas. I have

6   nearly 200 books and articles and subjects of

7   constitutional law, national security law,

8   presidential power, counterterrorism law. In recent

9   years, a fair number of pieces on cybersecurity.

10   Q.   Have you written any books or articles

11 on the topic you're here to testify on today, namely

12 the President's authority to respond to domestic

13 security threats?

14   A.   The most prominent book is called

15 "Soldiers on the Home Front: The Domestic Role of the

16 American Military." It was published by Harvard

17 University Press in 2016.

18   Q.   Roughly how many articles and books do

19 you think you've written related to the topic of the

20 President's authority to deal with domestic security

21 threats?

22   A.   Somewhere between 30 and 40.

23   Q.   Have you given any presentations or

24 lectures on that topic?

25   A.   Many around the United States and around

1   the world, yes.

2   Q.   Give me an estimate of how many you

3   think.

4   A.   30.

5   Q.   Are you a member of any professional

6   organizations related to the topic you are here to

7   testify about today?

8   A.   Yes. I'm a member of the American Bar

9   Association Standing Committee on Law and National

10 Security. I just completed my second term as chair of

11 that committee which was created by Justice Lewis

12 Powell in 1962. It's the oldest standing committee of

13 the ABA.

14   I'm also the past President of the

15 Association of American Law Schools' Section on

16 National Security Law.

17   Q.   Where did you go to law school?

18   A.   About four blocks from here at the

19 University of Denver.

20   Q.   When did you graduate from DU?

21   A.   1974, when the law school was still

22 downtown.

23   Q.   Did -- I was going to say. Did you get

24 any other degrees?

25   A.   Yes. I stayed on at DU and took a

1 course of study called master of science in law and

2 society. It was a post-law masters. It no longer is

3 available here, I believe, but I achieved that degree

4 in 1982.

5   Q.   Now, when again did you start teaching

6 at Syracuse?

7   A.   1978. So I was studying and teaching at

8 the same time for a bit.

9   Q.   When did you start teaching national

10 security law and related topics?

11   A.   After the Reagan-Gorbachev meeting. We

12 started -- I think my first class was 1989, and the

13 book was first published in 1990.

14   Q.   So before moving to your opinions, I

15 wanted to ask you about any research you did specific

16 to this case.

17   What, if anything, did you review

18 regarding the January 6, 2021, attack and events

19 leading up to it in coming to your opinions in this

20 case?

21   A.   I reviewed several documents, including

22 the January 6 Committee report, the Department of

23 Defense timeline surrounding the January 6 period, the

24 Inspector General report the Department of Defense

25 completed in the following year, provisions of the

1   District of Columbia code, provisions of the United

2   States code, sections of the United States

3   Constitution, general scholarly articles.

4   MR. GRIMSLEY: Your Honor, at this point

5   we would like to tender Professor Banks as an expert

6   in the U.S. President's powers to prevent or stop

7   domestic attacks on the government and the authorities

8   that President Trump had to call on to stop the attack

9   on January 6.

10   MR. GESSLER: Your Honor, we'll renew

11 our 702 objections that this is -- he's testifying on

12 an issue of law that the Court is better equipped to

13 handle and that it's not appropriate to have legal

14 opinions at -- come in as expert reports -- as expert

15 testimony. Sorry.

16   THE COURT: I will, to the extent you're

17 renewing your motion, deny the motion for the same

18 reasons I did in my written ruling. And I will admit

19 him as an expert on national security and the -- I

20 think it was the presidential powers to respond to a

21 domestic attack.

22   MR. GRIMSLEY: Yes, Your Honor. So the

23 President's authorities to respond to a domestic

24 attack.

25   THE COURT: Correct.

1   Q.   (By Mr. Grimsley) Now --

2   THE COURT: Can I ask you a question,

3   though, before we --

4   THE WITNESS: Sure.

5   THE COURT: -- go on? Where was the DU

6   law school?

7   THE WITNESS: Across the street from the

8   art museum.

9   THE COURT: Okay. No idea. I learn

10   something new every day.

11   THE WITNESS: It was a pretty small

12   structure. In fact, all the clinical programs had to

13   be in downtown office buildings. And I did many of

14   those, so I spent about half my time at the school and

15   half in the clinics, which then was joined to a YMCA,

16   I think.

17   THE COURT: Okay. A little trivia.

18   THE WITNESS: Yes.

19   Q.   (By Mr. Grimsley) So I wanted to start

20   with one of the findings from the January 6 Committee

21   that I think you referenced in your report. And this

22   is from page 577 of the January 6 report. And it --

23   we've got it highlighted here.

24   It says "President Trump could have

25   called top officials at the Department of Justice, the

1   Department of Homeland Security, the Department of

2   Defense, the FBI, the Capitol Police Department, or

3   the D.C. mayor's office to ensure that they quelled

4   the violence."

5   Was that one of the findings in the

6   January 6 report that you reviewed?

7   A.   It was.

8   Q.   What is your view of that finding?

9   A.   I think the finding is correct.

10   Q.   Why?

11   A.   Well, the President had plentiful

12   authority to respond to the January 6 attack,

13   including by reference to all the departments that are

14   included in that sentence that you just reviewed. In

15   addition to that, as many here know, he's also the

16   commander of the D.C. National Guard and had a very

17   potentially important role.

18   Q.   Let me stop you there. I want to start

19   asking you some questions specific to the D.C.

20   National Guard.

21   A.   Yeah.

22   Q.   What authority does the U.S. President

23   have over the D.C. National Guard?

24   A.   The President of the United States is in

25   a unique position vis-a-vis the D.C. National Guard.

1 He's the commander -- he's the commander

2 notwithstanding any interest that the mayor or anyone

3 else at the District may have, and he's been the

4 commander of the D.C. National Guard since 1889. At

5 the time when Congress confirmed that position by

6 statute on the President, there was no local

7 government in the District of Columbia.

8   As we know in every other state, the

9 governor is the commander of the militia when they're

10 going out in state capacity. Because there's no

11 governor in D.C. and Congress has not seen fit, at

12 least up to this time, to confer that status of

13 command on the mayor, the President has been

14 consistently in charge of the D.C. National Guard

15 since 1889.

16   Q.   Roughly how many members of the D.C.

17 National Guard were there on January 6?

18   A.   I'm told there were around 2,000, 1,100

19 or so who were activated by that day.

20   Q.   And you talked about this a little bit,

21 but how does the President's authority over the D.C.

22 National Guard differ from his authority over National

23 Guards in other states?

24   A.   Yeah. It's uniquely different. There's

25 a principle in American law called posse comitatus.

1 The Latin stands for power of the county, which was

2 neither here nor there.

3   But the posse comitatus law was enacted

4 after the Civil War to establish a baseline

5 presumption that we don't want members of the military

6 enforcing civilian laws. We've always entrusted

7 civilian law enforcement to civilians, and we, as a

8 culture and a society, have wanted to keep it that

9 way.

10   The exception to that principle are the

11 National Guard to the various states and the District

12 of Columbia. When those forces are called out by the

13 governor -- or in the case of D.C., by the President

14 of the United States -- they're what is called the

15 militia capacity, active-duty state capacity, and

16 posse comitatus does not apply.

17   So they may supplement law enforcement

18 by their own force, and that force was available to

19 the President on January 6.

20   Q.   Well, let me ask you this, just backing

21 up.

22   You had said that posse comitatus does

23 not apply to the D.C. National Guard?

24   A.   That's correct.

25   Q.   So can the D.C. National Guard, then, be

1   deployed to a major -- to what would traditionally be

2   law enforcement activities?

3   A.   They may.

4   Q.   And who has the authority to do that?

5   A.   The President of the United States.

6   Q.   Does the President, in order to deploy

7   the D.C. National Guard, need the permission or a

8   request from the mayor of D.C.?

9   A.   He does not.

10   Q.   Does he need permission or a request

11   from anyone?

12   A.   No, he does not.

13   Q.   If President Trump, in the days leading

14   up to January 6, had been concerned about the

15   potential for violence, what could he have done

16   regarding the D.C. National Guard?

17   MR. BLUE: Objection, Your Honor. He's

18   leading the witness now.

19   THE COURT: Overruled.

20   Q.   (By Mr. Grimsley) You can go ahead.

21   Do you need the question again?

22   If President Trump, in the days leading

23   up to January 6, had been concerned about the

24   potential for violence, what, if anything, could he

25   have done with the D.C. National Guard?

1   A.   He could have deployed them or arranged

2 for them to be on call or ready to be deployed on

3 January 6.

4   Q.   Again, what sort of permission or

5 request would he have needed from the mayor?

6   A.   He would have needed no request or

7 permission from any other official.

8   Q.   Once President Trump knew that a mob, a

9 violent mob, was attacking the Capitol on January 6,

10 what, if anything, could he have done with the D.C.

11 National Guard?

12   A.   He could have immediately ordered them

13 to report to the Capitol.

14   Q.   Would he have needed any request or

15 permission from the mayor?

16   A.   No.

17   Q.   Now, put aside January 6, and let's go

18 back in time a little bit.

19   Have you seen any evidence of President

20 Trump deploying the D.C. National Guard in

21 Washington, D.C., prior to the November 2020 election?

22   A.   In the summer of 2020, I believe it was

23 early June, the President deployed the National Guard

24 and various law enforcement personnel in the wake of

25 the protests surrounding the murder of George Floyd.

1   Q.   Did the President need any permission to

2   do that?

3   A.   He did not.

4   Q.   Do you recall if there was a request

5   from the mayor's office for him to do that?

6   A.   There was not.

7   Q.   Now, there's been some suggestion

8   already in this case that prior to January 6,

9   President Trump authorized 10- to 20,000 National

10   Guard troops to be available at the Capitol.

11   Is that even possible?

12   A.   It would have been very difficult to

13   envision. I see no -- nothing in the record that

14   indicates that that order by the President was ever

15   issued.

16   The reason I say it would have been

17   difficult is that the National Guard, when federalized

18   by the President of the United States -- he certainly

19   has the legal authority to do that, call the National

20   Guard from anywhere and federalize them -- they then

21   are subject to the posse comitatus principle and could

22   not engage in direct law enforcement in D.C.

23   If he's going to rely on National Guard

24   from the governors of adjoining states, for example,

25   he may well do that, and they, then, are not subject

1   to posse comitatus. But then they're subject to the

2   command of their governor, not the command of the

3   President of the United States.

4   Q.   So I want to break that down. So

5   there's the 10- to 20,000 number.

6   How many, roughly, D.C. National Guard

7   over which the President had authority were there?

8   A.   There were up to about 100. About 340

9   had been prepositioned on that day for duties

10   unrelated to law enforcement.

11   Q.   If the President had, in fact,

12   authorized far more than that, he would have had to go

13   through governors?

14   A.   Yes.

15   Q.   If the President had, in fact,

16   authorized 10- to 20,000 National Guard troops to be

17   available on January 6, what type of documentation

18   would you expect to have seen?

19   A.   We would have seen --

20   MR. BLUE: Excuse me, Your Honor. This

21   is way beyond his expert report. And if I remember

22   correctly, you had said that because we weren't doing

23   depositions that the experts would be limited to their

24   expert reports.

25   THE COURT: That is absolutely true.

 1 But give --

 2   MR. GRIMSLEY: I was just going to bring

 3 up where it is.

 4   THE COURT: The first full paragraph

 5 or --

 6   MR. GRIMSLEY: It's -- this is -- we

 7 served a supplemental expert report, Your Honor, and

 8 this is on page 3 of that supplemental expert report.

 9 And this is addressed right there.

10   THE COURT: Okay.

11   MR. BLUE: Can you give me a few

12 minutes, Your Honor?

13   THE COURT: A few minutes to find it?

14   MR. BLUE: Yep. Well, in my documents.

15   THE COURT: It's clearly there, so I'm

16 going to --

17   MR. BLUE: What page are we looking at?

18   MR. GRIMSLEY: It's page 3 of the

19 supplemental report.

20   THE COURT: It's the first sentence of

21 the first full paragraph.

22   MR. GRIMSLEY: Yeah. It's actually a

23 full paragraph on this topic that carries over to

24 page 4.

25   MR. BLUE: Okay. Thank you, Your Honor.

1   THE COURT: Objection overruled.

2   Q.   (By Mr. Grimsley) What documentation

3   would you have expected to see if there had, in fact,

4   been authorization of 10- to 20,000 National Guard

5   troops to be available on January 6?

6   A.   We would have seen documentation inside

7   the Department of Defense, and we would have also seen

8   documentation from the National Guard Bureau for any

9   forces that came from adjoining states.

10   Q.   Why would you expect to see

11   documentation if 10- to 20,000 troops had been

12   authorized?

13   A.   Because that's a significant number.

14   They're not D.C. National Guard. They're either going

15   to be federalized, again, in which case posse

16   comitatus would prevent them from law enforcement, or

17   they're coming from adjoining states, probably

18   Maryland and Virginia, and the governors of those

19   states and the command in those states would have had

20   to issue orders for their force.

21   Q.   Did you review documents in this case to

22   see whether there were, in fact, records of

23   authorization of 10- to 20,000 troops?

24   A.   I did review the Inspector General's

25   report of the -- of the Department of Defense that was

1   compiled during the year after the January 6 events,

2   and I also reviewed the January 6 Committee report

3   extensively. And in neither case did I see any

4   indication of an order for that size or magnitude of

5   force from anyone.

6   Q.   I want to show you what's been submitted

7   as Exhibit T-V. It's one of President Trump's

8   exhibits.

9   MR. GRIMSLEY: And we would move to

10 admit it. I assume there will be no objection.

11   MR. BLUE: T-V?

12   MR. GRIMSLEY: It was the three-page

13 Department of Defense timeline.

14   MR. BLUE: It's been renumbered.

15   MR. GRIMSLEY: Okay. So I'm going to

16 call it T-V for the moment. I'll let you know, Your

17 Honor, we have no objection to it being admitted.

18   THE COURT: Okay.

19   Q.   (By Mr. Grimsley) So I'm going to show

20 this to you, Professor.

21   Do you recognize what's marked here as

22 Exhibit T-V?

23   A.   I do. It's the Department of Defense

24 timeline on the days surrounding January 6.

25   Q.   Is there anything -- well, who put

 1   together that timeline?

 2   A.   The Pentagon.

 3   Q.   Anything in that timeline reflecting the

 4   presidential authorization of 10- to 20,000 National

 5   Guard troops?

 6   A.   There is not.

 7   Q.   What does that suggest to you?

 8   A.   That it never happened.

 9   Q.   What other documents, if any, did you

10   review to determine if there was an authorization of

11   10- to 20,000 troops?

12   A.   Again, I read carefully through the DOD

13   Inspector General report that was compiled later that

14   year, and that made no reference to such a decision by

15   the President.

16   Q.   What about the January 6 report?

17   A.   Likewise, extensively reviewed, and no

18   mention of such an authorization.

19   Q.   Now, I want to go to an entry on

20   January 3, 2021.

21   Do you see that?

22   A.   Yes.

23   Q.   And there's a bullet point, the third

24   bullet point. And what I learned from doing this is

25   the military really likes acronyms. So I'm going to

1   spell them out, and correct me if I'm wrong.

2   The third bullet point says "Acting

3   Secretary of Defense and Chairman of the Joint Chiefs

4   of Staff meet with the President. President concurs

5   an activation of the D.C. National Guard to support

6   law enforcement."

7   Could that be an authorization of 10- to

8   20,000 troops?

9   A.   It could not. You see a couple of

10 things about that bullet point. One is the reference

11 there is to the D.C. National Guard, not to any

12 forces. And there weren't 10- or 20,000 D.C. National

13 Guard personnel available for deployment on that day.

14   And second, if we look back up the

15 timeline, you see that the Sunday, January 3, bullets

16 are partially in response to a request by Mayor Bowser

17 and the Homeland Security Chief Rodriguez from

18 December 31 requesting a modest number of National

19 Guard personnel to perform traffic duties, Metro

20 enforcement, and a few other things on that day,

21 totaling about 340 personnel.

22   Q.   So I want to ask you about that in just

23 a second.

24   MR. GRIMSLEY: Your Honor, a

25 housekeeping matter. It's Exhibit 1027.

1   THE COURT: And no objection, Mr. Blue?

2   MR. BLUE: No, Your Honor.

3   THE COURT: 1027 is admitted.

4   (Exhibit 1027 admitted into evidence.)

5   Q.   (By Mr. Grimsley) Now, you said earlier

6   there was no reflection of an authorization of 10- to

7   20,000 troops in this timeline put together by the

8   Department of Defense.

9   But is there a discussion of some much

10 smaller number of troops --

11   A.   Yes.

12   Q.   -- in this?

13   A.   That's the 340 now that you're going to

14 highlight on the -- Monday the 4th of January. This

15 was Mayor Bowser's request that you see there, traffic

16 control, two shifts of 90; Metro station support, two

17 shifts of 24; so-called WMD Civil Support Team, which

18 was about 20; and then command and control personnel,

19 52. And then on top of that, there was authorized a

20 quick reaction force of 40 which would be staged at

21 Joint Base Andrews available for deployment if needed.

22   Q.   So the 340, were those deployed in the

23 Capitol -- meaning Washington, D.C., not at the

24 Capitol building -- on January 6?

25   A.   Not the 40 that remained at Andrews.

1   Q.   The 340.

2   A.   Of the remaining, that 300 -- those 300

3   personnel, yes, they were deployed. And, again, they

4   were in two shifts, so they weren't all there at one

5   time. But about half of them would have been at

6   either a traffic control point or at a Metro station

7   or at a command control center during -- during the

8   entire day.

9   Q.   And that's my fault. It's 300 around

10   the city and then 40 at Andrews Air Force Base?

11   A.   That's correct.

12   Q.   So what were the 40 at Andrews Air Force

13   Base doing?

14   A.   Well, they were waiting instruction to

15   move to the District because they were simply there to

16   respond to a disturbance --

17   THE STENOGRAPHER: A disturbance what?

18   THE WITNESS: A disturbance if one broke

19   out. Sorry.

20   Q.   (By Mr. Grimsley) What, if anything,

21   could President Trump have done on January 6 with

22   regard to the 300 troops stationed around the city and

23   the 40-troop quick reaction force at Andrews Air Force

24   Base once he knew that the Capitol was under attack?

25   A.   Once he learned that that force had

1   already been deployed outside the District and he

2   could see from his own video screen that violence was

3   breaking out at the Capitol, he could have redeployed

4   them from their existing stations to the Capitol with

5   the time -- a limited amount of time needed to get

6   there and then also to be equipped with riot gear.

7   Riot gear was apparently stored at convenient places

8   near their present places of deployment.

9   Q.   In your review of the documents, did you

10 see any evidence that President Trump did that?

11   A.   No.

12   Q.   We talked about what he could have done

13 with the D.C. National Guard.

14   Is there anything that he could have

15 done with regard to the Virginia or Maryland National

16 Guard units once he knew the Capitol was under attack?

17   A.   He could have spoken with the governors

18 of those respective states or either one of them and

19 approve their deployments of their forces to the

20 Capitol as quickly as possible.

21   Q.   Now, that would have taken longer,

22 right?

23   A.   That would have taken longer. There is

24 the time to get from Maryland to Virginia to the

25 Capitol, and there's also the communication that would

1   have to go on between the Pentagon and those National

2   Guard officials.

3   Q.   In your review of the evidence in this

4   case, did you see anything that suggests that

5   President Trump deployed that authority?

6   A.   He did not.

7   Q.   Now, we've discussed what President

8   Trump could have done with the National Guard.

9   Was that the only law enforcement entity

10 that he could have called on that day?

11   A.   No. He could have called on other

12 executive branch agencies to deploy personnel.

13   Q.   Let me show you what's been marked as

14 Plaintiffs' Exhibit 148 at -- sorry -- page 77.

15   And do you see a tweet there?

16   A.   Yes.

17   Q.   Who is that tweet from?

18   A.   From then-President Trump.

19   Q.   What date was that tweet sent?

20   A.   January 5, 5:25 p.m.

21   Q.   The night before the January 6 attack?

22   A.   Yes.

23   Q.   And what does Mr. Trump say?

24   A.   He's warning Antifa to stay out of

25 Washington. And he says "law enforcement is

1 watching," and then he tags various executive branch

2 entities including the Pentagon, the Justice

3 Department, the Department of Homeland Security --

4 actually, the Department of the Interior -- that's

5 Secretary Bernhardt -- and the Secret Service. Of

6 course, the FBI's part of Justice.

7   Q.   How, if at all, do those tagged entities

8 relate to the law enforcement authorities that

9 President Trump could mobilize on January 6 when he

10 saw that the Capitol was under attack?

11   A.   Particularly, the first three -- or the

12 first -- the second -- the Justice Department and DHS

13 have personnel that could have been brought to the

14 Capitol from headquarters very quickly on that day,

15 rapid response teams that could have deployed to the

16 Capitol on the order of the President.

17   Q.   What could he have done with the

18 Department of Homeland Security?

19   A.   They, likewise, have a rapid response

20 team that could have deployed in a matter of minutes

21 from headquarters to the Capitol.

22   Q.   You said Secretary -- Secretary

23 Bernhardt was the Secretary -- or was the Secretary of

24 the Interior.

25   What relevance does the Secretary of the

1 Interior have to law enforcement personnel that could

2 have been mobilized on January 6?

3   A.   That department includes the National

4 Park Service. And, of course, the President's speech

5 earlier that day was from the Ellipse, which is on the

6 territory for which the National Park Service is

7 responsible.

8   Q.   And what about the Secret Service?

9   A.   They have, of course, a protective

10 detail, a large segment of protective personnel, who

11 could have been instructed either by the secretary of

12 DHS or by the President himself to respond to the

13 crisis.

14   Q.   How about the FBI?

15   A.   Likewise, the Department of Justice,

16 they would have been among the first personnel that

17 the attorney general would have contacted if there was

18 a call from the President.

19   Q.   What authority does the President of the

20 United States have over all of those entities?

21   A.   The simplest and most direct authority

22 is his responsibility as chief executive under

23 Article II of the Constitution to take care of all the

24 laws being faithfully executed. That includes

25 faithfully executing the transition and the counting

1   of electoral votes on the day appointed.

2   Q.   And do all of those entities report up,

3   ultimately, to the President?

4   A.   They do.

5   Q.   What, if any, evidence have you seen

6   that President Trump took any action to deploy any of

7   these entities on January 6?

8   A.   I've seen no such evidence.

9   Q.   Who else in the world had all of those

10 authorities at their disposal on January 6?

11   A.   No one.

12   MR. GRIMSLEY: No further questions.

13   THE COURT: Cross-examination.

14   CROSS-EXAMINATION

15 BY MR. BLUE:

16   Q.   Good afternoon, Professor Banks. How

17 are you today?

18   A.   I'm well. Thank you.

19   Q.   We met briefly earlier.

20   A.   Yes, we did.

21   Q.   So I want to talk a little bit about

22 your qualifications. You've been a professor in

23 national security for a while, you said, and you've

24 had some contract experience with the military.

25   Have you -- what's your experience in

 1 advising governors or Presidents in national security

 2 issues?

 3   A.   I've never advised a governor or a

 4 President.

 5   Q.   And have you ever -- so you've never

 6 actually advised a President on actually declaring an

 7 emergency or activating the National Guard; is that

 8 correct?

 9   A.   Only in a war-game scenario with

10 hypothetical players.

11   Q.   And so your advice -- your testimony

12 today is, frankly, not about practicality, but more

13 about what the law says; isn't that correct?

14   A.   Well, it's about what the law says in a

15 practical situation of crisis.

16   Q.   Well, but you've never been in that kind

17 of crisis, so you wouldn't really know how the laws

18 would actually interact in that situation, would you?

19   A.   I've simulated those crises many times

20 over --

21   Q.   But you've never actually been in one,

22 correct?

23   A.   I have not. That's right.

24   THE COURT: Mr. Blue --

25   MR. BLUE: I went over him again, right?

1   THE COURT: Yeah. Just both of you try

2   not to talk over each other --

3   THE WITNESS: I'm sorry.

4   THE COURT: -- for the court reporter.

5   MR. BLUE: Sorry, Your Honor.

6   And sorry to the court reporter.

7   If we could pull up Exhibit 1045,

8   please.

9   MR. GRIMSLEY: What exhibit?

10   MR. BLUE: 1045.

11   MR. GRIMSLEY: Thank you.

12   Q.   (By Mr. Blue) Professor Banks -- sorry,

13   I was spacing on your name for a second -- this is a

14   letter from June 4 from Mayor Bowser to President

15   Trump, correct?

16   A.   Yes.

17   Q.   Have you seen this letter before?

18   A.   I have.

19   Q.   And you've read it, but you did not

20   consider this letter in your expert report because it

21   wasn't listed as one of the things you thought you

22   looked at, is it?

23   A.   That's correct.

24   Q.   And if you would look at the last

25   sentence of the first paragraph. And could you

1   read -- starting with "Therefore." Could you read

2   that, please, out loud.

3   A.   "Therefore, I'm requesting that you

4   withdraw all extraordinary federal law enforcement and

5   military presence from Washington, D.C."

6   Q.   Thank you. And now, I know earlier you

7   testified that the President has sole authority,

8   whatever.

9   Are you aware about how that authority

10   has been delegated?

11   A.   Yes.

12   Q.   And could you explain to the Court what

13   that is?

14   A.   In a 1969 executive order, President

15   Nixon actually delegated to the Secretary of Defense

16   and then to the Secretary of Army by memorandum of the

17   day-to-day authority over deployment decisions with

18   regard to the National Guard.

19   Q.   Thank you. And you had testified

20   earlier that this letter came from the summer during

21   the Black Lives Matter protests and riots, correct?

22   A.   That's correct.

23   Q.   And are you aware of whether Mayor

24   Bowser approved of the deployment of National Guard at

25   that time?

1   A.   I have seen nothing to indicate that she

2   did.

3   Q.   Do you -- have you seen anything to

4   indicate that she did not approve of it?

5   A.   I have not.

6   Q.   So this is the only document we have

7   that referred -- references that, correct?

8   A.   Yes. So far as I know.

9   Q.   And isn't it true that once President

10   Trump received this letter, the National Guard was

11   removed from Washington, D.C., at the time?

12   A.   I believe that's true. I didn't study

13   those incidents carefully.

14   Q.   And if you could read the last sentence

15   of the third paragraph, please.

16   A.   Yes. "The deployment of federal law

17   enforcement personnel and equipment are inflaming

18   demonstrators and adding to the grievances of those

19   who, by and large, are peacefully protecting" --

20   "protesting for change and the reference to the racist

21   and broken systems that are killing Black

22   Americans" -- "reforms" -- I'm sorry -- "to the racist

23   and broken systems that are killing Black Americans."

24   I'm failing my vision test here this afternoon.

25   MR. GRIMSLEY: Could you zoom in a

 1   little bit?

 2   THE WITNESS: There you go.

 3   MR. BLUE: Yeah. I can't, but Joanna

 4   can.

 5   MR. GRIMSLEY: Thank you.

 6   Q.   (By Mr. Blue) So the reason I want to

 7   talk about this letter for a moment is there -- well,

 8   there may not be -- well, there's formal authorities,

 9   correct?

10   A.   (Nodding head.)

11   Q.   There are also informal relationships

12   and informal authorities involved in the governmental

13   process, correct?

14   A.   That's certainly always been my

15   experience.

16   Q.   And President Trump and Mayor Bowser are

17   the two people who have authority in Washington, D.C.,

18   correct?

19   A.   But only the President has authority

20   on --

21   Q.   I didn't ask that question. I

22   appreciate that.

23   A.   Yeah.

24   Q.   But they're the ones with the authority

25   in Washington, D.C., correct?

1   A.   Yes.

2   Q.   And while President Trump may have

3   actual legal authority, he has to work with Mayor

4   Bowser going forward, correct?

5   A.   Yes, he does.

6   Q.   And when you were giving your opinion,

7   it doesn't appear that you considered at all the

8   political ramifications or that relationship between

9   President Trump and Mayor Bowser?

10   A.   I was giving real opinion, I think,

11   regarding the authorities of the President and the

12   mayor, if any, during that period.

13   Q.   All right. If we could go to

14   Exhibit 148, please. And we're going to be going to

15   page 6. And we're going to talk about the May 30

16   tweet, please.

17   And you used the -- you reference this

18   tweet in your report, didn't you?

19   A.   Yes.

20   Q.   And why did you reference this tweet?

21   A.   It's an indication that President Trump

22   was familiar with the uses of the National Guard for

23   national security.

24   Q.   And are you aware of how the National

25   Guard ultimately was deployed into Minneapolis?

1   A.   I don't know the details of that

2   incident, no.

3   Q.   So you don't know -- in fact, you did

4   not address in your report or here that President

5   Trump did not unilaterally order the National Guard

6   into Minneapolis, did he?

7   A.   He did not. I believe that was the

8   governor's deployment decision.

9   Q.   Right. Okay. So -- and that was the

10 governor's decision, correct?

11   A.   Yes.

12   Q.   In your report, you also mention the

13 fact that President Trump should have activated the

14 National Guard on January 5, right?

15   A.   Yes.

16   Q.   And --

17   A.   Not -- January 5, no. I -- my

18 determination was that he should have activated the

19 National Guard in response to the violence that broke

20 out on January 6.

21   MR. BLUE: Can you -- where's my . . .

22   MR. BLUE: Excuse me, Your Honor. I

23 apologize. I did not expect to have to find this in

24 the report.

25   THE COURT: No worries.

1   Q.   (By Mr. Blue) Well, let's do this a

2   different way.

3   So leading up to -- leading up to

4   January 6 --

5   MR. BLUE: If we could go to

6   Exhibit 156, please.

7   Q.   (By Mr. Blue) And Exhibit 156 is a

8   tweet from Mayor Bowser that includes a letter that

9   she sent to President Trump, correct?

10   Not to President Trump, but to the

11 United States Attorney General, the Acting Secretary

12 of Defense, and the Secretary of the Army, correct?

13   A.   Yes.

14   Q.   And remind us who actually had command

15 authority of the D.C. National Guard through the

16 delegation of authority?

17   A.   President Trump delegated to the acting

18 secretary at the time and the Secretary of the Army.

19   Q.   So the Secretary of Defense who then

20 delegated on down to the Secretary of the Army, right?

21   A.   Yes.

22   Q.   So this letter was to the two

23 individuals who had been delegated the authority by

24 President Nixon, and that delegation was still in

25 effect at the time, correct?

1   A.   That's correct.

2   Q.   Right. And if you read the tweet from

3   Mayor Bowser, she talks about that she's not

4   requesting any other federal law enforcement personnel

5   and discourages any additional deployment without

6   notification or consultation, correct?

7   A.   Yes.

8   Q.   So she was making it very clear on the

9   day before January 6 that she didn't want National

10   Guard, didn't she?

11   A.   That's right. She was not anticipating

12   a violent attack on the Capitol, however.

13   Q.   Well, and that's true. And is it your

14   testimony today that President Trump was anticipating

15   a violent attack on the Trump -- on the Capitol?

16   A.   I do not know whether the President was

17   anticipating --

18   Q.   Okay.

19   A.   -- such an attack.

20   Q.   And if in the letter -- and you've read

21   this letter before, correct?

22   A.   Yes, I have.

23   Q.   And the letter says basically the same

24   thing, doesn't it?

25   A.   It does.

1   Q.   And so you're not -- your testimony is

2 not that he should have actually deployed National

3 Guard -- not just the 300 or the 340, but the 1,100

4 who were available -- you're not saying that he should

5 have had them ready to go on January 5 to deploy on

6 January 6?

7   A.   No.

8   Q.   Okay.

9   MR. BLUE: Just a minute, Your Honor.

10   Q.   (By Mr. Blue) So are you aware of any

11 warnings that suggested that maybe there was going to

12 be violence at the Capitol?

13   A.   I am not.

14   Q.   Is it your testimony today that even if

15 Mayor Bowser said that President Trump should not

16 deploy troops that he should have done it anyway?

17   A.   Yes.

18   Q.   So he -- you think that he should ignore

19 the elected official in Washington, D.C., if he

20 disagrees with her on this issue?

21   A.   He should respond to his constitutional

22 responsibilities to protect the national security of

23 the United States when there's an assault on our

24 democratic process.

25   Q.   Okay. And are you aware this -- of any

1 other national politician who said that he should not

2 be deploying troops to Washington, D.C.?

3   A.   No.

4   Q.   Like, say, if Senate Majority Leader

5 Mitch McConnell said, "Do not deploy troops," he

6 shouldn't listen and he should just do it, correct?

7   A.   I'm not familiar with Secretary -- with

8 Mr. McConnell's --

9   Q.   Well, no. I'm saying if he did it.

10   THE STENOGRAPHER: And a little bit

11 slower and one at a time, please.

12   Q.   (By Mr. Blue) If Senate Majority Leader

13 McConnell said, "Do not deploy troops into Washington,

14 D.C.," President Trump should ignore him, correct?

15   A.   That's correct.

16   Q.   And if Nancy Pelosi said that, you're

17 also -- she -- he should ignore it and go forward?

18   A.   Once the violence broke out, yes.

19   Q.   So on January 6, you say that he should

20 have deployed the National Guard, correct?

21   A.   Yes.

22   Q.   At what point?

23   A.   As soon as he was aware that violence

24 had broken out at the Capitol, sometime after

25 1:00 p.m. that day.

1   Q.   Okay. So there's violence at the

2 Capitol and there's police forces there. And -- but

3 at that point in that process should he be thinking,

4 Okay, now I need to get the National Guard in; they're

5 not going to be able to take care of this problem.

6   A.   My recollection of the specific minutes

7 in those hours may not be exact, but I believe some --

8 around 1:34, the mayor and the chief of police at the

9 Capitol placed a call to the White House seeking

10 support, seeking more law enforcement support. And

11 they repeated that call. I think it was at 1:49.

12   So there were at least two calls before

13 2:00 p.m. that day that should have alerted the

14 President what he was already seeing on his television

15 screen, that there was a violent attack going on at

16 the Capitol.

17   Q.   And are you aware specifically of what

18 Donald Trump -- what President Trump knew and when he

19 knew it?

20   A.   I am not.

21   Q.   All right. Let's move to Exhibit 22.

22 This is "Examining the U.S. Capitol Attack: A review

23 of the Security, Planning, and Response Failures on

24 January 6," okay? And this is the staff report from

25 the Senate that was a bipartisan report.

1   Have you read this report?

2   A.   I have.

3   Q.   Okay. But you did not take this report

4   into account when you were giving your opinion today,

5   did you?

6   A.   I did not.

7   Q.   And so you did not include any of the

8   statements in this report in your expert report or

9   your opinion, correct?

10   A.   That's correct.

11   Q.   And would you agree that there was

12 not -- that there was a lack of consensus about the

13 gravity of the threat that was going to be posed on

14 January 6?

15   A.   I read that in several sources, yes.

16   Q.   Okay.

17   MR. BLUE: If we could go to page 46.

18 Yeah. Page 46 of the report. And then I think I have

19 the right page. Yep. And if you could blow up the

20 first paragraph under Section C.

21   A.   Yes, I see it.

22   Q.   (By Mr. Blue) And I want to focus on

23 the first sentence.

24   A.   Okay.

25   Q.   And could you read that first sentence.

1   A.   "Inconsistencies between intelligence

2 products and within the January 3 special assessment

3 led to a lack of consensus about the gravity of the

4 threat posed on January 6, 2021."

5   Q.   And so what that sentence is saying is

6 that this committee found that there really wasn't --

7 it was really unclear about what was going on on

8 January 6 and -- about the threats on that -- coming

9 forth from the right wing; is that correct?

10   A.   That's my understanding, yes.

11   MR. BLUE: And if we could go to

12 page 48. I should go there too.

13   Q.   (By Mr. Blue) And we'll look at the

14 first paragraph.

15   A.   Okay.

16   Q.   And, again, we have Mr. Irving. And

17 Mr. Irving, I will represent, was the House Sergeant

18 at Arms, right? And he told the committees "Every

19 Capitol police daily intelligence report from

20 January 4 to January 6, including on January 6,

21 forecasts the chance of civil disobedience and arrests

22 during the protests as remote to improbable."

23   Again, highlighting the fact that this

24 was an unprecedented and unexpected event, correct?

25   A.   Correct.

1   Q.   And if you go down just to the next

2   paragraph it says "Months following the attack on the

3   U.S. Capitol, there is still no consensus among the

4   USCP" -- which is the United States Capitol Police,

5   right?

6   A.   Yes.

7   Q.   -- "officials about the intelligence

8   report threat analysis ahead of January 6," correct?

9   A.   Correct.

10   Q.   So, again, we're highlighting the fact

11   that there just was no -- the intelligence reports

12   weren't clear and weren't being presented that

13   suggested that this kind of event could happen,

14   correct?

15   A.   Yes.

16   Q.   All right. And if we could move to

17   Exhibit 1031, please. And Exhibit 1031 is the

18   Inspector General's report regarding January 6,

19   correct?

20   A.   Yes.

21   Q.   And you referenced this earlier in your

22   testimony today, didn't you?

23   A.   I did.

24   Q.   So you've read this document?

25   A.   I have.

1   Q.   And if you -- if we could turn to

2 page 18 of the -- of the PDF. I have the right page

3 this time. And you'll look at where it says

4 January 3, the one, two -- the fourth block down, the

5 fourth row.

6   A.   Yes.

7   Q.   And it says the President asked

8 Mr. Miller and General Milley about election protests

9 preparations, correct?

10   A.   Yep. Yes.

11   Q.   And he was informed "We've got a plan,

12 and we've got it covered," correct?

13   A.   Correct.

14   Q.   So the President at that point was

15 informed that a plan was in place to take care of

16 things, correct?

17   A.   Yes.

18   Q.   Is there any reason that you would think

19 that he would not believe that?

20   A.   No.

21   Q.   Now, you have given us a number of

22 options that the President had legally, correct?

23   A.   Yes.

24   Q.   And you haven't identified a single

25 instance where the President has actually activated

1 the National Guard in a way that did not coordinate

2 with the local political officials, correct? So he --

3 you can't identify a time where he's activated the

4 National Guard in Washington, D.C., without Mayor

5 Bowser's approval?

6   A.   He --

7   Q.   Without the mayor of Washington, D.C.'s

8 approval, correct?

9   A.   We're going to have to rewind the

10 question a bit. I'm a little confused.

11   I think in June of 2020 he called out

12 those units on his own volition without a request from

13 the mayor.

14   Q.   Well, earlier you said that she -- you

15 had no idea if he -- if she agreed with it or not,

16 correct?

17   A.   He did this unilaterally, did it on his

18 own authority in June or late May or whatever it was

19 in 2020 in response to the Floyd protests.

20   Q.   Okay. Well, when we were talking about

21 this earlier, I asked if you knew if she approved it

22 or if they talked about it or if they had a

23 conversation, and you said you did not know --

24   A.   I don't know.

25   Q.   -- is that correct?

1   A.   Yes.

2   Q.   So you do not know whether she actually

3 was communicating with him about that --

4   A.   No, I don't.

5   Q.   -- correct? And I can't remember. Did

6 you say that the President could have declared a

7 national emergency?

8   A.   I --

9   Q.   Is that something you said?

10   A.   It's in my report. I don't believe I

11 testified to it this afternoon.

12   Q.   Are you aware of a President declaring a

13 national emergency within two or three hours of a riot

14 starting?

15   A.   Oh, yes. Many times.

16   Q.   Oh, really?

17   A.   Historically, yes.

18   Q.   Okay.

19   A.   Yeah.

20   Q.   Like what?

21   A.   Little Rock, 1950s. Birmingham, early

22 1960s.

23   Q.   Okay.

24   A.   Los Angeles, 1984.

25   Q.   Within three hours?

1   A.   Oh, yes.

2   Q.   Okay. And are you aware of any debates

3   that were going on inside the White House regarding a

4   response to the riots on January 6?

5   A.   No.

6   Q.   So you have no idea about whether -- why

7   the decisions were being made not to -- for the

8   President not to actually do the things that you've

9   said?

10   A.   No.

11   Q.   You don't know if he considered doing

12   them, do you?

13   A.   I do not.

14   Q.   You're just saying that these are things

15   that he possibly could have done; isn't that correct?

16   A.   That's correct.

17   MR. BLUE: All right. Your Honor,

18   that's all I have. But I would like to admit five

19   exhibits we talked about today: 1031, 1045, 148, 156,

20   and 22.

21   THE COURT: Okay. Do you have any

22   objections to any of them?

23   MR. GRIMSLEY: No.

24   THE COURT: Okay. Did you get the

25   numbers?

1   THE CLERK: No.

2   THE COURT: Can you repeat it one more

3 time?

4   MR. BLUE: I tried to go slow.

5 Apparently I have to go even slower.

6   1031, 1045, 148, 156, 22.

7   What? I'm sorry, it's 1056.

8   Are you sure? Because it's 156 on here.

9   Hold on. Let me look at my notes.

10   It's 156, not 1056.

11   THE COURT: And it's 148, not 1048?

12   MR. BLUE: 1031, 1045, 148 --

13   THE COURT: 156.

14   MR. BLUE: -- 156, 22.

15   THE COURT: Okay.

16   (Exhibits 1031, 1045, 148, 156, and 22

17 admitted into evidence.)

18   MR. GRIMSLEY: It sounds like tax forms.

19   THE COURT: Redirect?

20   MR. GRIMSLEY: Briefly, Your Honor.

21   REDIRECT EXAMINATION

22 BY MR. GRIMSLEY:

23   Q.   You were asked a number of questions

24 about whether in the lead-up to January 6 there wasn't

25 a consensus about whether there might be violence that

1 day. Do you recall that?

2   A.   Yes.

3   Q.   As of 1:30 in the afternoon on

4 January 6, was there consensus about whether there was

5 violence?

6   A.   Yes.

7   Q.   What was that consensus?

8   A.   Violence was breaking out at the

9 Capitol.

10   MR. BLUE: Objection, Your Honor. I'm

11 not sure what the basis of that statement is other

12 than what he saw on TV.

13   THE COURT: Overruled.

14   Q.   (By Mr. Grimsley) Did you review the

15 January 6 report in coming to the opinions in your --

16 in this case?

17   A.   I did.

18   Q.   I want to show you a few. The first one

19 is Finding 316. Oops. Sorry. It's not hooked up.

20   Finding 316 says "By 1:21 p.m.,

21 President Trump was informed that the Capitol was

22 under attack."

23   Do you see that?

24   A.   Yes.

25   Q.   What, if anything, did you see the

1   President or any evidence of the President doing prior

2   to 4:17 with regard to exercising his authorities to

3   deploy either the National Guard or the federal law

4   enforcement personnel we discussed earlier?

5   A.   Absolutely nothing.

6   Q.   Do you recall what the January 6 report

7   said about what President Trump was doing during that

8   nearly three-hour period of time?

9   A.   I believe he said he was watching the

10   television screen and tweeting.

11   Q.   Now, you were asked about whether,

12   perhaps, Senator McConnell or House Speaker Pelosi had

13   said they don't want the D.C. National Guard at the

14   Capitol.

15   Did you see anything to suggest they

16   were saying that as of 1:30 p.m. --

17   A.   No.

18   Q.   -- on January 6?

19   A.   No. Those statements were prior to the

20   outbreak of the violence.

21   Q.   And finally, you were asked some

22   questions about whether there was even consensus the

23   morning of January 6 as to whether there might be

24   violence.

25   Do you recall that?

1   A.   Yes.

2   Q.   Have you seen any evidence that the

3 President told any of those individuals that he was

4 going to ask them to march down to the Capitol?

5   A.   No.

6   Q.   Did you see any evidence that the

7 President told any of those individuals that there

8 were people refusing to go through magnetometers --

9   A.   No.

10   Q.   -- before his speech?

11   A.   No.

12   Q.   Did you see any evidence that President

13 Trump told any of those authorities what he was going

14 to say?

15   A.   No.

16   MR. BLUE: Objection. Your Honor, he's

17 leading again.

18   THE COURT: You can rephrase.

19   Q.   (By Mr. Grimsley) What evidence, if

20 any, did you see that President Trump told any of

21 those security officials what he was going to say on

22 the Ellipse that day?

23   A.   I saw no such evidence.

24   MR. GRIMSLEY: No further questions.

25   THE COURT: And I --

 1   MR. BLUE: Your Honor, I have no

 2   recross.

 3   THE COURT: And I apologize. I

 4   forgot -- I didn't ask the Colorado Republican Party

 5   or the Secretary of State about Professor Simi,

 6   whether you wanted to do anything. But I'm assuming

 7   you would have shouted at me if I had not. But I will

 8   give you the opportunity now.

 9   Do you have any questions for Professor

10   Banks?

11   MS. RASKIN: We have no questions, Your

12   Honor.

13   MR. KOTLARCZYK: No questions, Your

14   Honor. Thank you.

15   THE COURT: Great. So for all of you

16   with young kids, I'm sure you'll be happy to hear

17   we're going to recess. Please, though, I know that

18   people have a lot going on with Halloween, if not

19   going trick-or-treating, but distributing candy.

20   Can we please, though, make sure to let

21   us know who the live witnesses are going to be

22   tomorrow? We need to know that today.

23   So with that, we will go off the record

24   on Case Number 2023-CV-32577, and we will reconvene at

25   8:00 a.m. tomorrow.

1   * * * * * * *

2   WHEREUPON, the foregoing deposition was

3   concluded at the hour of 3:38 p.m. on

4   October 31, 2023.

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1   REPORTER'S CERTIFICATE

2

3   I, Jennifer Bajwa Melius, a Verbatim

4   Stenographic Reporter and Registered Professional

5   Reporter, do hereby certify that the within

6   proceedings were taken in stenotype by me at the time

7   and place herein set forth and was thereafter reduced

8   to typewritten form by me; and that the foregoing is a

9   true and correct transcript of my stenotype notes

10   thereof; that I am not an attorney nor counsel nor in

11   any way connected with any attorney or counsel for any

12   of the parties to said action nor otherwise interested

13   in the outcome of this action.

14   IN WITNESS WHEREOF, I have affixed my

15   signature on this day, November 6, 2023.

16

17

18   _____

     Jennifer Bajwa Melius
19   Registered Professional Reporter

20

21

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$300
124:7
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124:5

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-47
209:17
-48
70:11 209:17
-51
71:7
-54
209:17
-74
209:17

1

1,100
247:18 274:3
10-
251:9 252:5,
16 254:4,11,
23 256:4,11
257:7,12
258:6
100
231:3 241:2
252:8
1026
182:5
1027
257:25
258:3,4
1031
279:17
283:19
284:6,12,16
1045
266:7,10
283:19

284:6,12,16
1046
209:16
210:2,8,10
1047
210:2,10
1048
184:8 210:2,
10 284:11
1054
186:15
210:2,10
1056
284:7,10
1059
162:19
171:22,25
1060
171:18,20
1074
176:14
210:3,10
10:01
97:18
10:15
97:17
10:19
97:18
11:58
175:21
123
72:7,9,10,11
126
72:7
14
18:12 131:22
132:15 133:6
146
210:6
147
183:20 210:6
148
261:14
270:14
283:19
284:6,11,12,
16

15
163:4
156
272:6,7
283:19
284:6,8,10,
13,14,16
16
214:8
161
23:3
17
61:22 65:9
1776
29:3 38:17
54:14,20
55:1,4,8,11,
14 94:22,23
95:4 104:17
152:9,13
153:10,12,23
166:25
167:2,3,21
168:4 191:16
224:21
18
211:16 280:2
1889
247:4,15
19
85:25 105:3
1950s
282:21
1960s
282:22
1962
242:12
1964
143:21
1969
267:14
1974
242:21
1978
121:3 238:2
243:7

1982
243:4
1984
282:24
1987
240:1
1989
243:12
1990
243:13
1990s
40:21 41:24
1995
40:22
1996
11:21 18:23
1997
131:17
1:00
175:18
235:18
275:25
1:07
175:21
1:21
285:20
1:30
285:3 286:16
1:34
276:8
1:40
162:20
1:49
276:11

2

2,000
247:18
20
97:3 101:9
131:18 215:3
258:18
20,000
251:9 252:5,
16 254:4,11,

23 256:4,11
257:8,12
258:7

20/20
103:1

200
241:6

2000
212:19

2003
11:25 238:10

2008
22:18 26:7
40:19,24
41:19

2009
40:15

2012
60:16

2014
41:12

2015
56:18,24
57:1,3,12
173:10
211:22
212:12 230:7
232:15

2016
39:14 41:14
169:13
170:19
213:11
214:4,17
215:1 241:17

2017
20:17 128:9
129:14
163:15

2018
60:23 215:6
234:6

2019
129:15

2020
27:3,7 60:1,
9,11 61:6,

15,17,22
84:15 95:14
103:20 171:3
217:7
250:21,22
281:11,19

2021
33:10 219:21
243:18
256:20 278:4

2023
289:4

2023-CV-32577
288:24

21
116:10

217
18:8 131:13

22
276:21
283:20
284:6,14,16

24
258:17

25
12:2

26
131:18

27
11:21 12:2
16:1 28:8
48:7 53:10
73:25 74:6
117:2

29
216:25

2:00
276:13

2:25
235:17

2:28
237:4

2:40
236:25

2:43
237:4

3

3
42:6 253:8,
18 256:20
257:15 278:2
280:4

30
97:3 241:22
242:4 270:15

300
259:2,9,22
274:3

31
257:18 289:4

316
285:19,20

33
111:6,9

340
252:8 257:21
258:13,22
259:1 274:3

36-page
79:11

3:38
289:3

4

4
188:15
253:24
266:14
278:20

40
241:22
258:20,25
259:10,12

40-troop
259:23

46
277:17,18

48
71:11 278:12

4:17
220:22,24
286:2

4th
258:14

5

5
261:20
271:14,17
274:5

50
70:16

51
228:7,13

52
228:7,13
258:19

53
67:2,3

55
161:25

56
68:7

57
228:8,13

577
245:22

5:03
65:2

5:25
261:20

6

6
17:1,13 18:1
19:3 22:13
25:11 26:9,
13 28:5
33:8,10,23
34:5,12
47:24 55:6
76:25 77:3
79:13 80:12
83:3,9 85:17

86:2 87:16
88:13,18
94:8,16
95:17,22
96:2,5,17
98:11,20
103:12 104:8
105:2,5
106:14
111:20
113:17
116:25
117:5,15
121:15
124:15 125:3
132:1,16,20,
24 133:5,10,
13 134:1,7,
16 138:4,9
139:18,21
140:5,12
141:5
199:13,15
204:12,13,
16,19 206:23
207:5 211:8
224:15,18
239:7
243:18,22,23
244:9
245:20,22
246:6,12
247:17
248:19
249:14,23
250:3,9,17
251:8 252:17
254:5 255:1,
2,24 256:16
258:24
259:21
261:21 262:9
263:2 264:7,
10 270:15
271:20 272:4
273:9 274:6
275:19
276:24
277:14

278:4,8,20
279:8,18
283:4 284:24
285:4,15
286:6,18,23
60
21:20 144:2
61
62:21,23
6th
88:9

7

702
34:7 244:11
73
197:21
74
214:10
77
261:14
78
134:16

8

8:00
288:25

9

90
258:16
96
119:2,8,13

A

a.m.
97:18 175:21
288:25
ABA
242:13
ability
95:22

able
9:1,13,24
32:4 45:13
54:7,12 99:7
110:11 132:6
136:3 175:8
177:1,9
209:16
210:25
221:20 276:5
abortion
184:18
absence
53:2
absent
155:24 158:1
absolutely
26:24 54:1
58:8,11
80:20 110:2
139:10,12
140:17
177:11 178:1
213:25
252:25 286:5
academic
16:7 30:9
241:3
accept
73:14 111:15
acceptable
52:22
accepted
73:15
accessing
135:8
account
277:4
accurate
20:4 96:8
accusing
161:4
achieve
37:7 40:12
achieved
243:3

**acknowledgmen
t**
221:12
acquired
55:8,18
acronym
40:10
acronyms
256:25
across
21:13 24:4,6
35:11 39:4,8
42:2 86:13
87:25 95:19
122:22 143:7
245:7
act
78:16
acting
257:2
272:11,17
action
80:10,21,22
81:19 86:25
102:6 146:23
173:23
180:9,21
181:23
185:17
205:17,21
264:6
actions
100:1 101:15
129:22
activated
247:19
271:13,18
280:25 281:3
activating
265:7
activation
257:5
active
13:12 28:11
51:17,18
active-duty
248:15

activities
  13:25 205:14
  249:2
acts
  46:9 68:19
  83:3 108:8
  122:24
  182:21
  196:11
  206:17
  217:23
  218:14
  221:19
actual
  42:3 80:24
  111:23
  233:14 270:3
add
  147:5
added
  26:16
adding
  268:18
addition
  113:9 117:14
  238:8 246:15
additional
  26:16,17
  65:8 74:21
  126:22
  182:16,18
  230:16 273:5
address
  21:21 26:17
  27:22 28:8
  29:11 124:14
  271:4
addressed
  199:14 253:9
addressing
  56:21 205:22
adhere
  41:5 149:20
adhered
  35:22
adjoining
  251:24

254:9,17
admissibility
  114:3
admissible
  48:6 66:23
  79:20,23
  107:17
admission
  62:6 68:2
  70:12 116:8
  117:2 228:6
admit
  62:8,14,21
  70:13 117:9
  119:7
  171:17,22
  209:16,25
  227:16
  244:18
  255:10
  283:18
admitted
  7:17 34:10
  48:6 62:3,4,
  19,20,23
  66:23 67:2,3
  68:6,7 70:16
  71:9,11
  72:8,11 77:4
  79:20 89:5
  92:5 116:9,
  10 171:21,
  24,25 210:3
  218:5 222:14
  228:3,12,13
  255:17
  258:3,4
  284:17
admonished
  230:2
admonishing
  161:13
ads
  215:15,18,20
advanced
  238:14
advice
  265:11

advised
  239:18
  265:3,6
adviser
  200:3
advising
  265:1
advisor
  224:3,11
advisors
  199:11
advocacy
  49:1
advocating
  230:23
affect
  104:19
affiliated
  28:13
affirm
  221:21
affirmation
  75:9,20
  77:15,20
  89:17
  122:11,14
  123:13
  162:16
after-the-
fact
  201:8 203:8
afternoon
  43:8 210:15
  220:23
  264:16
  268:24
  282:11 285:3
afterwards
  52:20 69:4
  174:15,18
agencies
  24:3,9
  238:20
  261:12
aggressive
  100:17
  207:16,23

208:4
aggressively
  90:25
ago
  144:2 239:15
agree
  143:6
  145:17,20,24
  160:14
  169:7,11
  191:23
  192:12,17,18
  277:11
agreed
  281:15
ahead
  29:15 43:21
  48:8 56:5
  107:1 109:20
  215:4 234:22
  249:20 279:8
air
  195:23
  259:10,12,23
Alabama
  69:23 70:2
alarm
  8:25
alert
  78:23
alerted
  276:13
Alex
  57:9 61:7
  95:4 224:21,
  22,24 225:6
Alexander
  94:22
Ali
  94:22
aliens
  172:20
aligned
  126:4
alignment
  57:25 64:15
  65:4 91:18

172:9,11

all.'
  59:6

allegations
  170:13

allow
  15:1 161:9
  228:21

allows
  49:4

America
  81:15

America's
  21:25

American
  24:5 42:7
  87:3 143:22
  144:1,10,15
  145:19 169:9
  240:23
  241:2,16
  242:8,15
  247:25

Americans
  268:22,23

amount
  18:14 60:3
  103:13 121:2
  137:13 168:8
  195:21
  198:21,23
  260:5

ample
  226:16

amplification
  65:14

analogy
  165:2

analysis
  162:5 231:13
  279:8

analyzing
  26:20

Anderson
  7:3

Andrew
  69:9 75:17

160:13 227:5

Andrews
  258:21,25
  259:10,12,23

Angeles
  282:24

anger
  27:9

Anglin
  69:10 75:17
  160:14 227:5

angry
  143:8
  144:19,21

announce
  67:10

announced
  57:11 224:25

announcement
  58:2 172:15,
  16 173:10

answer
  78:6 86:18
  90:12 106:21
  129:2 167:9
  177:5 179:1
  181:16
  185:12
  203:25

answered
  44:19

answering
  134:20
  161:10

answers
  178:22

antagonistic
  170:25
  173:17

antagonizing
  67:22

anticipate
  235:19

anticipating
  273:11,14,17

**antidemocrati
c**
  36:18 84:5
  141:17
  145:16

Antifa
  90:22,25
  91:14,17,22
  195:14,15
  196:13
  261:24

**antigovernmen
t**
  40:18 41:20
  61:8

anymore
  53:14

anyone
  233:5 247:2
  249:11 255:5

anyone's
  235:11

apologies
  65:19 99:11
  223:6 234:23

apologize
  114:21
  117:21 119:2
  161:11 174:9
  175:6 215:15
  223:7 271:23
  288:3

apparent
  113:14
  124:23
  126:19

apparently
  260:7 284:5

appearance
  7:6 35:6

appearances
  7:8

appeared
  82:13,19

appears
  25:9 67:16
  82:16 189:3,

7,17 190:6

application
  150:9 187:23

apply
  38:10 138:3
  188:1
  248:16,23

applying
  208:3

appointed
  264:1

appreciate
  190:17 229:7
  269:22

approach
  20:2

approached
  240:7

approaches
  20:2

appropriate
  244:13

approval
  30:8 281:5,8

approve
  260:19 268:4

approved
  99:3 267:24
  281:21

approximately
  101:9 123:8
  124:5

April
  163:4

archival
  12:10 14:18,
  19,22 18:13,
  14,23 19:1,
  7,8 22:4
  28:17 45:1
  51:22,25
  53:15 158:6
  226:15

archive
  14:23 15:7,
  10,12,13
  135:7,20,21

attorney
  8:9,13
  263:17
  272:11
attorney's
  21:3,6
attorneys
  7:20
attracted
  45:16
attuned
  195:24
audible
  78:9
audience
  53:22 54:6
  75:6 102:10
  149:6,8
  152:24
  153:13
  154:13,14
  157:20
  181:20,22
  182:20
  183:18 234:5
audience's
  148:19
audiences
  53:8 151:22,
  25 153:23
  156:22
  157:2,3
  158:13
audio
  222:17,18
August
  61:22 128:9
authoritarian
  36:19,20
authoritarianism
  141:18
  145:16
authorities
  239:5 244:7,
  23 262:8
  264:10

269:8,12
270:11 286:2
287:13
authority
  241:12,20
  246:12,22
  247:21,22
  249:4 251:19
  252:7 261:5
  263:19,21
  267:7,9,17
  269:17,19,24
  270:3
  272:15,16,23
  281:18
authorization
  254:4,23
  256:4,10,18
  257:7 258:6
authorized
  251:9
  252:12,16
  254:12
  258:19
automobiles
  43:1
available
  8:22 15:9
  19:7 113:18
  243:3 248:18
  251:10
  252:17 254:5
  257:13
  258:21 274:4
aware
  73:13 126:13
  199:5,8
  267:9,23
  270:24
  274:10,25
  275:23
  276:17
  282:12 283:2
awareness
  221:13,18,23

——————————

B

——————————

back
  12:16 50:12,
  13 59:1
  77:6,11
  78:18 81:16
  90:25 91:3
  94:25 97:7,
  17 99:4
  102:13
  108:10,11
  113:6 118:23
  127:9 134:11
  138:19
  143:16 144:2
  151:7 162:22
  166:12
  174:12
  177:21
  182:12
  183:15
  191:22
  200:22
  214:6,25
  216:8,22
  217:4 218:7,
  10 227:25
  250:18
  257:14
background
  95:9 109:5
backing
  248:20
backstage
  38:5,9 50:18
  51:3,8 148:7
  150:16 151:5
bad
  74:24
balance
  45:7 102:15
Banks
  235:21
  236:22,23,
  24,25 237:7,
  10,22 244:5

264:16
266:12
288:10
banner
  95:12,14
banners
  95:8,10
Bannon
  63:24
  199:17,18,
  20,24 200:4,
  5,10,13,20
  222:3,22,25
  223:2
Bar
  24:5 242:8
Barack
  22:18 40:19
  57:6 173:16
barricade
  116:2
base
  110:11
  111:16
  229:16
  258:21
  259:10,13,24
based
  8:20 14:12
  33:20 47:11
  54:25 79:20
  80:10 83:16,
  25 85:10,15
  93:22 101:20
  106:13 108:2
  109:16
  110:12 112:8
  120:22
  122:2,5
  138:15
  151:20 154:8
  162:4 173:12
  184:20 188:7
  194:3 196:24
  217:9 233:25
baseline
  248:4

basic
  22:4 24:22
  34:22
basically
  14:9,24
  25:20 55:9
  56:12 58:15
  75:18 87:12
  120:4 152:21
  185:15
  221:20 232:3
  273:23
basing
  111:18
basis
  62:13 114:3
  209:19
  240:21
  285:11
bathroom
  236:20
Beall
  8:12
beards
  154:22
bearing
  218:6
bedroom
  31:16 32:11
bedrooms
  13:23
begin
  54:7 104:25
beginning
  57:10 61:5
  65:2 86:8
  95:2 131:17
  218:8
behalf
  7:15,24 8:10
  20:18 21:10
behave
  150:25 151:1
  218:22
behavior
  34:6 50:19
  73:18 141:8,

9,11 142:9
148:7 161:13
173:21 174:6
187:19
210:20
behaviors
  38:5
behind
  184:14
belief
  58:9 141:13,
  14 142:20
  207:15
beliefs
  21:9 22:7
  35:11,16
  36:20,23
  37:4 39:2
  144:8
believe
  12:19 14:2
  36:15 40:1
  41:3 42:9
  44:19 83:7
  99:16 109:22
  127:20 138:7
  157:8 166:7
  171:18,19
  179:12
  186:19 243:3
  250:22
  268:12 271:7
  276:7 280:19
  282:10 286:9
believed
  116:20
believes
  185:16
below
  60:22
Ben
  67:9
benefit
  15:18
Bernhardt
  262:5,23

best
  34:24 40:3
  138:8
betray
  158:7
Betsy
  191:17
better
  145:9 187:16
  211:3,4
  238:25
  244:12
bias
  231:5
Biden
  186:19,22
  188:4
big
  14:20 79:13
  135:1
  143:11,12
  165:20
  181:3,13
bigger
  109:2 118:1
Biggs
  64:25
bipartisan
  276:25
Birmingham
  70:2 282:21
birther
  57:5
Birtherism
  173:13
bit
  12:3 13:17
  15:19 16:21
  19:6 20:12,
  25 23:20
  25:25 27:6
  29:10 37:17
  39:22 44:2,4
  55:15 58:12
  71:20 75:20
  78:8 80:4
  131:10 132:3

135:16 141:7
142:20
147:13 148:9
168:17 174:9
178:21
184:12
192:23
193:20
201:24 211:1
216:7 220:15
225:24
228:18 230:1
233:12 243:8
247:20
250:18
264:21 269:1
275:10
281:10
bits
  177:6 204:3
black
  95:13 267:21
  268:21,23
blame
  171:2,5
block
  280:4
blocked
  211:1
blocks
  242:18
blow
  277:19
bludgeon
  43:19
blue
  7:16 109:5
  189:8,12,22
  190:1,19
  191:3,12,15,
  19 249:17
  252:20
  253:11,14,
  17,25
  255:11,14
  258:1,2
  264:15
  265:24,25

266:5,10,12
269:3,6
271:21,22
272:1,5,7
274:9,10
275:12
277:17,22
278:11,13
283:17
284:4,12,14
285:10
287:16 288:1
blueprint
55:9,19
board
30:9 95:19
132:4
boards
30:11
Bob
8:1
body
136:14,15,18
137:21 216:5
228:1 233:19
body-slammed
234:6
bombing
40:22
book
21:20,25
22:5,9,14
26:6,22
121:1,6
143:21
241:14
243:13
books
21:23,24
241:6,10,18
bottom
211:22
213:14
Bowser
257:16
266:14
267:24

269:16
270:4,9
272:8 273:3
274:15
Bowser's
258:15 281:5
boxes
32:2,4
Boys
17:14 18:10
39:14,23
40:3 55:8
61:13 65:1
77:5,12,16,
18,23,24
78:10,11
86:22 88:8
104:15,24
121:14
128:14
131:22
196:10,21
216:10
224:8,17,19
brain
77:25
branch
261:12 262:1
break
96:21,24
97:8,15,25
161:15 228:3
236:20 252:4
breaking
235:18 260:3
285:8
breaks
97:11
brief
230:3
briefly
57:2 131:2
193:1 264:19
284:20
bring
26:1 88:12
114:5 176:14

205:2 211:18
253:2
bringing
50:13 57:18,
19 58:5
British
42:6
broad
14:21 15:14
87:11
broad-based
35:4
broader
25:1 85:9
broadly
33:2 49:21
50:20 77:20
127:22 140:7
broke
194:16,20
195:9 259:18
271:19
275:18
broken
188:2
268:21,23
275:24
brought
109:16
110:25 111:1
262:13
bucket
14:20 46:19
build
49:15
building
31:20 258:24
buildings
245:13
built
126:7
built-in
49:6 71:17
bullet
256:23,24
257:2,10

bullets
257:15
bullhorn
120:18
bunch
153:15
223:11
Bundy
41:11
Bureau
23:25 24:1
254:8
business
13:2
button
240:11
bystander
106:3
bystanders
46:20

C

California
11:13
call
8:22 10:18
29:9 54:20
55:3,5,11
57:13 65:22
66:1 78:15
85:22 86:18
87:18,22
93:1 101:14,
23 102:2
103:9 107:25
121:8 136:6,
9 137:7,10
167:3,22
168:6 172:6,
24 173:3,23
179:24
180:15
181:10
182:15
183:7,8
184:2 186:21

187:1 201:4
202:18,24
204:7,25
205:6,11,17,
20 232:9
244:8 250:2
251:19
255:16
263:18
276:9,11
called
22:14 30:8
43:9 98:2
118:11 121:2
141:18
143:22 144:6
195:15
238:11
241:14 243:1
245:25
247:25
248:12,14
261:10,11
281:11
calling
9:19 58:4
70:7 88:8
102:10 161:5
213:23
217:19
calls
45:8,10
80:10 85:16
101:22
138:24
181:23
276:12
campaign
56:24 173:10
200:1 229:22
campaigns
73:17
camps
41:7
candidacy
56:17 57:11
67:11 225:1

candy
288:19
capacity
247:10
248:15
Capitol
22:12 28:5,6
47:23 55:9,
21 80:6
81:25 83:1,2
94:11 95:17
96:12 102:18
104:16,24
105:7,8,13,
18 106:4,10
107:12,14
109:10,24
110:1,24
111:4,12,19
112:5
113:12,20
114:24 115:5
118:24
119:14
124:16,24
125:7,11
207:7 224:9
246:2 250:9,
13 251:10
258:23,24
259:24
260:3,4,16,
20,25
262:10,14,
16,21
273:12,15
274:12
275:24
276:2,9,16,
22 278:19
279:3,4
285:9,21
286:14 287:4
caps
137:2
car
43:7,12,15,
17 193:24

care
263:23 276:5
280:15
career
11:21 17:4
18:7,15
25:19
careers
238:14
careful
145:12
carefully
256:12
268:13
Carrey
165:11
carries
253:23
Carson
67:9
case
17:21 19:6,
19,21 20:14,
18 21:1,5
25:18,23
27:23 29:2,
11 33:13,21
52:10 61:10
67:7 94:20
102:15
116:15 118:7
124:1,14
135:2 178:12
187:10
190:23,25
204:9 221:19
232:12
238:22
239:3,20
243:16,20
248:13 251:8
254:15,21
255:3 261:4
285:16
288:24
casebook
240:25

cases
13:14 20:22
21:11 25:7
110:6 158:7
170:15
232:8,9,10,
11,14 233:7,
16 234:8
239:14
catchphrase
214:18 216:4
219:3 221:7
227:24
category
47:1
caught
191:3
caused
121:20 197:3
218:17
center
259:7
central
7:4 8:3,4
20:20 22:8
28:1 35:24
36:17 37:12,
13 40:2
44:24 64:10
125:16
141:14,16
certain
28:4,18
35:11 38:21
44:7 46:14
49:3 52:15,
16 65:13
76:15 81:19
100:1,17
109:20
149:17
158:24
163:17
167:10
170:13 175:2
181:18,22
188:7 209:6
229:23

certainly
  16:8 20:3,7
  26:16 30:17
  31:4 32:15,
  16 37:13
  46:15 47:15
  52:20 56:15
  66:13 68:25
  73:6 85:25
  90:14 95:19
  103:11
  105:16
  107:4,10
  110:4 111:20
  124:16,19,21
  125:12
  129:17
  132:6,18
  135:5 136:1,
  5 137:24
  138:11 139:7
  140:1,19
  157:18
  168:10
  172:13 174:1
  177:7 196:20
  199:13
  201:14,16,17
  203:3,10
  205:10,16
  206:10
  227:8,9
  232:8,10
  251:18
  269:14
**certainly--
it's**
  136:3
certification
  115:5
certifying
  99:2
cetera
  76:4 84:10
chair
  242:10
Chairman
  257:3

challenging
  57:5,6
  173:16
chance
  165:19,22
  177:7 234:20
  278:21
change
  83:15 202:1
  268:20
changed
  83:9
chanted
  83:19
chanting
  115:21
Chapman
  11:10,12
  16:10
chapter
  26:22
chapters
  21:20 26:23
**characteristi
c**
  37:15 150:8
  155:24 185:6
**characteristi
cs**
  27:25 35:1,
  11,14,16
  39:3,7
  151:18 185:9
  208:18
**characterizat
ion**
  150:23 164:1
  177:19
  179:13
  183:10
  207:22
characterized
  144:7 165:1
  166:22
characterizes
  147:3

**characterizin
g**
  194:19
charge
  247:14
charged
  21:5
**Charlottesvil
le**
  20:15 68:18
  159:20 164:2
chart
  12:15 18:4
  210:22
  218:25 219:1
chauvinism
  39:18,20
  58:7,13,14,
  21
cheered
  195:8
cheering
  182:14
chief
  257:17
  263:22 276:8
Chiefs
  257:3
choose
  22:16 44:22
  61:21 63:3,
  21 135:21
  137:12
  229:11,19
choosing
  229:12,15
chose
  42:15 56:25
  138:14
chosen
  60:5
Chris
  7:16
Christopher
  8:12
circles
  167:5,10

citations
  134:13,16
cite
  211:19
cities
  172:22
city
  40:22
  259:10,22
civil
  20:14 109:8
  248:4 258:17
  278:21
civilian
  238:20
  248:6,7
civilians
  248:7
civilization
  58:15
civilizations
  58:17
civilly
  49:17
claim
  64:2 111:1
claimed
  93:13
claiming
  58:5,15
  63:25 199:21
claims
  169:17
  171:11,13
  173:13 200:5
Clansman
  69:8
clarification
  9:12,16
clarion
  57:13 172:6
  173:3,22
class
  243:12
clear
  27:8,12 33:6
  54:25 61:24

63:10 67:25
73:6 75:5
102:19,20
119:12
126:15 131:8
155:14
163:12
164:25 207:4
217:22 273:8
279:12

clearly
129:3 195:21
253:15

CLERK
284:1

clinical
245:12

clinics
245:15

Clinton
170:18,24
171:13

clip
74:20 93:6,
21 94:21
108:9 159:4
160:3,4,11
161:21
179:4,6
184:4,24
186:20
222:12,17

clips
160:2 178:1
234:2

close
147:10
153:21,22
172:11
220:14
222:23
224:7,11

closely
145:1

closer
104:6 152:11
229:24

co-authored
21:23

code
244:1,2

coded
168:6

collaboration
107:12

colleague
227:23

colleagues
240:22

collected
12:5 118:10

collection
14:24 51:15
113:22
226:15

collections
135:8

colonists
42:6

Colorado
7:4,25 8:3
288:4

Columbia
244:1 247:7
248:12

combination
20:6

come
12:16 31:17
32:11,12
46:6 47:6
85:16,20
122:22 127:8
204:15,19
227:25
238:23
244:14

comes
51:14,15,17,
22 82:3
98:24

comfort
162:8

comfortable
31:21 32:6

comitatus
247:25
248:3,16,22
251:21 252:1
254:16

command
220:4,5,19
247:13 252:2
254:19
258:18 259:7
272:14

commander
246:16
247:1,4,9

commands
220:25

comment
70:3 86:20
93:7 129:15
160:6,15
186:24
199:17
216:8,10,22
217:4 225:25
226:17

commentary
136:25 137:1
138:15,16

commenting
128:11

comments
67:25 69:4,
14,16 71:18,
22 74:21
75:7,17
91:11 92:15
160:25
163:23
164:17
173:22
199:21
202:18 209:6
227:7

**comments/
statements**
81:24 82:24

comfortable
65:11

Commie
65:11

commit
46:7,13
83:22
109:11,15
199:15

committed
72:1 124:17,
20 125:11,13
193:10
196:11

committee
7:5,25 8:3,4
25:11 117:7,
15 242:9,11,
12 243:22
245:20 255:2
278:6

committees
278:18

committing
44:1 46:11
83:3 108:16
111:3 113:19
182:21
218:14
233:24

common
19:24 50:19
51:5 97:9
143:7 144:9,
10,15 145:4,
19 159:6
169:8 174:19
192:11

commonly
40:8 142:5

communicate
15:11 34:3
59:12 88:14
122:7

communicates
34:11

communicating
282:3

communication

28:1,4,20,
21,25 34:6
35:12 37:16,
17,20,24
38:12 39:2
47:17 49:3,
10 51:11,12
52:9 53:9,24
54:10 56:3
66:1 72:15
81:11,12
87:7 88:6
102:14
108:3,13
122:8 123:11
125:22 128:2
141:24
142:15
147:11
149:14
177:25 178:6
188:1 200:4,
6 260:25
**communication
s**
34:13 52:13
59:19 126:12
150:15
community
13:7 178:9
180:5
comparable
19:18
compare
19:8 137:17
compared
31:1
compilation
114:23
117:15
compiled
255:1 256:13
complain
143:3
complete
46:9
completed
242:10

243:25
completely
49:13 52:17
87:13 93:19
127:11
complicated
132:3
computer
26:1
concentration
136:11
concept
148:8
concern
103:15
104:4,9
240:21
concerned
9:18 103:11
249:14,23
concerns
27:2 169:7,
13
concluded
289:3
conclusion
53:24 124:11
125:15
207:11,12
conclusions
123:25
124:13
concurs
257:4
condemn
76:21 93:11
122:24
159:23
condemnation
52:24,25
53:3 69:15
74:25 75:3,
20 93:25
123:12
160:4,10
217:22
219:14,15

condemned
162:10
condemning
73:7 93:17
164:5
condemns
164:11
conduct
15:2,5 20:4,
5
Confederacy
109:8
Confederate
109:6
confer
247:12
conference
67:8,13
68:13,21
74:19,20
159:19
164:9,16,18
171:21,23
240:7
conferences
16:4
confident
53:7,15
125:15,18
**confidentiali
ty**
132:5
confirm
114:12
confirmed
56:8 247:5
confirming
164:25
confused
281:10
Congress
146:1,6,14
247:5,11
Congressman
183:2
congresswoman
182:11

conjunction
163:3
connect
81:6 150:11
connected
51:8 149:22
150:1,2,6
170:10
connection
81:6 170:10,
12
connections
225:4
connotation
29:8
consensus
277:12 278:3
279:3 284:25
285:4,7
286:22
consent
30:12
consequence
155:18
consequences
24:24 155:18
conservative
173:1
consider
62:13 119:5
266:20
consideration
173:12 209:3
considered
103:9 181:10
201:4 270:7
283:11
consisted
209:2
consistency
53:19 82:4
consistent
19:10 21:8
49:19 58:6
59:9 73:7
85:8 91:15
101:16,18

108:14
111:12
116:18
118:22
122:16,18,22
144:2 157:24
166:9,22
168:21
173:20
206:25
218:21
220:25
consistently
247:14
consists
133:18
conspiracy
35:18,21,23
41:6 57:6
59:24 60:4
63:7 92:8
122:12
141:12,13
142:10,18,
20,24
143:14,25
173:14
conspiratorial
144:7
conspiring
87:2
constellation
35:3,8
constitute
155:20
Constitution
41:3,5 244:3
263:23
constitutional
238:4 241:7
274:21
consultation
25:6 273:6
consulted
140:16

contacted
263:17
Contacting
31:25
contacts
32:3
contains
153:24
context
54:9,12
76:9,15,16
81:25 82:2,
21 94:15
95:5,7 102:3
122:8 124:17
125:2 152:20
154:8 158:18
166:14
178:2,3,8
181:17 182:2
183:25
184:14,16
186:12
187:15,17,24
192:4 201:15
203:1 204:1
205:9 217:9
222:15
225:17
contexts
167:11
contextual
54:7 102:13
148:21
152:21 153:2
170:13 173:5
181:12
182:16,19
184:6 186:7
187:3 208:24
209:8
continue
123:20
148:11
171:17
CONTINUED
235:1

continues
34:18 61:9
73:11
continuing
122:11,12
contract
239:14
264:24
contrary
166:8
control
258:16,18
259:6,7
controlling
143:4,9
convenient
260:7
convention
73:1
conventional
166:20
conversation
14:10 34:18
216:7 217:9
219:21
222:6,10,16
281:23
conversational
30:6
conversations
57:22 59:9
122:3 172:10
198:19
210:21
convoy
194:10
cooperation
107:11
coordinate
281:1
coordination
107:11
115:22
copy
23:3

core
34:25 35:10,
13,15 37:15
39:3 141:14
corporations
143:12
correct
8:24 9:20
12:22 14:6
19:23 26:9,
10 63:15
82:10 99:21
103:24
112:6,12
114:1 118:8
120:11
128:2,3,13,
25 129:13
131:3,15,21,
23,24 133:7,
20,21 134:3
139:22
140:14,15
141:6,22,25
142:13
147:15,25
151:2
156:15,23
158:23
159:20,21
167:14
170:1,11
171:19 174:7
176:22,23
178:2 180:15
189:14
191:13
193:18,21,22
195:10
197:8,9,15,
17,18
198:12,14
200:20,21
204:23
205:18
207:19
211:24 212:8
214:4,5

222:4 228:7
231:10,21
232:17,19,
20,24 233:15
234:1,13,14
235:7,10,14
244:25 246:9
248:24 257:1
259:11
265:8,13,22
266:15,23
267:21,22
268:7 269:9,
13,18,25
270:4 271:10
272:9,12,25
273:1,6,21
275:6,14,15,
20 277:9,10
278:9,24,25
279:8,9,14,
19 280:9,12,
13,16,22
281:2,8,16,
25 282:5
283:15,16

correctly
48:5 141:10
147:17
159:18 164:4
188:15
194:15
208:17
252:22

correlates
157:21,24

corrupt
56:12 60:1
64:11 84:9

corrupted
85:8

corruption
60:24 64:8
168:24

couch
13:23 31:15

counsel
8:11 9:7

count
18:17,18

counted
134:12,16,18

countering
25:4

**counterprotes
ter**
43:2

**counterprotes
ters**
43:8 67:22

**counterterror
ism**
238:5,12
241:8

counting
263:25

country
21:14 24:4,6
42:2 86:14
87:2,12
100:21
101:16 102:5
193:16

county
21:2 248:1

couple
12:16 23:11
24:13 28:23
31:14 60:5
61:19 66:4
77:8 86:3
95:8 107:21
115:16 128:5
150:15
174:4,5
179:17
212:14
221:25
226:20 229:8
257:9

courage
120:1,13,16

course
15:7 16:13,
14,16,19

36:1 40:20
42:19 43:11
105:14 108:7
110:5,7
111:10
113:17 231:6
233:17 243:1
262:6 263:4,
9

courses
238:4

court
7:2,13,21
8:2,6,14,16
9:2,5,8,17
10:2,12,13,
16,19,24
15:18 17:23
18:2 19:13
23:13 26:3,
6,12,21,25
29:13,16
31:6,12 34:9
48:9,13,18
59:23 62:9,
12,16,21
66:24 67:2
68:3,6
70:13,17,19,
22 71:7,9
72:7,10
73:14,21
74:12 78:17,
24 79:24
83:5 84:1,8
89:8,25 90:8
91:4,7
96:18,21
97:4,14,17,
19,22 99:5,
7,10,12,15
102:22 103:6
106:21
107:2,9,22
110:21
111:5,10,24
112:3,7,8
113:1,5

114:11,15
116:9 117:4,
7,9 119:1
124:12
126:25
127:23 128:4
129:6 130:16
132:10,14
149:25 150:4
159:10,14
161:2,8,17
171:24
175:10,13,
17,20,22
176:8 184:19
209:14,21,
23,25 210:4,
7,11 211:7
215:19
225:12,21
228:4,7,12,
15,20,25
230:2 234:22
235:17,23
236:1,5,13,
17,20,24
237:5,8,13,
20 244:12,
16,25 245:2,
5,9,17
249:19
252:25
253:4,10,13,
15,20 254:1
255:18
258:1,3
264:13
265:24
266:1,4,6
267:12
271:25
283:21,24
284:2,11,13,
15,19 285:13
287:18,25
288:3,15

Court's
48:7

courts
  146:24
cover
  15:14
covered
  126:23
  280:12
covers
  14:21
crap
  213:16 214:3
  227:22
  233:4,5
crashing
  13:23
create
  185:24,25
  203:12
created
  238:12
  240:24
  242:11
creates
  105:10
credence
  203:10
crime
  57:19 58:5
criminally
  49:17
crises
  265:19
crisis
  238:25
  263:13
  265:15,17
critical
  207:20
cross
  96:23 97:6
  175:18
  225:11,13
  227:19
cross-exam
  236:4

cross-
examination
  130:20
  151:10
  264:13,14
crosstalk
  78:7
crowd
  105:11
  106:8,14,23
  107:6 108:19
  121:20
  154:3,4
  182:11,12,
  24,25 183:4,
  8,9 201:23
  202:7
  203:18,19,20
crush
  165:14
Cs
  8:5
cues
  54:7 102:13
  153:3
culminated
  40:21
culminating
  26:8
cultural
  22:5 52:22
  54:2,3 95:5
  152:20 154:8
culture
  13:6 22:8
  28:14 29:7
  38:23,24
  39:4,5,8
  45:20 51:16,
  21 52:23
  53:12,13
  54:4,12,14,
  18 100:21
  102:1 120:25
  148:22,23
  152:15,17
  156:7,16
  167:16

  168:15
  169:1,4
  178:9 180:5
  248:8
culture's
  178:11
cultures
  58:16
currency
  173:12
current
  12:8 14:14
  46:1
cut
  35:11 39:3,8
  190:15 230:1
CV
  23:3
cybersecurity
  241:9
cynicism
  56:11

_____

          D

_____

D.c
  275:14
D.C.
  79:13 85:17,
  21 87:23
  88:13,18
  91:2 118:11,
  18,21
  224:14,17
  238:16
  246:3,16,19,
  23,25 247:4,
  11,14,16,21
  248:13,23,25
  249:7,8,16,
  25 250:10,
  20,21 251:22
  252:6 254:14
  257:5,11,12
  258:23
  260:13 267:5
  268:11

  269:17,25
  272:15
  274:19 275:2
  281:4 286:13
D.c.'
  87:19
D.c.'s
  281:7
daily
  13:24 69:10
  160:18
  278:19
dais
  240:7
dangerous
  213:15
Danny
  115:16
data
  12:5,10
  51:14 53:10
  212:9 226:14
date
  216:15
  261:19
David
  69:6 227:1
day
  43:3 68:19,
  24 69:6,9
  70:6 71:14,
  25 81:3
  95:18 97:20
  120:9 121:7,
  11,16 123:10
  162:18 163:2
  164:8 192:11
  193:3 205:14
  208:8 212:5
  245:10
  247:19 252:9
  257:13,20
  259:8 261:10
  262:14 263:5
  264:1 273:9
  275:25
  276:13 285:1
  287:22

day-to-day
 267:17
days
 94:7 168:11
 249:13,22
 255:24
deadly
 20:17 68:14
deal
 241:20
dealing
 39:4 234:11
debate
 86:21,24
 172:18
 184:17
 216:14
debates
 283:2
decades
 12:4 14:4
December
 85:25 105:3
 257:18
decentralized
 42:1
deceptive
 37:23 38:13
 50:23
decertify
 99:1
decide
 146:24 237:1
decided
 8:21
decision
 184:19
 256:14
 271:8,10
decisions
 267:17 283:7
declare
 222:7
declared
 282:6
declaring
 265:6 282:12

deemed
 62:3 107:16
deep
 94:24
deeper
 150:1,6
deeply
 87:10 149:22
 150:2,6,7
defend
 44:7 108:17
 190:22
defendant
 21:5
defendants
 21:11
defender
 21:13
defending
 196:13
defense
 71:17 238:20
 239:16
 243:23,24
 246:2 254:7,
 25 255:13,23
 257:3 258:8
 267:15
 272:12,19
deficient
 58:17
define
 156:19
defined
 34:25
defining
 27:24 36:23
 147:7
definitely
 18:24 84:6
 116:18
 212:11
definition
 34:22
degenerates
 36:12 94:24

degree
 39:7 41:9
 44:10 64:15
 69:15 107:10
 124:19 139:2
 151:9 156:4
 243:3
degrees
 39:6 168:25
 242:24
dehumanized
 37:6
dehumanizing
 36:11,13
 94:25
delegated
 267:10,15
 272:17,20,23
delegation
 272:16,24
deliberately
 127:6
democracy
 60:24 65:6
 84:3,8
democratic
 115:6,8
 124:25
 172:25 173:2
 176:25
 274:24
Democrats
 65:10
 144:19,21
demonstrated
 107:6
demonstration
 79:22 114:9
demonstrative
 23:9 25:22
 27:18 62:13
 89:2,6 94:13
 107:17
 117:22
 188:14
 216:19
 219:20 221:6

 222:15
demonstrators
 268:18
deniability
 49:2,15
 59:3,14,17
 101:19
 122:22
 162:13 163:9
 174:13
 187:11
 201:13,18
 202:20
 203:7,12,23
 204:8 207:14
 208:16,19
 209:1
Denver
 242:19
deny
 244:17
denying
 208:20,21
department
 24:1,2,16,17
 238:20
 239:16
 243:22,24
 245:25
 246:1,2
 254:7,25
 255:13,23
 258:8 262:3,
 4,12,18
 263:3,15
departments
 246:13
depend
 168:12 173:6
 204:1,2
 208:25
depending
 27:8 30:7
 148:19
 152:19,22
 168:9
 181:17,23
 236:3

depends
  204:1
deploy
  249:6 261:12
  264:6 274:5,
  16 275:5,13
  286:3
deployed
  249:1 250:1,
  2,23 258:22
  259:3 260:1
  261:5
  262:15,20
  270:25 274:2
  275:20
deploying
  250:20 275:2
deployment
  257:13
  258:21 260:8
  267:17,24
  268:16 271:8
  273:5
deployments
  260:19
deposition
  289:2
depositions
  252:23
Deputy
  8:11
describe
  11:15 18:14
  36:14 56:4
  59:22 91:16
  124:12 165:6
  166:4 197:23
described
  36:11 151:20
  155:7,11
  232:1
describing
  113:24
  133:24
detail
  229:24
  263:10

details
  271:1
detention
  41:7
determination
  136:21
  187:16
  271:18
determine
  135:19
  136:17
  256:10
determined
  63:18
determining
  135:18
develop
  32:6 54:19
  110:12
  167:13,18
  168:16 240:3
developed
  28:3 30:23
  41:25 56:13
  76:13 125:23
  171:10
  173:12 180:3
  188:6
developing
  49:2 122:21
development
  26:17 174:10
  229:6
developments
  22:19
develops
  54:6,23
  66:8,9
DHS
  262:12
  263:12
Diaries
  121:2
died
  153:11
differ
  220:21

  247:22
difference
  45:13 181:13
  208:23
differences
  76:6 100:10
  137:18 157:7
different
  12:6,10,25
  13:12 14:21
  15:8 18:21
  19:17 21:21
  24:23,25
  28:15 29:19
  32:18 33:3
  39:5 41:5
  42:1 45:19
  55:22 59:25
  60:3 66:12,
  20 76:16,17
  82:17 86:10
  95:6,25
  96:10 101:12
  111:13 135:8
  136:2 138:12
  148:3,4,8,
  14,18,23,24
  149:2,8,18
  150:20
  151:1,14,21,
  23 152:16,23
  153:2,15
  154:2,5
  156:21 157:1
  163:20
  168:10
  171:12
  177:15
  178:16
  182:25
  194:12
  208:3,21
  212:21
  220:2,3
  227:24
  231:13,16
  247:24 272:2

differently
  38:25 50:24
  51:4 152:1,
  19
difficult
  49:17 204:4
  251:12,17
difficulties
  176:15
direct
  11:2 29:9
  97:5,7 114:8
  217:8 237:18
  251:22
  263:21
directed
  39:25 91:21
direction
  36:19 115:24
directives
  47:12 221:2,
  3
directly
  28:10 45:24
  104:24
  105:12,19,21
  106:5 110:22
disabled
  43:14
disagrees
  274:20
disavowing
  200:20
discern
  45:13
disciplines
  12:25
disclosed
  111:5
disclosure
  112:25
Discord
  42:24 43:22
discourage
  218:14
discourages
  273:5

discourse
  73:16 142:6,
  12 143:3
discovered
  109:24,25
discuss
  51:19
discussed
  16:5 43:21
  47:13 63:24
  125:25
  158:11
  183:16 261:7
  286:4
discussing
  22:3 26:20
  59:2 76:10
  100:23
  126:19
  127:13
  174:23 222:2
discussion
  8:20 52:3
  172:14
  211:16 258:9
discussions
  42:25 122:6
disobedience
  278:21
disparate
  35:9
disperse
  43:10
displaying
  47:9
disposal
  239:6 264:10
disregard
  166:7
disregarded
  164:15,16,
  17,18
disrupt
  115:6,7
dissipated
  40:23

distance
  225:15
distinction
  29:24 30:24
  35:25 148:8
distinctions
  36:2,4,8
  38:5
distinctive
  51:6 125:12
distinguishes
  51:10
distributing
  288:19
district
  21:3,6 244:1
  247:3,7
  248:11
  259:15 260:1
disturbance
  259:16,17,18
document
  55:7,13,16,
  17,19 104:17
  197:2 268:6
  279:24
documentation
  252:17
  254:2,6,8,11
documented
  193:6 194:4
documents
  19:13 107:9
  196:25
  243:21
  253:14
  254:21 256:9
  260:9
DOD
  256:12
doing
  18:23 26:3
  30:18 31:9
  48:5 105:9
  130:24 156:8
  159:5 206:13
  216:2 231:22

252:22
256:24
259:13
283:11
286:1,7
domain
  83:9,15
domestic
  42:3 238:6
  241:12,15,20
  244:7,21,23
Donald
  7:5 27:11
  28:2,6 56:3,
  6,14,19,24
  57:1,3 58:22
  59:19 60:8,
  16 61:16
  62:1 64:19
  66:9,19
  67:10,13,14
  69:21 70:3,7
  71:25 72:15
  74:9,23
  76:7,11,22,
  25 77:5
  79:1,7 80:15
  82:9,18
  83:18 85:13
  86:24 89:3
  90:19 91:11
  93:5 96:13
  98:21 99:23
  100:2,5,8,11
  104:2,11,18
  105:2,9
  116:20,22
  119:25
  122:23
  123:3,20
  125:9,16,23
  126:13,16
  127:12
  163:15,25
  164:4,9
  166:11,23
  169:12
  170:19

171:1,10
172:2 174:24
198:4,5
199:2,7
200:1 215:24
221:19
223:12,18
224:3 226:12
227:7 229:22
276:18
Donald.win
  198:4,6
Donald.win.
  198:5
**Donald.win.
com**
  83:5
**Donald.win.
net**
  83:11
doors
  32:14
double-check
  212:25
double-down
  93:12,16
doublespeak
  37:22 38:11,
  21 48:25
  49:1,25
  50:18,24
  51:8 66:1
  142:23
  147:14,18,23
  148:12,13
  149:10,11,12
  150:10
  151:4,12,15,
  18,21 152:5,
  6,20 153:25
  154:7,15
  155:6,8,15,
  20,21,24,25
  156:2,17,19
  157:3,12,16,
  22 158:1
  162:11
  187:19,20,21

doubling-down
 94:3 217:24
doubt
 61:17 126:12
 235:11
downtown
 242:22
 245:13
dozens
 68:16,18
 193:2
draw
 64:5 204:11
drive
 194:8 197:16
drive-through
 91:5
driven
 195:16
driving
 89:4,13
dropped
 67:9
drove
 193:25 195:7
 196:2
drugs
 57:18 58:5
drum
 204:20
dso
 219:13
DU
 242:20,25
 245:5
due
 22:9
duh
 18:2
Duke
 69:6 227:1
duly
 10:22 237:11
dumb
 165:4,12
dumber
 165:4,12

duties
 252:9 257:19
dynamic
 141:16

—————————

E

earlier
 38:18 54:13
 58:10,25
 59:2 65:23
 74:20 79:21
 94:1 100:11
 105:22 120:9
 122:3 123:23
 158:11
 161:22 226:4
 227:1 258:5
 263:5 264:19
 267:6,20
 279:21
 281:14,21
 286:4
early
 32:1 99:22
 250:23
 282:21
early-morning
 63:13
earned
 11:24
earth
 165:15
easiest
 23:8
eating
 175:15
edited
 21:21
edition
 241:1
education
 23:18 240:23
educational
 24:6
educators
 23:23

effect
 121:18
 147:18
 155:19
 156:21
 166:18
 221:13
 272:25
effective
 25:4 53:25
effort
 203:11
 225:15,17
efforts
 42:20 49:14
 209:1 240:2
eighth
 241:1
either
 74:7 112:22
 133:22
 254:14 259:6
 260:18
 263:11 286:3
elected
 200:2 229:23
 274:19
electing
 64:12
election
 22:18 27:3,9
 40:19 60:1,
 17,23 61:16,
 17,24,25
 63:9,14,17
 64:1 65:4,16
 79:11 84:16
 85:4,7,11
 87:11 88:18
 92:11 93:8,
 14 100:1
 103:20
 104:5,9
 115:5 120:5
 122:12,13
 123:14
 168:21
 169:8,13,18,

 20,25 170:1,
 14,19 171:3
 173:18
 199:22
 217:18 218:2
 222:8 250:21
 280:8
elections
 60:9,21,25
 64:4,8
electoral
 264:1
element
 127:24
 141:19
 144:20,22
elements
 35:9 39:5
 147:4
Ellipse
 96:3 100:8,
 12 120:13
 219:20
 221:6,8,9
 263:5 287:22
embed
 29:18 134:5
embedded
 13:20 30:7,
 13
embedding
 29:20,21
 133:19 134:4
emblem
 191:17
emerge
 61:5 174:3
emerged
 32:3 40:18
 41:21 56:18
emergency
 43:9 238:21
 239:19 265:7
 282:7,13
emerging
 66:18

emphases
  11:25
emphasis
  40:2 100:19
  101:10
  102:12
  103:14
  123:18
emphasize
  122:13 148:2
emphasizing
  123:13
employed
  12:25
enabling
  95:1
enacted
  248:3
encouraged
  207:1
encouragement
  75:19 221:16
encouraging
  80:12 92:23
  233:7
end
  79:12 97:1
  179:5 208:8
  216:7
ended
  227:3
endorse
  69:20,21
  221:20
  230:14
endorsed
  207:3
endorsement
  53:5,6 66:15
  69:2,17
  71:16,19
  76:21 77:15,
  21 78:13,22
  91:13,20
  93:24 184:2
  203:9

endorsements
  52:16,18,20
  201:8 203:2
endorses
  71:25
endorsing
  67:24 126:1
  127:21 180:2
ends
  31:23 58:22
  105:9
enemies
  36:10
energized
  85:19 86:2
enforcement
  23:23,24
  24:3 41:1
  248:7,17
  249:2 250:24
  251:22
  252:10
  254:16
  257:6,20
  261:9,25
  262:8 263:1
  267:4 268:17
  273:4 276:10
  286:4
enforcing
  248:6
engage
  44:15 45:17
  51:4 92:23
  93:2 238:14
  251:22
engaged
  109:21
  115:23 155:5
  187:18
engagements
  75:3
engaging
  28:11 46:22
  111:3
  119:18,21
  158:1

enjoy
  32:19 123:20
Enrique
  39:15 45:25
  55:17
ensure
  246:3
enter
  238:14
entered
  172:21
entire
  11:21 25:19
  138:8
  231:12,15
  259:8
entirely
  162:11
  190:15
entities
  239:16
  262:2,7
  263:20
  264:2,7
entity
  261:9
entrusted
  248:6
entry
  7:6 256:19
envelopes
  93:8
environment
  54:3
environments
  13:6
envision
  251:13
envisions
  121:4
equation
  180:18
equipment
  109:16
  268:17
equipped
  244:12 260:6

Eric
  7:10
essentially
  30:22 45:5
  53:5 71:25
  91:14 92:14
  104:25 116:1
  126:9 164:15
  169:20 208:3
  240:24
establish
  59:13,17
  158:13 248:4
established
  126:7 135:10
  203:2
establishing
  162:12
  201:17
estimate
  242:2
et
  76:3 84:10
et al
  7:3
ethnographic
  12:8
ethos
  36:18 141:17
  145:16
etiquette
  149:20
evening
  91:9
event
  20:21 26:19
  42:18,22
  68:17 94:16
  195:11 217:7
  278:24
  279:13
events
  33:22,24
  34:4 35:19
  76:24 91:24
  96:4 125:10,
  17 204:12

243:18 255:1
eventually
  78:14 121:19
  168:4
everyone
  45:16 97:19
  150:10
evidence
  62:14,23
  67:3 68:7
  70:16 71:11
  72:11 79:23
  92:5 94:10
  109:14
  113:10 114:8
  116:10,14
  117:16 119:7
  124:20
  125:20
  127:18,25
  166:8 171:25
  185:14
  198:15 199:4
  205:19 210:3
  222:14
  226:16
  228:14
  232:23
  233:1,5
  250:19 258:4
  260:10 261:3
  264:5,8
  284:17 286:1
  287:2,6,12,
  19,23
evil
  87:1
exact
  216:15 276:7
exactly
  22:24 49:22
  83:15 106:1
  130:5 160:16
  171:8 173:25
  202:14 204:4
EXAMINATION
  11:2 210:13
  235:1 237:18

284:21
examined
  10:22 237:11
Examining
  276:22
examples
  24:13 28:23
  31:14 46:1
  55:4 64:17
  66:5 86:4
  87:20 100:15
  112:21
  170:16
  218:16
  226:21 227:9
  230:17,22
  232:9 233:14
exception
  248:10
exceptions
  231:2
excerpt
  56:23 217:11
exchange
  67:6 77:22
excited
  89:15
exclude
  119:2,4
excluded
  119:8
excluding
  34:11
exclusive
  170:2
exclusively
  139:6 142:15
excuse
  15:20 40:6
  43:4 49:6
  115:3 208:13
  252:20
  271:22
execute
  46:5
executed
  68:18 263:24

executing
  104:20,25
  263:25
executive
  261:12 262:1
  263:22
  267:14
exemplified
  40:4
exemplifies
  49:9
exercises
  238:22
exercising
  286:2
exhibit
  23:9 25:22
  62:23 66:23
  67:3 68:7
  70:16 71:11
  72:11 77:5
  79:18 81:2
  107:16
  114:5,19
  116:6,7,10
  117:20
  119:13
  171:17,25
  182:5 188:14
  218:4
  227:18,20,
  21,22,23,25
  255:7,22
  257:25 258:4
  261:14
  266:7,9
  270:14
  272:6,7
  276:21
  279:17
exhibits
  62:4 70:11
  79:20 176:1
  210:2 228:13
  255:8 283:19
  284:16
existential
  36:10 37:5,

11 81:18
  84:2,6,23
  85:11 87:10
  100:20 180:8
  208:1
existing
  19:14 260:4
expand
  107:1
expect
  73:8,12,23
  252:18
  254:10
  271:23
expected
  31:24 254:3
expecting
  120:2
experience
  16:22 30:3
  74:6 122:19
  137:21 194:9
  229:5
  264:24,25
  269:15
expert
  8:19,21,22,
  23 11:14
  20:10,23
  25:6,8 34:2,
  10 73:16
  89:7 110:11,
  17 134:13
  140:19 141:3
  197:2 244:5,
  14,19
  252:21,24
  253:7,8
  266:20 277:8
expertise
  11:15 23:10
  28:7 34:12
  73:15,20
  90:7
experts
  33:16 252:23
explain
  95:22 107:2

177:5 190:15
192:22,25
267:12
explaining
35:19 45:1,4
explanation
79:14
explicit
80:24
explicitly
15:4
Expose
93:8
exposed
54:22
exposure
168:13
express
27:2
expressed
75:25 206:25
207:2
expressing
227:11
extensively
255:3 256:17
extent
90:13 110:15
147:22,24
156:25
244:16
extraordinary
267:4
extreme
167:20
extremely
102:13
extremism
11:17,19,23
12:7,11
21:22 24:9,
25 25:17
27:25 33:18
34:3,10,13,
23,25 35:5,
16 37:2,22
42:14 45:15,

17 69:19
73:15,25
75:11 89:19
90:11 94:6
101:21
123:11
147:3,8
155:8 156:20
168:5,22
169:4 170:3,
10 173:15
182:22 206:1
223:23 224:6
232:4,6
extremisms
34:11
extremist
12:9 13:13
14:14 17:5
21:8,15
28:12,25
29:7 32:9
49:11 78:12
83:17 86:4
101:25
120:25 125:3
133:9 152:14
156:10,16
160:21,22
161:1,5
166:5 169:1,
4 174:21
191:20,25
192:15
196:10
198:23
225:16
extremist's
127:18
extremists
18:6 22:7,21
27:11,13
28:3 34:3,6
35:23 36:9,
14 39:1
42:19 49:20
50:17 51:10
53:4 55:2

56:2,6,9,14,
17,19,20
57:14,23
59:7 61:2
64:9,16,18
65:15 66:10,
19 69:2,12
71:21 72:24
74:1 75:2,6
76:11 77:1,
19 79:16
80:2,14,25
81:13 83:20
84:24 85:3,
16 86:1,22
87:21 88:1
91:11,25
92:9 93:23
94:2 96:10
100:3 101:21
102:2,9,20
108:3 109:7
110:24
119:18,21
120:23
121:12
122:6,10
123:16,21
124:18
125:14,21
126:3,8,14
131:14
136:1,12,15
149:22 150:9
153:13,18,24
154:12,14,
20,21 155:4
156:3,5,15
159:7 160:1,
5,8 162:7
163:4,15,16,
25 164:6,13,
24 166:11,
15,24 167:2
168:3
170:16,22,23
171:6,11,12
172:7,14
173:22

174:25
177:4,10,14,
24 178:12
179:21,23
181:4,8
185:7,10
187:1,7
188:5,6
192:3 193:3,
10 196:8
201:5 205:7,
13,16 206:4,
7,11,15
207:13
222:22
226:12
229:25
extremists'
81:23 82:24
84:16 198:24

F

---

face
32:14 148:4
165:20
186:12
214:9,23
Facebook
136:8
facet
26:18 66:10,
13,17
149:12,14
173:15
facets
21:21
fact
40:9 42:21
49:4 107:8
110:13,25
111:17
113:15
143:16 146:5
169:18 192:1
193:6 199:4
203:3,19
230:25 235:9

245:12
252:11,15
254:3,22
271:3,13
278:23
279:10
factor
52:25
factors
25:1 152:23
168:10
181:9,12
182:17 186:7
187:3
207:17,21
209:2,8
facts
111:23
failing
268:24
failure
159:23
Failures
276:23
fair
25:16 133:4
134:2 136:23
142:7,12
143:10,14
144:3,11,14,
17,24
146:10,20,25
147:6 148:15
150:12,13,
22,23 155:6,
23 156:1,18
157:12 159:4
164:21
167:23 168:1
171:6
173:19,24
177:12,16,20
183:10
189:20,21,25
190:10,12
192:4 195:21
201:6 206:6
207:21

208:18
209:4,10,11
225:24
230:20 232:7
233:3 241:9
fairly
29:5 184:4
faithfully
263:24,25
fall
14:22 15:15
84:15
false
8:25
familiar
17:21 33:22
38:22 143:2,
18 166:1
168:15
169:15 184:4
231:4 270:22
275:7
familiarity
54:23
families
13:13,16
133:12
134:5,6
famous
143:21
fans
36:4,5
fantasy
121:3
far
134:4,9
144:2 156:2
173:1,3,7
177:23 184:5
186:25 219:1
225:10,11
252:12 268:8
far-ranging
35:8,22
far-right
22:20 27:11,
13,25 28:3,

12 29:7
34:23,24
35:5,16,23
36:9,13
37:2,22 39:1
42:14,19
45:15,16
49:11,20
50:17 51:10
53:4 55:1
56:1,6,9,14,
16,19,20
57:9,14,23
59:7 61:2
64:8,16,18
65:15 66:9,
19 69:1,12
71:21 72:23
73:25 74:1
75:2,6,10
76:11 77:1,
19 79:16
80:25 81:13,
23 82:24
83:20 84:24
85:16 86:1,
22 87:20,25
91:10 92:9
93:23 94:2,6
96:10 100:3
101:25
102:2,19
108:3 109:7
120:25
121:12 122:9
123:11,16,21
124:18
125:2,13,21
126:3,8
127:17
135:25
136:11,15
147:3 149:22
150:9 152:14
154:21 155:8
156:3,5,10,
16 160:1,5,
21,22 161:1,
5 162:7

163:4,15,16,
25 164:6,13,
24 166:5,11,
15,24 167:1
168:3,5,22,
25 169:3,4
170:3,10,15,
23 171:11,12
172:7,14
173:15
174:21,24
177:3,10,14
181:4 187:7
188:4,6
192:2 193:3,
10 196:8,10
198:24 205:7
206:1,4,11,
15 226:11
229:25
**far-right-
wing**
73:15 131:13
133:9 137:22
153:13,18,24
154:12,14,20
155:4
156:14,19
157:11,15
167:20
170:22 171:6
173:21
177:4,24
179:21,23
181:8 185:7,
10 187:1
191:19,25
192:15 201:5
205:13,16
206:7 207:13
232:4,6
fashion
37:9 51:3
156:17 158:8
180:11
227:12
fast
237:16

faster
99:6
fault
259:9
favor
102:16
favorable
38:7 150:18,
19
favorably
89:15
FBI
246:2 263:14
FBI's
262:6
feature
142:22 143:7
144:2,10
145:4,19
147:7 169:9
174:19
featured
227:3
features
142:8
February
213:11
214:5,8
federal
23:25 24:1,8
30:10 267:4
268:16 273:4
286:3
federalize
251:20
federalized
251:17
254:15
feed
82:9
feel
31:21 53:15
84:9 182:13
fellowships
24:8
felt
21:7

fend
37:10 81:20
83:22
fended
84:7
fictional
121:4
field
12:2 16:1
23:23 33:16
37:21 53:11
133:15
238:15
240:24
Fields'
43:7
fieldwork
12:8,20,23,
24 13:18,20
17:3,8,10,16
18:17 22:3
29:17,24
30:2,16,20
31:1 33:7
51:15
133:16,18,
24,25 139:8,
11 158:3
fight
76:3 81:14
83:18,21
101:8,22
102:2 108:10
176:22 177:9
179:9,18,22
180:14
181:1,2
209:18
223:4,8
fighting
42:10 83:24
101:8,11
102:1,5,16,
21 103:14
188:23,24
207:24 208:5
figurative
185:18

figure
69:20 72:19
76:19 161:15
227:24 228:1
figures
57:5
filed
9:22
final
79:12 163:19
finally
286:21
find
32:22 40:4
61:1 94:10
175:8,11,14
253:13
271:23
finding
111:2 175:15
246:8,9
285:19,20
findings
19:16 34:17
112:21
245:20 246:5
finds
53:18
fine
10:9,12
17:22 23:15
68:22 74:20
89:8 111:21
118:2 128:11
160:3,5,7,9
162:6 163:23
164:10,14,19
166:13,14
172:5 209:22
210:17 213:3
225:25
226:9,13,18
fingers
240:10
finish
161:9 179:4

finishes
97:5,6
fired
200:10,14
222:25
first
10:22 12:19
16:24 21:25
27:21 31:25
32:2,18 35:1
39:13 40:20
41:23 50:7
61:6 65:3
68:10 85:1
86:6,17
94:4,21
103:3 104:23
106:12,22
107:24,25
112:16
114:12
157:10 160:3
162:5 176:19
187:2 202:21
232:15
237:11
243:12,13
253:4,20,21
262:11,12
263:16
266:25
277:20,23,25
278:14
285:18
fit
18:3 38:18
46:1 87:6
94:15 106:3
122:8 123:10
135:4 151:17
203:3 247:11
fits
88:5 144:23
174:23 175:2
five
176:19 179:2
283:18

flag
  108:24
  109:2,4,6
  153:23 189:2
  190:2
flagpole
  43:18 47:16
  189:9 190:21
  191:2
flagpoles
  47:14 110:5
  193:4
flags
  108:25
flip
  12:15 210:22
Floyd
  250:25
  281:19
flying
  108:24
focus
  14:12 22:4
  32:19 41:1
  56:2 67:20
  77:2 99:19
  101:15
  107:24
  142:24
  148:11
  219:11 226:7
  229:24 241:4
  277:22
focused
  98:13 120:9
  124:25 232:3
focuses
  59:25 219:1
  241:5
focusing
  99:23
folks
  19:14 30:17
  31:25 46:10,
  19,20 47:22
  57:8 61:13
  69:13 80:19

  105:24
  107:18
  109:11,15
  112:23
  115:21
  118:20
  119:13
  158:13
  227:10
follow
  47:22
  103:16,18
  126:25
follow-up
  29:14 128:6
follow-ups
  239:20
followed
  65:7 80:11
  85:4 163:22
followers
  83:17 122:7
  218:14,21
  223:17
following
  22:19 70:6
  84:21 96:24
  243:25 279:2
follows
  10:23 237:12
foot
  150:19
footage
  107:7 113:14
footnote
  213:14,16
  214:10 215:9
forbearers
  153:10
force
  61:6 105:16
  248:18
  254:20 255:5
  258:20
  259:10,12,
  23,25

forces
  22:11 35:20
  44:14 141:13
  142:11
  169:25
  248:12 254:9
  257:12
  260:19 276:2
forcibly
  202:8 203:20
forecasts
  278:21
foregoing
  289:2
foreign
  171:5
forget
  221:5
Forgive
  98:8
forgot
  62:5 123:23
  288:4
form
  37:10 50:22
  67:23 73:8
  83:24 128:1
  149:20
  151:3,5,6,15
  153:25
formal
  11:22 133:22
  134:23 269:8
formalized
  31:5
forming
  33:17 119:5,
  14
forms
  284:18
formula
  168:10
forth
  13:15 21:4
  28:20 36:5
  50:13 55:23
  56:12 58:18

  76:1 86:13
  196:22 278:9
forward
  9:21 26:7
  61:15 146:14
  150:19 270:4
  275:17
fought
  42:6 90:25
  153:10
found
  53:19 159:8,
  9,13 172:12
  278:6
founded
  39:14,16
  40:15 41:18,
  22 238:10
founder
  69:10 160:17
four
  29:11 130:12
  242:18
fourth
  46:18 153:8,
  15,16,19
  154:19
  280:4,5
Fox
  70:6
frame
  44:9 211:15
framed
  91:21 196:15
framework
  240:3
framing
  43:24,25
  44:3 45:12
  84:25 108:15
frankly
  13:1 173:17
  265:12
fraud
  60:3 79:11
  93:9 101:12
  120:3 168:24

fraudulent
  60:2 61:25
  99:2
frequently
  145:18
  153:12
fresh
  236:12
friendly
  240:6
fringe
  136:10
front
  38:7 50:25
  149:6,8
  150:19,20
  151:7,13
  154:20
  160:24
  241:15
front-
  38:5 50:18
  51:7 148:7
  150:16 151:5
front/back
  187:19
**front/
backstage**
  187:22
frustrated
  146:1,13
Fuck
  40:4 65:12
fucking
  65:12
Fuentes
  47:19,20
  48:2,23
  49:12,24
  62:10 159:5
full
  61:5 218:3
  253:4,21,23
fully
  178:17
  185:12

fumble
  130:12
fumbling
  130:13
function
  45:4
fundamental
  185:4

G

gaining
  31:19
galvanized
  56:17 72:24
  85:18
galvanizing
  92:9 94:4
gang
  39:17
gas
  189:15
gather
  12:10 87:18,
  22
gathered
  68:24 240:22
gathering
  13:4 31:3
  53:10
gatherings
  13:14 30:19
gave
  75:19,20
  100:8,12
  230:7
Gavin
  39:14
gear
  109:18
  110:25
  112:19
  113:10
  260:6,7
general
  36:1 75:14
  80:9,17

  87:17,22,25
  90:10 174:22
  243:24 244:3
  256:13
  263:17
  272:11 280:8
General's
  8:9,13
  254:24
  279:18
generally
  16:24 17:4
  42:13,17
  44:6 56:2,9
  59:23 66:5
  77:2 147:1
  168:14
  228:21
generated
  14:25 15:3
generic
  142:8,22
  149:14
Geoff
  7:16
George
  250:25
Georgia
  92:13 93:1,
  9,15 169:19
  217:18
  219:16
Gessler
  7:14,15 8:24
  9:3,6,11,23
  10:3,11 34:7
  73:10 74:10
  89:22 90:5
  96:22 106:19
  109:23 110:8
  111:8,11
  112:4,13,16,
  25 129:1
  130:8,11,17,
  21 132:12,21
  145:14,15
  150:5 153:4
  159:16

  161:4,12,18,
  20,24 162:2,
  19,22,25
  167:12 170:9
  171:16 172:1
  175:5,7,11,
  16,19,23,24,
  25 176:6,8,
  9,10,18,21
  179:1,8
  182:5,7,9
  183:20,22
  184:8,11
  186:15,18
  192:20,24
  197:25
  208:13,15
  209:12,15
  210:6,9,12,
  21 211:10,11
  212:20,24
  213:2,6
  215:17
  217:10
  219:22
  221:25
  222:16,24
  223:11
  225:8,17,24
  228:11,18,
  22,23 229:3
  234:16,18
  244:10
getting
  56:5 63:6
  71:23 97:1
  172:23 189:8
  229:5 232:2
  235:13
  236:21
give
  28:23 31:14
  100:15 111:8
  145:9 152:5
  153:9,17,20
  154:19
  175:13 177:7
  180:23

183:25
201:19
203:10,13
213:11
215:15
218:22
222:15
226:19,20
242:2 253:1,
11 288:8
given
18:22 23:21
44:5 46:14
103:13,14
166:19
172:15
181:18
218:17
241:23
280:21
giving
63:17 153:22
204:2 205:2
270:6,10
277:4
glamorized
37:8
glorified
37:8
gnawing
240:21
goal
124:24
goals
37:7 40:12
124:21
goes
81:16 86:19
110:22
143:16 164:4
237:1
goggles
46:25 47:7
going
8:22 9:21
12:15 31:7
39:6 49:12
50:9 51:2

52:15,17
53:14 54:18
59:16 62:12
64:9,14
69:24 70:2
73:10 74:17,
21 75:4 81:5
84:17 90:12
91:2 95:5
96:19 100:20
102:4,7
105:8 110:8
112:9 115:20
119:2,3,6
120:18
121:15,16
122:17,19
129:6 130:17
132:8,11
134:15
135:19
146:7,15
153:15 154:1
161:20
162:2,17,25
165:6 166:12
168:9,11,12
174:8 175:1,
8,9,13
176:1,2,6,
11,13
178:22,23
179:9,18,22
181:1,20
188:9 190:15
197:21
201:19
203:13,16
204:1 207:24
208:10
211:17
212:12,13
213:7 215:4
218:3 220:14
221:3 230:1
233:12
235:23
237:7,8
241:1 242:23

247:10
251:23
253:2,16
254:14
255:15,19
256:25
258:13
270:4,14,15
274:11
276:5,15
277:13 278:7
281:9 283:3
287:4,13,21
288:17,18,
19,21
gold
20:3,8
good
7:2,9,14 8:8
11:4,5 34:19
57:20 58:23
75:21
130:22,25
131:1,9
134:19
148:21
210:15
211:12 217:2
264:16
Gorbachev
240:1
gosh
216:15
governed
30:10
government
19:16 24:8
41:4,6 42:11
56:11 143:4
238:15,21
244:7 247:7
governmental
269:12
governor
247:9,11
248:13 252:2
265:3

governor's
271:8,10
governors
251:24
252:13
254:18
260:17 265:1
grab
190:3
graduate
40:16 238:13
242:20
grandfathers
154:23
grants
24:7,8,21
granular
34:17
gravitate
39:25
gravity
277:13 278:3
great
8:2,14 10:24
15:16 23:16
29:25 47:13
70:21 97:16
114:16 115:9
119:16
123:14
183:19 188:9
210:18 213:9
216:6 237:13
288:15
greater
135:25
136:25
green
189:4,5,9,15
190:3,9,20,
21 191:2,3,
11 192:13
green's
190:4
grievances
56:22 180:7
268:18

Grimsley
  7:10 235:21,
  25 236:3,9,
  15,18,23
  237:6,16,19
  244:4,22
  245:1,19
  249:20
  253:2,6,18,
  22 254:2
  255:9,12,15,
  19 257:24
  258:5 259:20
  264:12
  266:9,11
  268:25 269:5
  283:23
  284:18,20,22
  285:14
  287:19,24
Griswold
  7:3 8:10
gross
  234:19
group
  7:7 13:7
  25:1 29:20
  31:8 32:10
  38:6 39:13
  43:7 44:9
  68:23 86:7
  128:24 134:1
  144:4
  151:13,14
  191:20
  192:16 201:6
**group-
specific**
  192:10
groups
  12:9 13:13
  14:14 16:25
  17:5,12,17,
  21,25 19:2
  28:12,13
  33:8 34:21
  35:7 39:9,12
  42:2 44:11

  48:10,12
  51:18,19
  78:12,15
  182:20
  196:10
guarantee
  230:25
Guard
  246:16,20,
  23,25 247:4,
  14,17,22
  248:11,23,25
  249:7,16,25
  250:11,20,23
  251:10,17,
  20,23 252:6,
  16 254:4,8,
  14 256:5
  257:5,11,13,
  19 260:13,16
  261:2,8
  265:7
  267:18,24
  268:10
  270:22,25
  271:5,14,19
  272:15
  273:10 274:3
  275:20 276:4
  281:1,4
  286:3,13
Guards
  247:23
guess
  9:20 22:10
  62:5 102:25
  127:4,23
  165:2 189:8
  194:8 197:1
  222:19
guessing
  178:22
  188:21
guidance
  23:6
guns
  112:18

guy
  165:11,12

H

Hail
  175:13
hair
  191:21
Halbohn
  7:16
half
  12:4 14:4
  222:20
  245:14,15
  259:5
Halloween
  288:18
hand
  10:20 237:9
handle
  244:13
hands
  131:2 135:21
  146:8,16
hanging
  168:2
happen
  32:13 33:9
  120:7 121:15
  279:13
happened
  26:15 27:4
  43:3 70:9
  83:15 85:24
  90:16,20
  94:9 95:22
  96:2,16
  102:24 103:2
  105:1 106:13
  109:10
  116:24
  122:15
  123:10 164:1
  193:9 229:22
  240:12 256:8

happening
  31:23 65:15
  66:11 122:10
  129:21 223:5
happy
  225:20
  288:16
hard
  173:5,25
  180:16
  181:16
  185:21
  221:22
harder
  78:8
harm
  218:17
harmed
  44:8
Harvard
  241:16
hashtag
  91:2
hate
  22:2 188:2
head
  208:10
  216:16
  269:10
headgear
  47:7 109:18
headline
  123:24
headquarters
  262:14,21
hear
  59:7,8 67:19
  68:22 70:3
  71:21,22
  83:19 92:12
  165:23 167:9
  288:16
heard
  29:18 58:1
  69:2 77:20
  104:14 143:5
  146:3,5,6,9,

12,18,20
165:7 172:8
176:21 179:8
185:2 200:7
208:17

hearing
10:6 166:16
179:11

hearsay
110:12 114:7
119:4

Heather
43:11

Heave-ho
115:22

Heavy
35:18

heels
68:13

hell
181:1 212:4

helmet
46:25 189:12

help
12:14 28:8,
25 32:8
45:23 46:3,4
78:5 210:21
212:13
216:21
218:23
219:4,6,9,17

helped
94:10 118:4

helpful
31:4 46:8
212:1 220:10

Heyer
43:11

Hidden
22:1

hide
65:5

hiding
22:15,22,23
26:7

high
39:7 41:9
64:15 104:3
115:1 124:19
139:2 156:4
168:25
187:4,10

high-level
34:17

highlight
39:10 56:25
63:4,22
258:14

highlighted
61:20 245:23

highlighting
278:23
279:10

highlights
23:11,14

Hillary
170:18,24
171:13

hills
90:23

him-
151:12

hindsight
103:1

historical
15:8 26:19
29:5 73:17
178:7

Historically
73:12 282:17

histories
182:21

history
56:16 90:15
166:23 173:6
180:1 181:5
182:24
183:3,4,7,9,
16 185:13
186:3
207:14,17

hit
108:11
190:20

Hodges
105:15
115:17

Hofstadter
143:19 144:5

hold
49:17 91:3
284:9

holding
154:19 189:2

home
14:1 51:4
122:17,19
221:3 241:15

Homeland
24:1,17
246:1 257:17
262:3,18

homes
32:7

Honor
7:9,14,20
8:9,18,25
9:12 10:5
18:4 23:6,10
26:11 30:1
31:11 34:1,
8,15 40:7
48:16 62:4
66:22 68:1
70:10 71:10,
12 72:4
73:10 74:11
79:19 89:1,
22 90:5
97:23 106:20
107:15
110:8,19
111:11,18
112:2,11
114:7,20
116:5,25
117:23
119:10
126:21

130:11,15,19
161:14
171:16
175:5,16
208:14
209:13,15
211:5
215:14,17
218:5 222:13
225:8 227:16
228:11,19,24
234:17,21
235:16,22
236:10,16
244:4,10,22
249:17
252:20
253:7,12,25
255:17
257:24 258:2
266:5 271:22
274:9 283:17
284:20
285:10
287:16
288:1,12,14

Honor's
79:21

hooked
285:19

hope
65:11

host
152:23 168:9

hosts
184:5

hot
195:23

hotbed
81:23 82:23

hour
124:7 289:3

hourly
124:4,6

hours
17:6 18:17
53:11 63:13
96:19 123:8

168:11 276:7
282:13,25
house
107:25 163:1
164:4,18
200:2 226:4
276:9 278:17
283:3 286:12
housed
24:16 135:9
housekeeping
48:5 97:24
227:15
257:25
human
50:19 142:9
humor
44:18 45:5,
12 158:12
hung
121:10
hurt
73:4 128:19
201:11,12,22
202:5,11
203:6,18,22
hypothetical
111:16
155:14 173:4
180:24
203:14 204:3
265:10
hypotheticals
181:15

I

idea
37:4 41:1
42:5 65:16
72:18 81:18
85:5 87:10
100:20
122:13
168:24 245:9
281:15 283:6

**identificatio
n**
138:1
identified
17:12 126:3
218:15
280:24
identifiers
231:20
identify
127:10 139:3
144:5 178:17
232:1,11
281:3
identifying
128:24
231:25
identity
132:19
ideology
39:18
ignore
274:18
275:14,17
ignored
232:5
II
263:23
illegal
172:20
illegitimate
170:20
illustrate
148:7
illustrated
106:8
illustration
48:24
image
40:9 120:20
imagine
153:1 181:22
immediate
195:5
immediately
77:14 96:23
174:14,17

194:20
250:12
immersed
53:12,13
54:3,11,14,
18 167:17
immersion
54:2
immersive
30:3
immigrants
172:4,19,20
immigration
172:11,19
imminent
87:9 102:4
impact
209:6
impacts
77:10
implement
46:5
implementer
47:4
implementers
46:2 105:23
implies
83:21
imply
157:1 195:4
implying
156:20
importance
43:24,25
79:8
important
22:6 26:19
28:18 40:11
42:8,18 45:2
49:10 51:24
52:21,25
54:8 58:3
82:1 94:19
95:1 102:14
125:4 135:6
158:4 180:5
182:18

186:6,12
187:5
217:17,20
246:17
improbable
278:22
impulses
36:20
inaccurate
42:5
inauguration
104:7
inches
211:8
incident
212:14 271:2
incidents
66:15 180:3
229:17,19
268:13
inciting
92:15
include
12:7 30:4,5
48:23 138:12
277:7
included
172:16
246:14
includes
28:4 35:9
90:9 263:3,
24 272:8
including
27:25 34:3,4
36:25 68:19
80:5,20
81:24 109:17
112:18
125:24 135:2
152:23 193:4
198:24
202:10
243:21
246:13 262:2
278:20

Inconsistencies
278:1
incorrect
99:2
increase
27:10 92:10
incredible
226:7
indicate
53:17 109:19
191:18 197:3
268:1,4
indicated
199:10
indicates
42:20 120:1
251:14
indicating
116:21
indication
255:4 270:21
indicative
169:3
indicator
138:23
indicia
109:11
indirectly
46:23
individual
25:1 35:6
44:9 59:15
individuals
13:7,14,24
31:20 32:5
43:1,13,16,
19,22 44:6,
11 45:20,23
46:3,6
53:12,13,17
54:17 105:6,
17 113:16
116:19 132:6
182:20
272:23
287:3,7

indoors
80:7
indulge
239:25
indulgence
228:24
infer
47:15 177:13
217:10
inference
177:18
infestation
36:12
inflaming
268:17
inflammatory
59:4
influence
25:3 28:2
33:2 53:23
96:1,7,11,14
116:21 121:2
126:8,13
127:20
180:21
influenced
105:1
119:18,21
influencer
57:9 69:12
influences
22:11
influencing
125:9
influential
47:22 77:13
informal
30:5 133:22
134:23
269:11,12
information
12:11 13:5
14:24 31:3
111:15
113:18
135:11 173:5
177:18

178:3,5,11,
16 181:16,21
182:16,19
184:6 185:20
204:3
informed
30:12
280:11,15
285:21
initially
199:25
injured
43:16 68:16
201:24
202:12
innocent
91:1
innocuous
29:5 36:3,6
149:15
input
122:2
insert
49:3
inserted
59:4 71:20
Inserting
162:15
inside
22:1 38:23
199:7 239:16
254:6 283:3
insiders
29:7 37:25
38:23 45:10
148:23
152:14
insight
28:15,19
31:4
Inspector
243:24
254:24
256:13
279:18
inspiration
162:8

inspired
164:14
inspires
166:7
inspiring
93:11,13,17
218:1
Instagram
136:8
instance
15:6 36:4
63:25 75:16
118:5 137:7
142:19
170:17
280:25
instances
13:17 52:2
201:15
instigated
196:4,21
instigator
191:10
institute
24:15
238:10,11
institutional
30:9,11
132:4
institutions
24:6
instructed
263:11
instructing
87:15
instruction
259:14
instrument
47:8
instruments
43:23 46:8
intelligence
278:1,19
279:7,11
intended
24:23 31:2
42:22

intending
  46:13 177:2,
  10,13
intends
  156:21
intense
  137:8
intensification
  65:8,14
intensity
  125:5 137:3,
  4,12 138:15,
  19,20 139:2
intent
  158:2,7
intention
  205:20
intentional
  155:9,12,14,
  16,22 156:6,
  15,17
intentionality
  155:25
  156:4,20
  157:10,14
  176:2,11
intentionally
  206:22
interact
  54:21 265:18
interaction
  97:10
interactions
  53:22,23
  54:5,15
interest
  247:2
interested
  32:21 239:23
interests
  143:4,8
interference
  169:14
  170:21

Interior
  262:4,24
  263:1
internet
  32:1
interpret
  38:24 54:7,
  12 78:19
  83:18 163:4
  179:24
  180:10,13
interpretation
  34:12 176:3,
  12 190:10
  191:5
interpreted
  53:3,4 78:22
  108:5 129:22
  148:18
  149:18
  160:25
  186:25 202:7
  204:5,7
  205:10,16
  206:7 207:13
  226:17
interpreting
  203:10
  227:11
interrupt
  135:14 140:2
  187:8 212:20
interrupted
  140:10
intervenor
  7:24 8:20
Intervenors
  7:4
interview
  29:19 51:1
  70:19 71:4
  103:19,22,25
  133:8 150:25
interviewed
  132:7,23
  133:5

interviewer
  148:3
interviewing
  14:13 28:11
  51:17
interviews
  12:8 14:4,8,
  9 18:5,6,9,
  17,18 22:4
  29:24 30:5,
  25 31:3 33:7
  131:13,25
  133:16,19,21
  139:9,10
  158:4 226:15
introduce
  11:6 237:20
Investigation
  23:25
invitations
  33:5
invite
  197:10,13,14
invited
  25:14
inviting
  31:22 32:7
invocation
  92:1
involve
  30:2 137:10
  151:16,17
  234:3
involved
  13:25 16:25
  17:25 19:2
  31:18 33:8
  41:11,23
  42:3 45:24
  46:12 48:11
  105:2 128:14
  132:16 153:6
  180:1 184:17
  199:12
  269:12
involvement
  173:13

involves
  37:24 107:18
  201:8 214:22
involving
  19:2 82:25
  167:3
Irregardless
  64:1
irrespective
  148:17
Irving
  278:16,17
isolate
  145:7
isolated
  204:2
isolation
  173:11
  180:18
issue
  26:1 53:20
  78:14 100:19
  149:23 150:3
  205:23
  217:25
  244:12
  254:20
  274:20
issued
  251:15
issues
  11:20 25:3,
  17 27:16
  29:12 52:1
  73:17 124:13
  170:6,13
  206:1 238:18
  265:2
issuing
  184:19
item
  26:16
items
  110:9

J

J6
 17:20,23
Jacob
 7:16
James
 43:6
Jan
 33:8
Jane
 7:24
January
 17:1,13 18:1
 19:3 22:13
 25:11 26:9,
 13 28:5
 33:10,23
 34:5,12
 47:24 55:6
 76:25 77:3
 79:13 80:12
 83:3,9 84:18
 85:17 86:2
 87:16 88:13,
 18 94:8,16
 95:17,22
 96:2,5,17
 98:11,20
 103:12 104:8
 105:2,5
 106:14
 111:20
 113:17
 116:25
 117:5,15
 121:15
 124:15 125:3
 132:1,16,20,
 24 133:5,10,
 13 134:1,7,
 16 138:4,9
 139:18,21
 140:5,12
 141:5
 199:13,15
 204:12,13,

 16,19 206:23
 207:5 219:21
 224:15,18
 239:7
 243:18,22,23
 244:9
 245:20,22
 246:6,12
 247:17
 248:19
 249:14,23
 250:3,9,17
 251:8 252:17
 254:5 255:1,
 2,24 256:16,
 20 257:15
 258:14,24
 259:21
 261:20,21
 262:9 263:2
 264:7,10
 271:14,17,20
 272:4 273:9
 274:5,6
 275:19
 276:24
 277:14
 278:2,4,8,20
 279:8,18
 280:4 283:4
 284:24
 285:4,15
 286:6,18,23
Jason
 7:11
Jen
 8:12
Jena
 7:3 8:10
Joanna
 269:3
job
 16:2 51:1
 91:3 148:3
 150:25
 200:15
Joe
 64:25

 186:19,22
 188:4
John
 165:10
joined
 245:15
Joint
 257:3 258:21
joke
 187:11
joking
 44:1 158:15
 159:1 183:23
 240:9
Jones
 57:9 61:7
 95:4 224:21
 225:6
Jones'
 224:23,25
journal
 16:7
journalists
 67:13
judge's
 84:22
July
 153:8,16,19
 154:20
jumping
 174:8 215:3
June
 57:12 250:23
 266:14
 281:11,18
justice
 24:2,16,17
 65:6 242:11
 245:25
 262:2,6,12
 263:15
Justin
 7:18

K

Kansas
 86:13
keenly
 195:23
keep
 7:17 12:14
 45:6 210:22
 213:6 248:8
Keepers
 17:15 18:10
 40:14,17,25
 41:10,15,19
 104:15
 131:22
 224:10,19
kept
 127:16
Kessler
 20:13
key
 56:22 69:8
 227:4
kids
 288:16
killing
 50:8 121:11
 268:21,23
kind
 12:3,19
 13:18 14:2,
 16,20,21
 15:2,12,13
 19:8,17 20:3
 24:18,20
 26:8 27:24
 30:23 31:18
 32:2 33:5
 35:19,22
 36:12,17,18,
 22 37:9,23
 38:4,13,22
 40:2,3,10,23
 41:9,15,25
 42:9 44:16

46:4,18,19
49:5,9 50:12
52:22 54:2
57:4,13,22,
23,25 58:18
59:3,9 60:4
61:24 64:16
65:14 66:7
67:22 69:11,
15 71:17
72:20 73:5
74:8 75:3,12
76:20 78:23
79:12 80:10
85:9 86:11
91:16 95:3
97:1 100:17,
22 101:13
103:1 107:5
109:18
114:6,9
115:2,22
116:2 118:19
127:14 128:1
132:8 136:5
137:18,25
138:23 144:7
149:19
151:17
152:19 154:8
155:21
177:18
185:21 186:6
189:1 192:10
194:20 209:1
217:22
222:21
226:23
265:16
279:13

kinds
15:21 25:2,3
52:15,16
66:5 75:3
81:19 86:10
110:3 135:8

Kitsmiller
8:1

KKK
164:11

knew
30:18 173:7
250:8 259:24
260:16
276:18,19
281:21

knives
110:4

knock
213:16 214:3
227:22 233:4

knocked
233:6

know
9:14 11:18
13:20,22
14:1,10,11,
12,23 15:2,
25 17:8
18:19 19:14,
16 28:10,13
29:2,6,21
30:20 31:25
32:3,19,20
33:1,4 35:9,
21 36:1,4,
14,18 39:5,
6,25 45:10,
19 46:13,21,
22 47:8,9,
11,15 49:1,
19 50:8
51:12,25
52:19 53:15
55:21,24
56:21 57:3,
4,9 58:2,18,
20 59:15,24
60:2,3,20,23
61:12,23
63:6,10,11
64:11 68:12
69:1 70:2
72:25 73:2,8
75:17,19,23,
25 76:12

78:8 80:11
81:17 82:3,
16,23 85:5
86:1,9,19,
20,25 87:12
88:10 89:13,
16 91:13,15,
19 95:15,16
96:6,7 100:2
102:17 103:1
104:24
105:11,12,
14,20 106:4,
7,9 107:10
108:7 109:3,
19 110:7
111:13
113:14,17
115:4 116:21
120:3 121:25
125:12,21
126:15,17
127:1,2,11,
15 129:19,24
131:7 132:7,
8,18,19,20,
25 135:1,3,
24 136:20
137:1 145:20
154:11,13,
21,23 155:1,
11 156:4
157:25
158:14,25
160:16
162:6,10
165:2,5,11,
17 170:16
172:3 173:4,
7 174:1,22
177:3,23
178:8,15,17
180:4,8,16,
17,25 181:7,
14,20
182:17,19,23
183:3 184:1,
13,15
185:11,14

186:2,6,22
188:3 190:8
191:16
196:1,17,18
199:23,25
204:4
205:12,22
207:3 208:9,
24 214:3
218:20
223:5,24
225:8,10
226:11,19
227:10
230:18,21,24
231:12 234:2
235:17
240:18
246:15 247:8
255:16
265:17 267:6
268:8 271:1,
3 273:16
281:23,24
282:2 283:11
288:17,21,22

knowing
45:7 103:8
205:12
221:19

knowledge
30:15
110:10,14
132:17,22
133:14
134:7,8
137:25 199:3

known
182:21,24

Kotlarczyk
8:8,9,15
288:13

L

---

labor
143:12

lack
73:1 174:9
180:21
181:21
277:12 278:3

laid
102:3

lampposts
121:10

language
38:2 40:6
50:23 56:21
57:13 58:1,
25 59:4,8
60:8,20
64:7,16,18
71:23 72:21
74:8 76:3
84:14 91:15,
16,19 94:25
100:13
101:4,7
103:13
108:10
149:17
151:17,22,
23,24 160:21
180:7 185:6,
7,9 207:16,
23 208:2,4
219:13
220:22
221:14

large
39:5 69:16
105:17
124:22
198:22
263:10
268:19

largely
105:1

larger
30:19 82:2
94:16 105:11
124:16

Las
67:18

lastly
224:20
225:23

latch
166:6

late
281:18

Latin
248:1

laughing
183:23

launch
56:24 240:17

law
23:23,24
24:3 40:16
41:1 65:6
162:23
237:24,25
238:1,4,5,13
239:24
240:25
241:2,7,8
242:9,15,16,
17,21 243:1,
10 244:12
245:6 247:25
248:3,7,17
249:2 250:24
251:22
252:10
254:16 257:6
261:9,25
262:8 263:1
265:13,14
267:4 268:16
273:4 276:10
286:3

laws
248:6 263:24
265:17

lawyer
160:20

lawyers
195:22

lead
33:4

lead-up
77:2 83:1
96:5 284:24

leader
47:22 73:13
275:4,12

leaders
49:11 56:10
59:13 69:18
73:9,12,23
81:13 122:6
123:11
174:21
223:22
225:16

**leaders/
structures**
36:21

leading
17:13 33:22
34:4 55:5
57:4 69:11,
19 76:24
89:23 94:7
96:14 106:19
125:16
129:3,8
176:25
204:12
205:14
243:19
249:13,18,22
272:3 287:17

learn
13:7,8,9
200:10 245:9

learned
51:25 52:12
107:8 113:15
256:24
259:25

leave
84:5

lectures
241:24

led
22:12,20
39:15 101:7

104:2,11
278:3

left
39:13 43:18
44:21,23
46:24 62:25
65:2,3 66:22
70:1,14,15
79:5 86:6
89:3 113:7
115:18
165:15
188:19 189:1
235:5

legal
23:23 24:4
25:6 118:10
239:5 240:23
244:13
251:19 270:3

legally
280:22

legislation
146:14

legislators
50:8 99:3

legislature
146:1,22

legitimacy
44:10 57:7
173:16

legitimate
20:6

legitimized
37:9

length
47:13

lens
54:14

letter
266:14,17,20
267:20
268:10 269:7
272:8,22
273:20,21,23

lettering
95:13

letters
  32:3
level
  25:2 32:22
  75:4 115:1
  138:4
Lewis
  242:11
liable
  49:18
life
  44:8 100:22
  142:8
light-blue-colored
  189:2
lightposts
  121:10
likelihood
  104:2
likes
  256:25
likewise
  256:17
  262:19
  263:15
limited
  73:20 177:18
  206:6 252:23
  260:5
line
  79:12 112:16
  231:18,19
lines
  73:17
  165:14,18
link
  213:17
  214:11,14
  215:9,12
list
  7:23 25:7
  107:16
  112:20 116:8
  117:2 210:5
  211:15
  227:18,20

  234:7
listed
  266:21
listen
  230:6,9
  231:9,11
  275:6
listened
  160:8
listeners
  186:1
literal
  185:16
literally
  17:6 75:18
  102:1
literature
  137:24
little
  12:3 13:17
  15:19 16:21
  18:16 19:6
  20:12,25
  23:20 25:25
  27:6 29:10
  37:17 39:11,
  22 44:2,4
  48:19 55:15
  58:12 75:20
  78:8 131:10
  132:3 135:16
  141:7 147:13
  148:9 152:11
  168:17 174:8
  176:5 178:21
  182:1 184:12
  192:22
  193:20
  194:11
  201:24
  210:24 211:1
  216:7 220:15
  228:18 230:1
  245:17
  247:20
  250:18
  264:21 269:1
  275:10

  281:10
  282:21
live
  133:12 134:6
  216:2 288:21
lived
  30:17
lives
  13:9,24
  50:22 65:12
  218:1 267:21
living
  13:13,16,21,
  23 133:16,19
  134:5 237:23
loaded
  161:16
local
  74:4 247:6
  281:2
local-level
  24:3
located
  192:5
location
  55:22
logistics
  55:20
long
  173:25
  191:21 230:5
  235:19
longer
  85:13 124:17
  243:2
  260:21,23
longstanding
  34:5
longtime
  69:7 224:3
look
  18:19,20
  22:17 24:23
  52:10 61:19
  66:4 73:25
  79:15 80:14
  92:4 111:9

  115:10,12
  117:23
  119:12
  121:22
  124:11
  129:21
  135:19
  136:19
  137:3,12,16
  138:6,20,22
  140:5 142:19
  164:6 178:6
  181:25
  183:20 184:8
  186:7,15
  188:18,24
  189:11
  201:15 213:7
  214:6 215:11
  229:4 230:22
  231:15
  232:14
  257:14
  266:24
  278:13 280:3
  284:9
looked
  42:23 52:4
  75:11 85:3
  100:11 118:6
  135:2 138:11
  139:20,21
  140:1,19
  141:4 232:8,
  10 266:22
looking
  19:15 22:5,
  11 24:25
  27:24 52:13
  74:25 82:2
  92:7 98:1
  100:16
  117:20
  119:25 166:5
  184:23 186:8
  187:3 188:16
  191:15
  221:10

229:25
232:11,12
253:17
looks
  189:18,23
  191:21,22
Los
  282:24
lose
  10:6 102:4
loser
  170:18
losing
  101:16
lost
  32:16 169:19
  200:14,15
lot
  8:5 27:9
  30:4 31:4
  32:18 41:1
  56:10 61:4
  66:19 81:17
  82:1 95:25
  121:11
  127:18 142:4
  153:21 168:9
  172:14,18
  209:2 288:18
lots
  13:11 15:8
  28:14 41:5
  85:25 153:1
  230:12,13
loud
  137:2 267:2
louder
  48:19 137:1
  176:5

_____

M
_____

machines
  60:18
made
  21:5 71:16
  75:17 80:25

86:21,24
99:1 104:9
112:13
113:16,23
115:2 170:14
186:24
196:22
199:21 200:8
216:8,9,22
225:17
226:1,8
234:18
256:14 283:7
MAGA
  88:21,22
  91:2 193:20
  197:6
Magliocca
  236:19 237:2
magnetometers
  112:23 287:8
magnitude
  255:4
main
  11:25 30:24
**mainstream-
type**
  136:7
maintain
  41:3
maintaining
  41:2 200:4,6
major
  136:5 173:15
  249:1
Majority
  275:4,12
make
  7:7 10:5,24
  15:17 36:2,4
  48:4 49:22
  54:25 70:22
  96:22 97:9
  98:12 114:14
  118:1 119:11
  126:23
  133:23

136:20 141:9
154:17
158:17,20
161:8 171:18
177:17
180:20
181:13
182:12
187:15
208:23 213:4
216:18 221:5
236:11
237:14
288:20
makes
  72:17 142:9
  164:5 170:9
  208:20,21
  209:5 217:6
making
  33:4 38:4
  171:13
  182:23
  233:11 273:8
Malheur
  41:12
manager
  200:1
manner
  20:4
mantra
  40:4,8 77:16
  83:18
march
  88:21,22
  89:4 193:21
  197:6,8
  207:7 215:1
  219:24 287:4
marched
  105:6 106:4
marching
  102:17
Marcus
  43:13
Mario
  7:11

marked
  60:2 255:21
  261:13
Martha
  7:11
Martin
  43:13
Mary
  175:14
Maryland
  254:18
  260:15,24
mask
  187:11
  189:16
mass
  121:10
massacre
  80:9
massive
  93:9
master
  243:1
masters
  243:2
material
  19:7,9 45:2
  51:23,25
  114:9 116:15
  135:9 158:6
  226:23
materials
  19:12,13,17
  21:3 29:10
  33:16,21
  53:15 226:15
matter
  8:19 63:25
  75:14 97:24
  111:17
  138:21
  199:22 207:4
  208:21
  209:18
  227:15
  257:25
  262:20

267:21
matters
146:7
mayor
172:24,25
173:2 247:2,
13 249:8
250:5,15
257:16
258:15
266:14
267:23
269:16
270:3,9,12
272:8 273:3
274:15 276:8
281:4,7,13
mayor's
246:3 251:5
mayors
172:23
Mcconnell
275:5,13
286:12
Mcconnell's
275:8
Mcinnes
39:15
Mcinnes's
39:16
mean
14:7 29:1,18
49:5,23
51:23 55:1
78:9,17,18,
20 82:6,11
84:10 95:19
102:24 119:4
127:25
135:13,22
148:24 152:9
154:22 169:2
184:3
191:15,20
194:8 195:4,
22 197:4
199:7 203:25
208:9 229:11

meaning
37:25 38:1,
22 76:14
95:6 109:1
120:23
149:7,9
170:15
171:12
258:23
meaningful
123:17 169:5
meanings
37:25 76:17
means
201:17
202:13,14
meant
13:11,22
14:13 45:11
47:9 102:1
140:6 210:7
measure
137:1 139:3
142:19
measurements
136:16
measures
25:3
media
15:9 18:22
19:13 42:23
47:25 57:9
64:24 75:25
88:12
113:19,22
114:23 126:1
134:24
135:3,20
136:4,5,10
137:2,9,17
139:4,7,20
meet
32:4 257:4
meeting
243:11
meetings
240:5

Melito
7:25
member
31:7,8 32:9
64:25 87:15
191:19
192:15
242:5,8
members
12:9 13:12
14:14,15
18:10 28:12
51:17,18
108:19
121:14
176:25
177:3,23
183:17
196:7,9,21
201:23 202:7
203:19
238:23
247:16 248:5
memorandum
267:16
memory
7:22
men's
131:4
mention
101:17
104:22
256:18
271:12
mentioned
12:14,20
14:3,17
31:15 37:4
44:18 58:9
59:10 75:16
78:11 82:22
86:8 101:5,9
104:16
109:22
134:22 135:5
138:13 173:9
199:17
203:11

222:24
224:20
226:25
239:14
message
32:24 33:1
63:11 65:3,
8,9 69:2
73:5,7 75:8
77:19,20
88:3,4,7,10
93:5 102:21
177:2 206:12
227:12
messages
53:8 64:23
126:2 172:8
178:13
206:16
207:1,2
messaging
54:22 85:25
122:17,18
met
264:19
method
12:24 13:4
methodologies
12:14 15:22,
23 16:23
19:21,25
33:13
methodology
12:20 14:3,
17 16:5
131:11
methods
12:6,10
16:7,10,12,
15,17,18,19
22:3 33:15
187:25
Metro
257:19
258:16 259:6
Mexico
57:17 58:4
172:4

Michael
  8:9
microphone
  10:25 17:9
  152:11 170:8
  237:14
microphones
  240:9
mid-air
  43:14
midterms
  60:23
Mike
  7:25 41:22
  98:22,24
  99:3,20,23
  100:1 120:1,
  4,9,12,15
military
  13:2 41:2
  238:6,16
  239:11,13,
  18,23 241:16
  248:5 256:25
  264:24 267:5
militia
  40:18 41:20,
  23 61:8
  247:9 248:15
Miller
  280:8
Milley
  280:8
million
  88:21,22
  165:18
  193:20 197:6
mind
  107:5 121:23
  126:12,16
  127:2,12
  129:16 130:1
  165:3 199:8
  200:15
  205:23
  208:11
  218:20

235:11
mindful
  9:25
Minneapolis
  270:25 271:6
minute
  164:11 213:4
  231:20 274:9
minutes
  65:9 97:3
  130:12 175:6
  253:12,13
  262:20 276:6
mischaracteri
zation
  234:19
misinterprete
d
  142:14
misrepresenta
tion
  112:12
misrepresente
d
  112:25
mistake
  219:22
mistakes
  99:1
misunderstand
  194:18
Mitch
  275:5
mix
  147:5
mixed
  73:5
mob
  113:23
  115:12
  250:8,9
mob's
  113:11
  116:13
mobilization
  27:10

mobilize
  206:22 262:9
mobilized
  72:25 85:18
  86:2 263:2
moderate
  151:13
modern
  169:9
modest
  257:18
Moelker
  8:1
mold
  46:1
moment
  111:9 208:13
  239:15
  255:16 269:7
Monday
  258:14
month
  22:10
months
  61:23 63:5,8
  168:12 174:5
  279:2
Montreal
  193:15
morning
  7:2,9,14
  8:8,20 11:4,
  5 98:10,19
  130:22 131:1
  286:23
motion
  244:17
motivations
  28:16,19
motives
  28:4 33:4
motorcade
  89:4,12,15
  193:25 196:2
  197:18
mouths
  226:16

move
  23:8 62:5,8
  68:2 70:11
  114:20 116:8
  117:2 119:1
  171:17,22
  188:12 211:7
  225:20 228:6
  255:9 259:15
  276:21
  279:16
movement
  40:18,22
  41:20,24
  59:20,22
  61:3 84:15
  120:24
  167:20
Movement's
  22:1
moves
  36:19
movie
  165:4
moving
  61:15 115:23
  146:14
  243:14
mowing
  43:7
multifaceted
  66:10
multimethod
  20:2
multiple
  37:25 42:4
  61:23 63:5,8
  71:24 76:13
  125:23
  127:14 194:4
  208:22 221:4
multiplier
  105:17
Multnomah
  21:2
murder
  21:1 68:20

250:25
murdered
  43:12 68:15
  128:18
Murray
  7:11
museum
  245:8

N

---

name
  11:7 42:4,19
  83:8,9,15
  128:24 132:6
  237:22
  266:13
names
  9:14,24 10:9
Nancy
  275:16
narrative
  63:6
Nathan
  8:1
nation
  87:18,22
national
  24:15 56:9
  59:15 69:19
  72:19 74:4,7
  76:19 89:19
  90:4,10
  238:5,11,15,
  18 239:23
  240:14,25
  241:7 242:9,
  16 243:9
  244:19
  246:16,20,
  23,25 247:4,
  14,17,22
  248:11,23,25
  249:7,16,25
  250:11,20,23
  251:9,17,19,
  23 252:6,16

254:4,8,14
256:4 257:5,
11,12,18
260:13,15
261:1,8
263:3,6
264:23
265:1,7
267:18,24
268:10
270:22,23,24
271:5,14,19
272:15 273:9
274:2,22
275:1,20
276:4 281:1,
4 282:7,13
286:3,13
natural
  13:6,9
  134:23
naturalistic
  31:2
nature
  40:2 41:8
  126:18
  127:16
  133:22
  134:23
  138:23 180:8
  198:25
Nebraska
  16:11
necessarily
  15:3 30:20
  46:13,16
  104:5 106:5
  139:1 142:21
  154:16
  177:17
  191:18
  192:5,14
necessary
  37:6 59:11
  69:16 75:4,
  8,21 91:22
  100:4 108:16
  205:4

need
  59:16 83:22
  118:1 157:14
  161:15
  178:2,5
  182:16
  183:14
  187:24 209:7
  210:23 212:2
  217:1
  231:11,25
  236:7,9,20
  249:7,10,21
  251:1 276:4
  288:22
needed
  26:17 70:4
  250:5,6,14
  258:21 260:5
needs
  84:7
negate
  158:21
  174:14,18
negation
  50:10 59:3,
  11 158:24
  162:15
negative
  232:10
neo-nazi
  69:7
neo-nazis
  162:10
  164:11
Net
  83:7
network
  35:4
Nevada
  41:12
never
  31:10 90:14
  137:24 165:5
  239:22 256:8
  265:3,5,16,
  21

News
  70:6
newspapers
  15:13
niche
  136:10
Nick
  47:18,20
  48:23 49:12
  159:5
Nicolais
  7:11
night
  63:14 64:1
  196:11
  261:21
Nikhel
  7:12
Nixon
  267:15
  272:24
nod
  38:2
nodding
  269:10
nods
  236:21
non-western
  58:16
nonleaders
  75:24
noon
  175:10
noose
  120:20,23
Norma
  7:3
North
  7:18
northern
  172:22
**not-so-high-
profile**
  227:10
not-so-polite
  32:15

notable
64:3 122:19
notably
125:8
note
161:13
notes
159:22 215:4
284:9
noticed
219:22
notification
273:6
notified
9:6
notify
30:22
**notwithstandi
ng**
247:2
novel
121:4,8
November
63:10 84:17
88:20 211:22
250:21
nuclear
240:4,10,17
number
12:6 18:18,
21 21:19
23:22 24:2
29:5 33:3
43:12,15
85:24 105:17
115:21
124:22
134:11,12,18
138:11
159:9,12
162:19
167:2,21
168:11
171:19,20,22
172:20
176:21
178:15

183:20 184:8
188:15
197:21
199:14
204:14 208:5
224:8 238:19
241:9 252:5
254:13
257:18
258:10
280:21
284:23
288:24
numbers
62:17 99:2
171:19
210:6,10
227:22
283:25
nurturing
125:10
nutshell
40:11 41:16
58:21

————————

O

————————

oath
17:15 18:10
40:13,17,25
41:2,10,15,
19 104:15
131:22
224:9,19
Obama
22:18 60:18
Obama's
40:19 57:6
173:16
object
73:11,19
110:9
objection
74:10 89:22
90:1,5
106:19
113:1,3

116:6 128:22
129:1,7
225:22
228:11
249:17 254:1
255:10,17
258:1 285:10
287:16
objections
34:8 225:9
244:11
283:22
objects
13:21
observable
126:17
127:10,13
129:11,15
130:1,3
observation
30:4 110:23
observations
111:19
observe
51:16 129:24
157:17,19
observed
37:18,20,21
76:6 112:8
157:18
205:25 206:2
observer
193:14
observing
13:24 28:10
206:10,11
obstacle
106:9
obtain
30:12
obvious
45:6 49:16
obviously
26:16 43:2
76:17 78:9
89:14 110:11
112:4 126:16

127:1 132:18
137:8 142:18
163:20
209:19
occasions
42:4
occur
127:16
135:23
occurred
41:13 52:4
67:17 86:1
90:21 127:14
133:25 180:3
203:9 221:20
233:18
occurrences
127:15
occurring
46:17 66:14,
16 76:20
145:19
233:14
occurs
52:3,8,14
80:9 221:17
October
48:7 117:2
215:6 289:4
offend
149:18
offer
21:7
offering
114:2,8
162:15
offers
44:10
offhand
226:21
office
8:10,13
21:3,6 59:16
92:14 153:7
154:18,19
171:23
176:25

240:13
245:13 246:3
251:5

officeholder
153:8

Officer
105:15

officers
108:23 110:6
116:2

offices
21:13

official
198:11 250:7
274:19

officials
92:11,13
93:14 218:2
245:25 261:2
279:7 281:2
287:21

offline
48:1 54:21
57:24

oftentimes
36:2 49:14
149:15 158:7

oil
143:11

okay
9:2,5,8
10:11,12,25
12:18,23
14:7,16,19
16:15,17,21
17:1,2,7,16,
19 19:1,5
21:25 22:25
23:16 25:10,
21,25 27:21
31:12 33:12,
15,20 34:9,
18 39:21
47:17 48:13
50:5 52:12
55:4 58:12
60:12 61:19
62:2,21,24

63:1,16 66:4
67:2 70:18
72:2,7
74:14,18
76:2 79:4,
18,23,24
80:23 82:11,
15 83:13
85:10 88:17,
20,25 92:4,
16,20,25
94:13 95:16
96:20 97:4,
15,22 98:7,
17 99:9
100:15,24
103:6,25
104:14
106:17
107:13,22
110:3 111:24
113:1,21
114:2,13,16
115:15
117:19,25
118:3,23
119:9,16
120:15
121:19,22,25
123:7 124:6,
8 126:20
128:14,17
129:4,6,9,
14,18 130:6,
16,17
131:18,20,25
132:14
133:2,8,12,
15,17 134:4,
9 136:23
137:6,11,15,
20 138:3,5
139:13,15,17
140:18
141:2,4,7,
15,20,23
142:1,10,24
143:1,6,11
144:12,19

145:8,22
146:5,17,18
147:2,9,11
148:1,9
149:1,3
150:4,8,14,
24 151:19
152:2,4
153:4,12,13
154:3,9
155:2,23
156:5,8,18
157:9,19
158:16,25
159:6,16,22
160:7,19
161:7,11,17,
23 162:14,
17,18 164:3,
23 165:2,6,
8,15 166:25
167:25
168:17,19,20
169:16,24
170:4,18
171:15
172:17
173:19
174:4,18,20
175:1,4,19,
25 176:14,18
178:19
179:4,6,8,
13,17
180:12,23
181:25
182:4,7
183:2,5,19,
22 184:7,11,
16,22 185:2,
23 186:14,18
187:14,24
188:9,18,20
189:6,10,22
190:7 191:14
192:8,19
193:5,11,16,
23 194:5,14,
24 195:6,13,

20,25 196:7,
12,16 197:5,
10,19 198:10
199:4,23
200:9,12,19,
22 201:9,19
202:16,23
203:5,13,15,
21 204:11,24
205:5,12,19
206:5 207:5,
10 208:8,12
209:4,23,25
210:7,18
211:6 212:3,
9,12,18
213:1,22
214:1,4,6,21
216:1,17,20,
24 217:1,4
218:3
219:12,15
220:4,6,16
221:10
222:12
223:11,16
224:2,14
225:3,6,14,
21,23 228:4,
12 229:8,18
231:7 233:22
234:15
235:15,23
236:1,5,17,
21 245:9,17
253:10,25
255:15,18
271:9 273:18
274:8,25
276:1,4,24
277:3,16,24
278:15
281:20
282:18,23
283:2,21,24
284:15

Oklahoma
40:21

oldest
  242:12
Olson
  7:9,10 8:18
  9:9,20 10:4,
  14,17 11:3
  17:25 18:3,5
  23:5,16,17
  27:1,15,17
  29:15 31:13
  34:1,14,16
  40:13 48:4,
  15,20,22
  50:16 62:2,
  11,15,18,24
  63:3,21
  65:20 66:21
  67:1,4,6
  68:1,5,9
  70:10,15,18,
  21,23 71:1,
  8,10,12,13
  72:4,9,12,14
  73:24 74:14,
  23 77:10
  78:5 79:1,19
  80:1 81:9
  83:10 84:13
  89:1,10,24
  90:2,17
  91:10 92:22
  93:22 94:18
  96:20,25
  97:2,5,6,8,
  15,21,23,25
  99:17 101:3
  103:17
  107:13,15,24
  110:19,22
  111:6,18
  112:2,11
  113:6 114:2,
  13,16,17,20,
  22 115:9
  116:5,11,23
  117:6,8,10,
  11,14,22,24
  119:9,11
  120:8 122:5

126:20
128:5,7
129:4,9,10
130:6
209:21,22,24
210:14
211:5,9,13
212:23
213:1,3,9,
10,22 214:16
215:14,22
216:2,3
218:5,10
219:10
220:18
222:13,19
225:14,23
227:13
228:5,9,17
234:18,23
235:2,16
omission
  53:6 94:1
  217:22
omitted
  93:19
on-
  57:24
once
  208:20 250:8
  259:24,25
  260:16 268:9
  275:18
one
  7:7 8:19
  9:4,11 11:25
  16:4 18:4
  20:6 29:14
  30:21 37:25
  44:24 45:14,
  22 48:10
  50:1 51:2
  57:4 61:6
  62:3,19
  66:10,13,17
  67:13 68:15,
  23,25 69:8
  70:14 72:2

73:22 86:11,
12,15 88:20
92:9,12
95:11 96:6
97:24
101:10,15
102:16
108:15
116:12 117:4
120:19
121:13
122:1,11
123:2 126:10
127:24
129:17 130:3
135:19
137:19,20
138:1,4,10,
22 141:12
142:1 145:7,
12 148:13,
17,20 149:6
150:16,25
151:11,13
153:16,24
154:3,12
157:20
165:18
174:14
180:19,24
182:17
183:11,12
184:12
185:8,11
187:2,25
194:8 199:16
204:2,14
208:13,15,17
211:20 212:3
214:2,7,19,
21 215:2,6
217:21
222:23
223:6,20
224:7 225:9
226:7 227:3,
4,15,25
231:22
232:15

233:12
234:20
235:24
240:2,6,8,9
245:20 246:5
255:7 257:10
259:4,18
260:18
264:11
265:21
266:21
275:11 280:4
284:2 285:18
one-
  161:14
one-off
  122:20
ones
  136:24
  138:12
  198:24
  269:24
oneself
  38:6 108:17
online
  18:23,24
  54:21 227:17
oops
  223:5 285:19
open
  38:8 46:11,
  15 49:13
  105:25
  113:18
opening
  9:15
operates
  51:17 102:15
  167:16
opinion
  21:7 55:11
  67:7 111:1,
  11,16,21
  114:4 119:14
  136:14,15,18
  137:23 170:2
  188:22 202:1
  205:22

206:21
220:20
229:16
270:6,10
277:4,9
opinions
33:17 110:12
119:6 137:22
139:4 141:5
243:14,19
244:14
285:15
opponents
36:15 40:1
43:20 121:9
opportunities
51:16 238:13
opportunity
15:5 32:23
288:8
opposed
169:12
opposing
9:7
option
94:23
options
280:22
orbit
57:8
orchestrate
45:23
order
9:13 10:1
13:6 48:7
65:6 154:15
177:20
185:12 249:6
251:14 255:4
262:16
267:14 271:5
ordered
250:12
orders
254:20
Oregon
21:2 41:13

organization
124:23
organizations
24:5 35:7
242:6
organize
197:7
organized
20:20,21
42:24 68:17
86:9
organizer
158:10
organizers
44:25 69:8
227:4
organizing
85:20
orientations
146:4
original
86:11 87:15
106:23
originally
82:13 86:7
198:8
out-groups
126:2
outbreak
286:20
outcome
27:8
outset
46:14 135:6
outside
13:1 91:24
95:7 131:4
230:13,22
260:1
outsider
29:4
outsiders
38:1,22
45:12 95:7
148:21,25
152:16

outstretched
190:5
outweighed
207:16
outweighing
207:18
Oval
171:23
overlap
61:4
overridden
160:5
overriding
166:18
overruled
74:12 113:5
116:7 249:19
254:1 285:13

_____

P
_____

P-117
107:15
P-120
48:5,15
62:6,9
P-123
72:5
P-126
218:6
P-21
116:6,8
P-25
114:5 117:23
P-47
62:20
P-48
71:4,8,9
P-50
70:11,15,17,
23
P-51
227:22 228:5
P-52
227:23 228:7

P-53
66:22
P-56
68:2,6 72:5,
9,10
P-57
227:25 228:5
P-61
62:3,18
P-73
81:2
P-80
79:18
P-81
94:14
P-96
116:24
p.m.
65:2 175:21
237:4 261:20
275:25
276:13
285:20
286:16 289:3
P.O.
32:2,4
Packers
36:5
page
25:8 27:21
111:6,9
112:14
117:20
118:16
211:16 215:3
245:22
253:8,17,18,
24 261:14
270:15
277:17,18,19
278:12 280:2
paid
123:25 124:3
pair
72:3
parade
153:8,16,20

parades
153:16
paragraph
253:4,21,23
266:25
268:15
277:20
278:14 279:2
paralegal
161:12
paranoia
41:10
Paranoid
143:22
paraphrase
219:23
paraphrasing
121:17
160:25
204:20
pardon
223:1
Park
263:4,6
Parler
64:24
part
16:2,13
30:19 31:6
35:7 36:6
37:3 40:17,
25 41:19
42:20,22
44:12 48:9
49:1 52:21
54:1,8 59:8
68:23 69:16
74:2 75:7,10
84:6 90:9
99:25 102:12
105:7,19
112:8 113:21
118:6,10
119:14
129:7,17
135:1 137:11
138:14,18
153:23

156:7,23
162:6,9
167:19
172:12
176:12 201:7
203:14
204:21
206:10,14,19
207:8 214:19
219:23
220:13
221:18
222:6,9
229:20 262:6
partaken
106:5
partially
257:16
participants
113:23 133:9
139:18
participants'
30:14
participate
87:16
participated
33:23 132:1,
20 133:13
134:6
particular
38:6 52:19
104:6 115:24
120:23 121:1
136:17,21
138:7 148:2,
22 149:7
154:4 168:23
178:13
181:23
184:24
190:12
199:12
parties
146:13
partner
148:5 151:1
parts
230:12

party
176:25 288:4
passage
121:6
passive
195:24
past
12:4 14:4
28:7 178:6
186:5 207:14
242:14
patriotic
101:17
153:11
207:17,18
patriotically
102:8 207:7
patriots
83:8 87:18,
22 123:14,18
pattern
76:12,15,17
87:6 123:10
126:11
129:15
166:10 171:9
173:20
174:2,5,23
175:3 188:5
201:8 203:1,
4 205:9
206:10,14,
15,19 207:1
211:14,19
212:10
213:23
214:19
215:24
231:1,2
232:1,11
patterns
34:5 88:5
108:3,13
126:17
127:10,12
129:11 130:3
141:8,10
174:2 178:7,

18 200:23
204:2 205:24
206:3 210:20
217:11
221:11
231:25
pause
161:19
201:11
pay
57:15
PDF
280:2
peaceful
101:17
102:11,17,21
207:18
peacefully
102:8,17
207:7,16
218:22
219:25
268:19
peacefulness
230:23
peer
16:6
peer-reviewed
21:20
Pelosi
275:16
286:12
Pence
98:22,24
99:20,23
100:1 120:1,
4,10,15
Pence's
120:12
Pentagon
256:2 261:1
262:2
people
13:5 15:11
30:20,22
32:18,22
33:4 36:1,14

40:1 41:7
45:7 52:14
54:2,7,21
57:17,18,20
58:4,23
63:24 68:22
71:24 74:21,
24 80:12
87:3 88:13
90:24 91:2
92:23 93:2
95:16 107:7
109:16
111:2,12,14,
25 112:10,22
114:24
117:17
124:22 127:7
128:12,18,19
132:1,15
133:5,13,16,
20 134:1
138:9 139:4
143:3,7,11
145:24
146:21
154:25
160:3,6,7,9
162:6 163:23
164:5,10,14,
20 165:15
166:13,14
167:16
169:11
172:5,19,21
182:13
183:3,7,9,23
185:4
188:22,24,25
189:11 192:9
193:2 195:7,
17 196:8
202:15
206:22
209:18 218:1
221:17
225:25
226:7,9,13,
18 269:17

287:8 288:18
people's
  28:19 31:19
  141:4
perceive
  43:19 56:9
  93:23 125:22
  126:9
  170:23,24
perceived
  91:20 94:2
  127:24
  129:23 160:1
  181:7 184:1
perceiving
  163:16
percent
  42:6 231:3
Percenter
  42:2 109:4
Percenters
  17:14 18:11
  41:17,21
  86:7,9,10,
  12,13,23
  87:15 131:23
perfect
  7:13 220:14
perform
  257:19
period
  40:23 173:20
  243:23
  270:12 286:8
permanently
  43:14
permission
  101:14
  249:7,10
  250:4,7,15
  251:1
person
  7:7 14:11
  32:5 46:25
  47:15 49:16,
  17 68:15
  107:5 109:20

120:17
132:19,23,24
149:5 150:25
168:13,14
169:19
173:6,8
178:14
189:1,4,5,7,
9,10,12,15,
22,24 190:1,
2,4,9,18,19,
20,21 191:1,
2,3,11,15,18
192:12,13
201:2,10,22,
23 202:4,8,
9,10,11
203:21
235:9,12
person's
  71:23 191:24
personal
  110:10,14
  198:13
  223:21
personality
  150:20
personnel
  250:24
  257:13,19,21
  258:18 259:3
  261:12
  262:13
  263:1,10,16
  268:17 273:4
  286:4
perspective
  13:8 44:16
  64:10 75:6
  83:23 94:5
  122:9 127:18
  178:11
perspectives
  28:19
pertained
  163:21
pertains
  234:7

Pete
  11:8
Peter
  10:18,21
petitioners
  7:10 8:16
  9:17 10:18
  110:15
Phd
  11:24
Phd-level
  16:11
phone
  70:8 240:14
photo
  190:11,12,14
  191:9 193:2,
  7
phrase
  57:22 167:2
  185:23
  203:22
  204:24
  212:16 214:1
phrases
  143:5 172:21
  212:14
phrasing
  100:18
  207:25
physically
  202:8
pick
  77:24 113:7
picture
  46:24
  188:14,19
pictures
  34:20 42:15
piece
  95:1
pieces
  65:11 241:9
place
  93:18 94:4
  163:2 185:16
  280:15

places
  194:4 260:7,
  8
plaintiffs
  20:18 23:3
Plaintiffs'
  261:14
plan
  104:16,19,
  20,23 105:25
  222:7
  280:11,15
planned
  47:12 68:17
  109:11,20
planners
  105:23
planning
  46:3,4,12,21
  104:17
  109:15
  124:22 236:5
  276:23
plans
  113:19
  199:15
platform
  43:22 64:24
  82:17,18
  136:4,22
  137:9,19,20
  138:1,7,11,
  22
platforms
  15:10,11
  18:22 42:24,
  25 43:22
  48:1 76:1
  134:25 135:4
  136:6,7,10
  137:17
  138:12,14
  139:5,20
plausible
  49:2,15
  59:2,14,17
  101:19
  122:21

162:12 163:9
187:10
201:12,17
202:20
203:6,12,23
204:8 207:14
208:16,19
209:1
play
  48:3,8,16
  62:7,24
  63:12 67:4
  70:23 71:4
  74:15 77:7
  79:18,22
  81:2,5 84:17
  92:6,18
  94:13
  107:13,17,20
  115:17
  117:11 122:1
  161:24
  176:18
  178:21
  179:14
  197:21
  215:12
  217:15 218:3
  220:8,9
  222:12
played
  20:20 48:17,
  21 50:4,6
  63:2,20 67:5
  68:8 70:25
  71:6 72:13
  74:22 77:9
  78:4 79:25
  81:8 89:9
  92:21 93:5
  94:17 101:2
  107:23 116:4
  117:13
  121:25 122:4
  125:9,16
  162:1,21,24
  165:10
  176:20

178:25 179:7
182:6 183:21
184:10
186:17
197:24
209:16
213:21
214:15
215:13,21
217:11 218:9
220:17
222:18
players
  45:22 265:10
playing
  17:13 101:11
plays
  22:8 37:2
  42:14,17
  52:23 84:16
plea
  219:4
please
  10:20 11:6
  29:15 65:17
  97:14 131:8
  145:12,13
  152:11
  161:24
  162:20 170:8
  176:5,19
  182:5 184:9
  186:16 219:8
  237:9,20
  239:25 266:8
  267:2 268:15
  270:14,16
  272:6 275:11
  279:17
  288:17,20
plentiful
  246:11
plot
  45:24
plots
  42:3
point
  9:13,18

10:18 34:1
50:22 58:19
63:16 79:14
81:21 99:7
101:10 127:9
129:21
130:14 147:2
194:21,22
195:8
196:16,17
212:9 222:25
231:15
233:11 244:4
256:23,24
257:2,10
259:6 275:22
276:3 280:14
pointed
  170:17
  171:13 208:7
pointing
  91:13
points
  55:22
police
  91:2 108:22
  246:2 276:2,
  8 278:19
  279:4
polite
  149:19
political
  11:16,17,18,
  19,23 12:6,
  7,11,12
  21:16,22
  24:9,24,25
  27:13 33:18
  34:2,6,10
  37:7 39:17,
  24 40:1
  43:20 56:10
  65:22 69:18,
  20 71:15
  72:19 73:16,
  23 76:8,19
  83:21 89:18
  92:2 95:17

101:20
104:2,11
111:4 121:9
124:17,21
128:17 140:7
142:5,12
143:2,7,18
144:23
145:25
146:4,13,21
168:24
177:15
182:22
215:24
221:12 270:8
281:2
politician
74:7 89:19
151:12
154:18
173:21 275:1
politicians
74:2,4 76:3
90:4,7,10
166:19,20
politics
143:22
144:1,10,15
145:19 153:7
169:9
portion
57:1 67:12
94:21 95:2,3
109:5 197:21
208:25
portions
101:1
Portland
21:2
posed
85:12 277:13
278:4
position
236:7 246:25
247:5
positive
232:8,9,11,
14 233:7,16

234:8
posse
247:25
248:3,16,22
251:21 252:1
254:15
possibilities
27:2
possibility
127:5 184:18
204:6,8
possible
132:18 136:3
163:19
187:13
220:11
251:11
260:20
possibly
180:10
283:15
post
82:9 199:1,
17 213:17
post-election
104:6
post-law
243:2
posted
198:3 199:19
posting
82:18
postings
198:19
posts
21:4 198:24
199:12,14,16
potential
8:19 157:7
249:15,24
potentially
32:24 38:1
151:25
246:17
Powell
242:12

power
22:1 85:13
100:2,5
115:8 125:1
171:5 241:8
248:1
powerful
77:13 142:9
172:13
powers
244:6,20
practical
265:15
practicality
265:12
practice
37:13,14
141:21
157:17,18,19
162:23
practiced
153:21 156:2
practices
35:12 36:24
39:2
praising
215:24
precursors
103:12
predates
60:11
predict
180:17
preexisting
184:22
preferable
23:12
preliminary
8:19 85:1
premise
111:21
preparation
109:19
preparations
280:9
prepare
25:21 27:18

238:25 239:4
prepared
46:6 47:6,16
78:23 110:24
112:17 117:5
189:19 239:8
preparedness
78:22 238:21
239:19
preparing
189:24
190:19
prepositioned
252:9
presence
47:25 61:13
76:20 88:1
135:25
136:20,21,25
137:13
138:21 267:5
present
47:23,24
50:24 51:2
61:7 69:6,9,
11 124:23
178:20
180:9,13,19
181:13
182:20 183:1
196:6 227:2
260:8
presentations
241:23
presented
279:12
presenting
16:3 38:6
presents
151:12
presidency
59:16 98:25
200:14
President
7:15 57:7,12
66:25 68:4,
22 69:3,5,14

86:18 87:17	260:10	**pretending**	**privacy**
92:14,24,25	261:5,7	31:8	51:4
98:22,24	262:9,16	**pretty**	**private**
100:6 118:11	263:12,18,19	27:8,12	148:14,18
127:2 128:1,	264:3,6	31:5,18	**pro**
11,23 158:19	265:4,6	35:8,21 36:5	7:17
159:18	266:14	67:25 88:9	**probably**
160:11	267:7,14	109:6	47:3 96:23
166:16	268:9	126:15,19	97:2 132:13
170:20 172:3	269:16,19	153:21,22	142:4 209:4
173:17	270:2,9,11,	164:25	254:17
174:13	21 271:4,13	192:11 240:6	**problem**
186:19,20,	272:9,10,17,	245:11	174:11 213:8
21,22 193:24	24 273:14,16	**prevalent**	229:1 276:5
195:14	274:15	100:23	**proceed**
196:2,14	275:14	**prevent**	8:17 9:10
197:7 198:10	276:14,18	46:16 100:4	175:23
199:5,24	280:7,14,22,	115:5 244:6	**proceeding**
200:2,6,10,	25 282:6,12	254:16	10:9
12,16,19,25	283:8 285:21	**prevented**	**proceedings**
201:21	286:1,7	106:10	118:10
202:3,17	287:3,7,12,	**preventing**	161:19
203:16	20	64:12 124:25	209:20
204:15	**President's**	**previous**	**process**
205:13,20,23	241:12,20	202:20	31:19 84:17
206:3,7	244:6,23	**previously**	85:4 99:3
207:15	247:21 263:4	16:10 90:8	135:22
208:10,11	**presidential**	163:23	229:12,15,
218:11,13	60:1 89:12	**primarily**	18,21 269:13
222:25 223:1	197:18 241:8	238:15	274:24 276:3
224:12,23,24	244:20 256:4	**primary**	**produce**
226:1 227:16	**presidents**	46:4 200:1	195:22
230:7 231:8	73:18 146:6,	**principle**	**produced**
232:22	13 240:1	247:25	140:25
233:19,25	265:1	248:10	**producing**
234:5 239:6	**press**	251:21	96:11
240:16	67:8,13	**prior**	**production**
242:14 244:8	68:12,21	33:21 61:24	241:1
245:24	74:18,19	67:17 82:18	**products**
246:11,22,24	159:19	103:7,20	278:2
247:6,13	164:9,15,18	105:1 113:17	**profession**
248:13,19	171:21,23	163:15 224:8	136:16
249:5,6,13,	240:7 241:17	250:21 251:8	**professional**
22 250:8,19,	**presume**	286:1,19	16:4 242:5
23 251:1,9,	112:5	**Prisons**	**professor**
14,18 252:3,	**presumption**	24:2	11:10 32:10
7,11,15	248:5		34:9 73:22
255:7 256:15			
257:4 259:21			

99:5 161:8
228:25 229:4
235:3,21
236:18,23,
24,25 237:6,
24,25 238:1
244:5 255:20
264:16,22
266:12
288:5,9
programs
218:7 245:12
progress
26:22
projects
238:19
prominent
64:25 109:7
241:14
promise
130:13
promote
38:13 45:5
promoting
49:18 50:13,
14 57:4,5
125:25
127:21
158:14
173:14 180:2
181:6 233:8,
16,23 234:8
promotion
49:8 66:15
160:1 221:16
234:12
promotions
49:13 52:16
promptly
236:25
prone
106:17
properly
133:23
proposition
72:17

protagonist
165:10
protect
60:24 99:12
274:22
protected
106:10
protecting
268:19
protection
9:13
protective
9:25 263:9,
10
protest
79:13 89:13,
14 102:11
protester
70:3 71:2,3
201:2
protesters
88:15 212:4,
6
protesting
268:20
protests
132:16
250:25
267:21
278:22 280:8
281:19
Proud
17:14 18:10
39:14,23
40:3 55:8
61:13 65:1
77:5,11,16,
18,23,24
78:10,11
86:22 88:8
104:15,24
121:14
128:14
131:22
196:10,21
216:10
224:8,17,19

prove
110:16
provide
15:4 24:18
25:10,14
31:4 132:5
177:2 182:1
217:8 231:19
238:12 239:5
provided
23:24
provides
28:14,18
59:5 135:10
226:16
providing
111:13
238:21
provisions
243:25 244:1
public
10:9 21:13
52:18
148:14,17
196:25 197:2
200:7 227:6
publications
21:18
published
21:15,23
22:10 121:3
137:25
140:13
241:16
243:13
pull
118:15 190:9
216:10,17
266:7
pulled
227:17
pulling
190:2
punch
214:20,22,23
punching
214:8

Pure
87:1
purpose
15:4 80:19
89:6 106:14,
24 107:11
111:2
113:11,24
115:13
117:16
118:20
purposes
15:1 52:19
89:2 91:23
94:14 107:18
116:13
117:23
124:21
135:10
222:15
push
116:1 182:12
pushed
201:23
pushing
80:7
put
17:20 23:2
47:2 57:8
64:22 87:17
112:14
117:15 148:2
150:19 163:3
166:13
198:15
203:20
210:22
211:15
212:12,13
218:25
219:16 221:6
250:17
255:25 258:7
putting
41:7 225:16

Q

qualifications
23:14 264:22
qualifies
71:20
quell
239:6
quelled
246:3
question
9:21 17:9,11
26:4 29:14
30:1 45:14
52:7 67:15
70:8 77:23
78:6 84:20,
22 85:1
89:23 90:13
106:12,22,23
119:19 127:1
129:2,5
132:2,9,15
134:20
135:12
156:11,12
157:13
176:16
181:16
185:12
197:19
202:20
208:15
225:19
229:13 245:2
249:21
269:21
281:10
questioning
60:9 225:10
questions
9:23 14:12
24:23 77:8
81:10 100:25
107:21
126:21 128:6

130:7 131:7
161:9 179:5
223:12,20
227:14 229:8
246:19
264:12
284:23
286:22
287:24
288:9,11,13
quick
26:4 97:24
128:6 258:20
259:23
quicker
31:24
quickly
175:8 228:1
237:1 240:18
260:20
262:14
quiet
7:17
quite
32:13 36:3
47:22 80:4
82:23 104:3
129:2 137:1
138:17
142:20
143:16
180:10
197:22
quote
44:22 45:3
51:23 57:16
58:22 86:16,
17 87:1,14
160:13

R

race
121:8
racist
268:20,22

radical
151:14
radicalism
144:6
radio
184:5 224:25
raise
10:19 237:9
rallies
61:6,11
66:14,16
67:14 88:17
91:24 125:25
rally
20:15,16,19
42:16 44:25
47:24 61:9
67:17 68:13,
15 69:7,23
70:1,4,9
71:22,24
89:20 90:24
128:8,15,18
129:15 155:3
159:19
163:21
179:20 181:3
192:2
193:12,14,17
200:25 227:2
235:13
ramifications
270:8
ran
90:23
ranch
41:12
random
231:18,23
rang
240:14
range
12:25 14:21
15:14 110:4
rank-and-file
75:24

rapid
262:15,19
rapist
59:8
rapists
57:19,21
58:6 172:4
rapport
31:20
Raskin
7:23,24 8:4
288:11
rate
124:4,6,8
rationale
49:6
Ray
44:22,24
51:23 158:8
re-ask
89:24
reaching
190:22
react
75:12 85:16
127:7
reacted
79:16 91:25
203:19,20
reaction
71:14 80:2,
18 88:2
258:20
259:23
reactions
80:14 85:22
86:4
read
88:4 99:6,17
117:25 118:2
211:18
256:12
266:19 267:1
268:14
273:2,20
277:1,15,25
279:24

reader
  127:2 218:20
reading
  119:25
  120:18
ready
  8:16 9:9
  10:14 86:17,
  25 175:23
  189:8 250:2
  274:5
Reagan
  240:1
Reagan-
  gorbachev
  243:11
real
  48:25 57:13,
  25 102:21
  103:4,7,12
  163:11
  270:10
real-life
  31:14
realize
  75:6 240:8
reason
  8:2 42:8
  157:7 193:1
  194:7 197:1
  251:16 269:6
  280:18
reasons
  32:18 240:13
  244:18
recall
  20:16 160:2
  200:11,12,18
  240:13 251:4
  285:1 286:6,
  25
receive
  30:8 151:25
  178:12
  181:21,22
received
  24:7 75:9

77:14,19
  88:11 155:19
  268:10
recent
  56:16 90:15
  241:8
recently
  39:15 67:17
  172:21
recess
  97:18 175:21
  237:4 288:17
recipe
  55:24
recognize
  44:6 49:11
  255:21
recollection
  276:6
reconvene
  175:18
  288:24
record
  7:3 99:13
  119:12
  175:20 188:3
  200:7 234:19
  251:13
  288:23
records
  254:22
recross
  228:19,21
  288:2
RECROSS-
  EXAMINATION
  229:2
recruit
  32:24
rectified
  120:3
rectify
  120:4
red
  80:7 238:24
redeployed
  260:3

redirect
  209:14
  210:13 235:1
  284:19,21
reduction
  240:3
reelected
  27:12 62:1
  104:4
reemerged
  40:24
reemergence
  22:20
refer
  68:22 106:1
  172:19
reference
  29:6 65:10
  79:10 80:7,8
  93:17 102:16
  103:13 208:2
  246:13
  256:14
  257:10
  268:20
  270:17,20
referenced
  199:20
  210:20
  217:25 222:7
  245:21
  279:21
references
  60:23 80:5,
  24 94:23
  208:5 268:7
referencing
  86:23 98:22
  121:14 206:9
referred
  13:19 20:1,3
  39:18 121:7
  268:7
referring
  57:17 60:16
  67:16 71:2,3
  123:14 189:1

refers
  22:22 42:4
reflect
  104:8
reflecting
  256:3
reflection
  258:6
reforms
  268:22
Refuge
  41:13
refusal
  76:21
refused
  112:22
refusing
  287:8
regard
  259:22
  260:15
  267:18 286:2
regarding
  73:22 243:18
  249:16
  270:11
  279:18 283:3
regulations
  30:10 132:5
reinforcement
  105:20
reinforcing
  52:22
relate
  34:5 81:12
  85:3 90:3
  108:12 262:8
related
  20:14 27:3
  81:24 101:4
  140:1 181:19
  199:13 234:8
  238:7,17
  241:19 242:6
  243:10
relates
  20:18 24:24

    37:21 45:21
    51:11 65:15
    170:14
    172:10
    178:13
    205:25
    217:24
relating
    206:3
relations
    52:18
relationship
    28:2 29:8
    30:23 38:11
    56:2,5,13,18
    61:1 65:21
    66:8,11,18
    71:15 74:1
    76:10 77:1
    90:10 125:22
    126:6 127:19
    147:10
    163:14
    166:10,23
    171:8 174:24
    178:10
    179:25 180:4
    181:8 183:17
    188:4 199:23
    206:4 222:21
    224:5,9,23
    270:8
relationships
    32:6 200:24
    223:22
    225:18
    239:15
    269:11
released
    191:4
relevance
    262:25
relevant
    26:19 29:3
    54:9 229:24
    232:4,5
reliance
    35:18 37:22

relied
    14:3 22:2
    113:11
    114:6,10
    118:20
rely
    19:9,25
    33:12,17
    114:22
    134:10,21
    139:7 251:23
relying
    226:23
remain
    100:2,5
remained
    258:25
remaining
    259:2
remarks
    98:12
    163:10,12,18
    164:19 206:8
remember
    147:17 153:9
    159:17
    163:10
    169:22,23
    174:16,17
    179:11
    188:15,16
    194:14
    195:18,20
    197:25
    199:18
    200:16,19
    204:17 207:8
    212:13 214:2
    216:9,12,21
    217:13
    219:17 220:8
    222:5,9
    223:14,15
    252:21 282:5
remind
    105:24
    197:22
    217:17

    272:14
remote
    278:22
remove
    202:9
removed
    70:4 268:11
renew
    34:7 244:10
renewing
    244:17
renumbered
    255:14
repeat
    52:6 53:21,
    23 54:15
    84:19 119:19
    146:11 210:5
    219:7 232:25
    284:2
repeated
    54:5 76:20
    101:22
    126:11,18
    127:15 221:4
    276:11
repeatedly
    95:4
repeating
    127:16
rephrase
    89:25 129:4
    156:11
    157:13
    287:18
replay
    48:18 50:1
    78:1 120:19
    235:4
replaying
    78:5
report
    53:21 62:14
    79:11 98:1
    110:12 111:7
    112:13
    134:13,16

    139:21
    140:21,23
    141:1 197:2,
    4 199:10
    211:15,17,20
    212:23
    214:7,25
    215:23
    223:25
    226:20 239:4
    243:22,24
    245:21,22
    246:6 250:13
    252:21
    253:7,8,19
    254:25 255:2
    256:13,16
    264:2 266:20
    270:18
    271:4,12,24
    276:24,25
    277:1,3,8,18
    278:19
    279:8,18
    282:10
    285:15 286:6
reporter
    99:7 103:20,
    22,23
    240:14,15
    266:4,6
reporter's
    15:18
reporting
    116:19
reports
    19:16 244:14
    252:24
    279:11
reposted
    81:22 82:6,
    12,17
represent
    36:15 109:8
    134:15
    160:20 163:1
    176:24
    182:10

278:17
representativ e
  65:13 136:18
  137:21 138:2
  193:8 231:8,
  9
represented
  125:6
representing
  36:10 180:7
represents
  87:8 138:7,8
Republican
  7:4,24 288:4
Republicans
  144:20,21
request
  15:17 92:19
  218:23
  249:8,10
  250:5,6,14
  251:4 257:16
  258:15
  281:12
requested
  218:16
requesting
  257:18 267:3
  273:4
require
  20:5 187:17
required
  185:17
requires
  81:19 174:5
requiring
  102:6 180:8
research
  14:22 16:3,
  5,6,7,10,11,
  15,19 18:13,
  14,24 19:2
  20:4 22:4
  24:22,23
  28:17 30:3,
  9,18 31:9

45:3 135:1,
  10 139:25
  140:4 159:8
  226:14
  229:20
  243:15
researcher
  30:21 32:20,
  25
researchers
  15:1,4 135:7
resentment
  27:9
resonance
  64:15 170:21
resonate
  64:9 169:6
  171:6
resonated
  86:21
respect
  47:16 84:11
  134:1 140:5
  156:19
  184:17
  186:23
  205:10
  239:19
respective
  205:14
  260:18
respects
  51:10 56:15
respite
  175:11
respond
  27:13 92:25
  110:20
  221:17
  241:12
  244:20,23
  246:12
  259:16
  263:12
  274:21
responded
  64:18 92:19

226:12
responding
  67:15 89:14
  90:20
response
  93:12,23
  206:16
  209:21
  217:18,20
  218:11,22
  219:5 238:22
  239:20
  257:16
  262:15,19
  271:19
  276:23
  281:19 283:4
responsibilit ies
  274:22
responsibilit y
  91:14 263:22
responsible
  263:7
responsive
  227:19
result
  35:19 103:8
resulted
  96:11
results
  63:17 64:1
  115:6 199:22
retained
  25:8
Return
  104:17
Returns
  55:8,14
retweeted
  81:3
retweeting
  93:6
reveal
  9:13,24
  10:10

revealed
  9:15
review
  16:6 21:3
  30:9,11
  33:21 80:13,
  17 94:9
  106:13 109:9
  113:21
  116:14 132:4
  197:4 230:14
  243:17
  254:21,24
  256:10 260:9
  261:3 276:22
  285:14
reviewed
  16:8 29:11
  215:23
  243:21
  246:6,14
  255:2 256:17
revised
  212:23
revolution
  42:7 55:3,5
  108:1,4,6
  121:4
Revolutionary
  29:6
rewind
  281:9
rhetoric
  76:7 92:1
Rhodes
  40:16 45:25
Richard
  69:8 143:19
  144:5 227:1,
  4
rid
  215:15
rigged
  64:13 93:7
right
  10:17,19
  12:21 14:5

19:22 20:14,
19 24:12
26:2 38:15,
19 42:16,21,
24 43:5
44:6,25
47:12,18,24
50:5,7,11
58:18 62:15,
19 63:12,14
64:21 66:21
68:13,15
69:7,9,11
70:5,23
72:20 74:5,
19 76:18
78:3 82:9
88:3 90:17
93:4 95:11
99:20 108:24
115:16
117:20
120:10
124:10
126:20
127:23
128:7,12,15,
19,24 130:4
132:21 133:1
134:17
143:23
147:16
156:25 157:9
158:11
159:19,24
161:16
163:21
166:13 167:3
171:1 173:1,
3,7 175:7
178:24 182:7
189:13 190:5
191:12
192:2,4,8,9,
24 193:9
195:2 202:6
204:22
206:24 210:8
211:23

212:7,24
213:4,19
214:13
215:8,9,11
216:18 222:3
226:2,5
227:2,5
228:5
230:15,25
231:5 232:16
233:6,21
235:6,8,9,
12,13 237:9
253:9 260:22
265:23,25
270:13
271:9,14
272:20
273:2,11
276:21
277:19
278:9,18
279:5,16
280:2 283:17
right-hand
218:11
right-wing
18:6 25:17
28:24 32:9
80:2,14
83:17 110:23
120:22 122:6
126:14 144:6
159:7 160:8
178:12 181:6
198:23
222:22
223:22 224:6
225:16
rights
185:5
riot
260:6,7
282:13
rioted
138:9
rioters
138:4

riots
132:1 133:13
134:7 139:18
267:21 283:4
risk
216:2
Robert
44:22,24
51:23 158:8
Rock
282:21
Rodriguez
257:17
Roger
223:24
224:2,5,14
role
17:13 20:20
22:8 28:6
33:24 37:1
42:14,17
45:4 46:5
52:22 59:20
116:15,17
125:8,16
238:6 241:15
246:17
roles
45:19
romantic
148:4 151:1
Romney
60:18
Romney-obama
60:17
room
13:23 50:21
131:4
Rope
121:7,8,11
Rope.'
121:16
Ross
191:17
Roth
7:16

rough
74:24
roughed
71:19 201:24
212:6,17,18
232:15,24
233:2 235:6,
9,13
roughly
241:18
247:16 252:6
rousing
153:11,17,20
154:19
row
280:5
rules
101:12 208:3
ruling
70:22 79:21
244:18
run
57:12
running
59:15 153:7
154:18
Russia
171:3
Russian
169:14
170:20

S

S-I-M-I
11:8
salience
39:8 121:12
168:25
salt-and-pepper
154:22
sample
136:2 231:9,
17,18,21
232:12,18,21

samples
  231:23
sampling
  231:15,16,24
satisfying
  32:22
Saturday
  240:12
Save
  81:14,15
saying
  49:7 50:9
  58:23 70:7
  74:24 77:5
  86:25 93:18
  96:6 108:19
  148:13,17
  156:14
  160:12
  164:12,22
  166:14
  174:17
  177:8,22
  180:18
  181:18
  182:23,25
  183:6 185:8
  187:9 189:23
  200:13,16
  209:5 230:16
  234:4 274:4
  275:9 278:5
  283:14
  286:16
says
  73:2,3 75:18
  78:9 87:1
  88:8 91:1
  95:12 112:16
  120:15
  131:12 153:9
  164:9
  165:14,17,21
  168:11
  170:19
  180:25 201:2
  205:15
  208:19

  213:16,20
  215:12
  245:24 257:2
  261:25
  265:13,14
  273:23 279:2
  280:3,7
  285:20
scenario
  67:21 104:4
  171:14 265:9
scenarios
  55:21 238:24
scene
  35:20 165:7,
  9,23
scholarly
  137:25
  139:25
  140:4,13
  244:3
scholars
  37:21 53:20
  56:8 144:4
  159:9,13
  205:25
scholarship
  19:14 33:20
  53:18 241:3
school
  40:16 187:4,
  10 242:17,21
  245:6,14
schools
  241:2
Schools'
  242:15
Schumer
  185:2
science
  243:1
sciences
  13:1,2
scientist
  143:19
  186:10

scientists
  127:9 129:12
scoot
  210:23
scope
  90:7 125:5
  230:13
Scott
  7:15
screen
  23:2 24:11
  25:5 26:2
  34:20 56:23
  60:14 64:22
  74:16 78:3
  108:10
  112:14
  114:18 211:7
  212:22
  218:12 223:9
  260:2 276:15
  286:10
scroll
  23:18 117:24
scrutinized
  16:8
scum
  36:12 90:22
  91:17 195:15
Sean
  7:10
seated
  97:19 175:22
  237:5
second
  14:2 22:9
  40:17,24
  41:20 43:3
  65:7,9 68:1
  74:15 95:3
  99:18 108:9
  140:2 160:4,
  11 162:9
  176:17 187:8
  192:21
  212:21
  225:10 237:2
  242:10

  257:14,23
  262:12
  266:13
seconds
  201:10
  215:16
Secret
  262:5 263:8
secretary
  8:10,11
  92:13 93:1
  257:3 262:5,
  22,23,25
  263:11
  267:15,16
  272:11,12,
  18,19,20
  275:7 288:5
sect
  86:11
Section
  242:15
  277:20
sections
  244:2
sects
  86:10
security
  24:1,17
  224:10
  238:5,11,15,
  18 239:24
  240:25
  241:7,13,20
  242:10,16
  243:10
  244:19 246:1
  257:17
  262:3,18
  264:23 265:1
  270:23
  274:22
  276:23
  287:21
see
  23:18 26:1
  32:17,23
  39:6 40:9

43:4,6,13,18
44:21 46:24
49:12,20
54:16 55:4
57:16 60:14,
15,22 61:6,
12,16 62:17
65:1,25 66:7
69:21,24
70:5,19
71:14 74:16,
17,21 75:15
76:6,21
77:16 79:5,
10 80:1,18
81:6 83:23
84:9 85:21
86:6,16,23
87:4,20
88:3,5
89:10,12
90:18,22
93:7 94:18,
22,23 95:8,
11 96:9,13
98:19 99:7
100:10
101:3,6
107:6,10
108:9,10,24,
25 109:5,9,
10 115:20
116:14
117:16
118:5,9,11,
12,13,14,17,
20 120:20
123:17
129:14
130:18 150:6
153:4 158:5
167:20
177:18
189:23
191:16 197:2
210:23,24,25
211:5,10,21
212:2,18
213:12,15,

18,20 214:7,
9,10,12
215:1,6,11,
17 217:1
218:12 223:8
235:5 237:1
251:13
254:3,10,22
255:3 256:21
257:9,15
258:15
260:2,10
261:4,15
277:21
285:23,25
286:15
287:6,12,20

seeing
56:20 74:8
84:24 87:9
100:3 216:21
276:14

seek
110:17

seeking
276:9,10

segment
231:20,21
263:10

segments
231:13

select
64:17

selected
39:9 193:1,7

selection
135:22 231:5

self-defense
37:10 43:25
44:3,10,17
67:20,24
71:17 83:24
84:1,2,14,25
85:2 91:21,
22 108:15
185:25 186:1

seminars
238:6

Senate
275:4,12
276:25

Senator
185:2 286:12

send
99:4

sender
206:12

sending
57:18

sends
57:17

senior
238:23

sense
137:18 145:9
180:20
185:25 186:1
217:6 236:11

sentence
246:14
253:20
266:25
268:14
277:23,25
278:5

sentiments
75:24 227:11

September
216:25

sequence
195:1

Sergeant
278:17

series
22:19 72:2
223:20 226:8

seriously
43:16 45:8,
11 158:14

serve
57:7 74:25
173:16
201:16

served
199:25 200:2

239:11,22
253:7

Service
262:5 263:4,
6,8

session
240:8

set
13:7 35:9
42:1 68:9
101:12
130:14
163:12,18
208:3

setting
67:21 108:16

settings
13:10

seven
215:15

several
35:17 41:14
55:10 194:12
208:6 239:15
243:21
277:15

shadow
143:3

shadowy
35:20 141:13
142:11

shameful
65:10

shape
33:1 73:8
76:15 153:3

share
39:1

shifts
258:16,17
259:4

shirt
189:2

shit
65:11

shitty
65:12

shook
  131:2
short
  11:16 47:21
  184:4 217:11
  228:20
  235:24,25
  239:25
shortly
  40:19 202:5
  224:25
shout
  213:8
shouted
  288:7
shouting
  95:4
show
  17:21 42:16
  79:4 80:8,9
  88:8 89:2,6,
  20 91:25
  93:8 95:10
  105:25
  114:6,13
  161:20
  162:17 175:1
  211:25
  224:25
  234:20
  255:6,19
  261:13
  285:18
showed
  68:17 116:15
  160:2 211:23
  226:3
shown
  132:24
sic
  7:17 26:7
  34:11 165:10
  235:18
side
  7:19 126:9
  177:15
  218:12

sides
  128:12
  144:23
  145:25
  146:9,21
  160:3,6,8,9
  162:7 163:24
  164:6,10,14
  225:25
  226:9,13
sign
  94:2,5
signaling
  180:4,6
signals
  125:24
signatures
  93:8
significance
  82:20 99:22
significant
  112:12,21,24
  254:13
signifies
  191:24
  192:14
Simi
  10:18,21
  11:4,8,9
  15:16 17:20
  19:5 20:9
  23:17 25:16
  27:1 31:13
  34:2,9,18
  38:16 48:22
  63:4 71:13
  73:24 81:9
  84:14 89:11
  90:2 94:19
  97:25 99:5,
  18 103:17
  112:15 113:8
  114:9,17
  117:12
  119:5,12
  122:5 123:25
  126:23
  130:7,22

  161:8 175:25
  210:15
  221:10
  222:21
  227:13
  228:25 229:4
  235:3 288:5
Simi's
  73:22 110:23
  114:4
similar
  19:12 53:18
  75:24 90:15
  101:5 118:15
  127:16
  155:18
  160:21
  171:13
  227:11
similarities
  100:10,14
similarly
  107:16
simplest
  263:21
simply
  259:15
simulated
  265:19
simulations
  238:22
  239:21
sincere
  99:11
Sines
  20:13
single
  107:4,5
  132:19
  135:21 136:4
  138:10
  230:6,9
  232:12
  280:24
sir
  98:18 151:8
  237:21

sit
  14:11 126:24
site
  81:22 82:19
  89:13 199:13
sites
  198:22 199:9
situation
  46:15 105:10
  152:23 173:4
  181:24
  199:11
  265:15,18
situations
  35:19 44:7
  46:11 239:1
size
  106:8 125:5
  255:4
skepticism
  56:10
skip
  116:12
sky
  35:3
slam
  216:5 228:1
  233:19
slammed
  32:14
sleeping
  31:15
slide
  36:24 39:10
  42:12 44:20
  65:24 72:3
  79:4,6 86:3
  113:8 124:12
  216:17,21
slow
  15:18 284:4
slower
  275:11 284:5
smacking
  183:23
small
  177:6 204:3

245:11
smaller
  258:10
smile
  165:20
snippet
  226:7
so-called
  38:2 258:17
social
  13:1 15:9
  18:22 19:13
  22:6 42:23
  47:25 64:24
  75:25 88:12
  113:19,22
  114:23 126:1
  127:9 129:11
  134:23
  135:3,19
  136:4,5,10
  137:2,9,17
  139:4,7,20
  142:8 186:10
societal
  25:2
society
  44:5 243:2
  248:8
sociological
  155:5
sociology
  11:10,24
  15:23 19:24
  151:9
sold
  77:17
Soldiers
  241:15
sole
  267:7
somebody's
  130:1
someone's
  31:15
sort
  22:22 32:8

33:7,15
58:24 74:24
76:25 89:4
95:13 103:1
104:17
105:22
113:22
118:14
123:24
124:11
133:16,19
136:15,24,25
137:21
141:9,12,17
142:5 143:7,
13,25 146:12
147:4,18
150:15,18
151:3,11
153:2,11
162:4,5,7
164:6 165:9
166:2,4
167:1 172:23
174:12
176:12
190:21 194:9
195:23
200:23 206:6
211:14,18
222:7 250:4
sorts
  36:21 46:8
  55:24 77:15
  89:17 105:16
  109:18 121:9
  158:24
sought
  206:22
sound
  29:4 134:17
  188:2
sounds
  34:19 78:9
  131:9 132:2
  194:20 217:6
  236:1 284:18

source
  96:7 113:18
  162:16
sources
  96:1,10
  110:16
  211:19
  229:9,12,16
  277:15
Southern
  11:13
spaces
  22:2,6
spacing
  266:13
spare
  13:22 31:15
speak
  10:25 152:10
  170:8 176:5
  177:10,13
  237:14
speaker
  53:22 54:5
  59:5 61:8
  154:11
  156:20
  157:1,11,16
  158:1 178:8
  180:1,24
  183:17
  184:15
  185:15,17,
  22,23 206:12
  208:19,21
  286:12
speaker's
  185:13 186:3
  188:8 221:18
speakers
  76:8 176:19,
  22 179:9,12,
  18 180:25
  181:7 184:4
  197:10 227:3
speakers'
  53:8

speaking
  56:20 72:6
  94:22 127:6
  142:15
  145:12
  168:14
  182:11
  184:13 225:7
  227:3,17
speaks
  127:6 160:10
special
  143:4,8
  278:2
specific
  14:11 15:1
  28:13 29:8
  35:21 37:23
  49:23 59:18
  80:5 83:2
  93:1 95:6
  148:23 163:7
  166:3 178:14
  199:9,10
  201:15 209:1
  217:25
  218:16,23
  220:13
  221:3,25
  234:9 243:15
  246:19 276:6
specifically
  16:25 67:15
  81:24 96:2
  121:14
  140:5,12
  199:14 206:3
  218:15,16
  276:17
spectrum
  138:8,9
  143:8 144:24
  145:25
  146:10,22
  177:15
speech
  56:24 57:1
  58:2 62:18,

22 63:17,22
68:3 76:4
81:4 95:18
96:3 98:13,
20 100:7,12,
24 101:1,4,
9,22 102:7,
23 103:4,12
104:18
120:13
122:7,24
123:5 138:23
153:9,11,14,
17,20,22,23
154:20 155:4
163:1
172:12,13
175:2 177:1
181:17
200:22,23
207:6,8
208:22 209:7
219:20,24
220:8,9,22,
24 221:6,8,9
225:7 226:4
230:6 231:8
233:13
234:1,3,13
263:4 287:10
speeches
55:7 62:16
64:5 72:5
94:15 100:11
128:10
158:19 209:6
213:24
224:21 226:8
231:12,13,18
speed
65:18
spell
11:7 257:1
Spencer
69:8 227:4
spend
13:5 32:21

spending
13:11 31:20
53:10
spent
18:20 28:9
222:2 225:24
245:14
Spirit
153:10
167:21
spoke
106:11
158:18
232:22,23
233:19
spoken
206:18
260:17
sports
36:4
spots
55:22
spreading
61:17
stab
189:8,24
190:19
staff
199:11 257:4
276:24
stage
32:1 38:7
50:25 68:9
staged
258:20
stamps
65:1
stand
17:24 77:6,
11 78:18
86:17 97:11
125:5 196:17
216:8,22
217:4,5
229:5 237:6
stand-alone
16:14,15

standard
15:23 20:3,8
124:8,9
standby
80:21
standing
78:16 86:18
242:9,12
standoff
41:12,13
standoffs
41:11
standpoint
30:3 45:3
155:6
stands
248:1
start
10:14 26:12
34:21 54:19
60:8,9 77:4,
16 115:21
161:10
162:20
168:2,3,15
176:1 177:6
210:19 218:8
220:15
236:6,11,12,
21,25 237:2
243:5,9
245:19
246:18
started
18:23 32:1
92:9 196:8,
18 198:8
243:12
starting
22:18 27:10
43:9 56:18
61:4 161:25
267:1 282:14
starts
61:5 90:22
state
7:4,25 8:3,

4,10,12 43:8
50:8 93:2
94:24 99:3
247:8,10
248:15 288:5
State's
92:14
state-level
24:3
stated
117:16
statement
50:7 61:25
73:22 77:8,
11 78:14
79:12 86:24
118:14,15,17
137:8,9
146:3
158:17,20,21
159:25 164:5
182:23
187:3,6
201:16
203:11
207:17
208:20,22,25
217:18
226:13
285:11
statements
21:4,7 75:12
80:25 83:2
98:12 99:23
113:16,22
114:23 115:2
118:9,19
119:13
129:22 163:5
200:8 277:8
286:19
states
87:17 99:1
121:5 166:17
172:22
184:18
240:16,23
241:25 244:2

subjects
  13:21 238:7
  241:6
subjects'
  30:15
submit
  16:6 172:18
submitted
  255:6
subreddit
  198:8
subscribe
  168:5
subsequent
  164:19
substantial
  22:20 26:18
  38:4 47:25
  60:2 61:13
  79:10 87:25
  88:1 92:10
  103:15 106:9
  112:24
  115:21
  116:21 121:1
  123:17
  136:11
  166:17 172:9
  180:21
  198:21,23
substantive
  111:14
subtle
  46:23
suggest
  64:2 185:15
  256:7 286:15
suggested
  274:11
  279:13
suggesting
  50:10
suggestion
  251:7
suggests
  221:15,18
  261:4

Sullivan
  8:12
sum
  209:5
summarize
  25:22
summary
  27:19
summer
  27:7 250:22
  267:20
summits
  240:2
Sunday
  257:15
superior
  58:16
supplement
  248:17
supplemental
  253:7,8,19
support
  46:23 64:13
  67:7,10
  88:14,15
  89:20 93:24
  94:3,5
  123:21 180:6
  204:21 257:5
  258:16,17
  276:10
supporters
  67:23 75:11
  221:14
supporting
  36:19 52:21
  124:20
supports
  111:1
supposed
  17:8 120:4
suppression
  169:21
supremacist
  21:8 22:6
  47:21

supremacists
  68:16,24
  69:1
Supreme
  184:19
sure
  10:5,24
  15:19 17:2,
  22 24:15,22
  29:2,25
  39:13,24
  40:15 48:4
  49:22 50:3
  54:25 68:12
  70:24 76:5
  78:2,21
  84:21 96:23
  97:9 99:14
  100:17 107:3
  110:21
  111:10
  113:13
  114:14
  119:11
  126:23 129:1
  133:23
  134:14
  135:17
  140:11 141:9
  144:16,25
  145:10 146:4
  152:7,9,12
  154:17 157:6
  159:15 161:9
  171:18
  190:17
  191:10 195:3
  197:22 213:4
  214:24
  216:18
  219:18,22
  221:5 226:22
  230:4 236:2
  237:14,15
  240:19 245:4
  284:8 285:11
  288:16,20

surprise
  200:9
surreptitious
ly
  30:14
surrounding
  204:13
  243:23
  250:25
  255:24
surveys
  139:16,17
  142:19
Sus
  7:12
suspect
  157:4,5
sustain
  129:6
sustained
  90:1 225:22
sustaining
  22:7
Swastika
  22:1
swear
  237:7,8
switch
  218:7
switched
  60:18
sworn/
affirmed
  10:22 237:11
swung
  191:2
symbol
  47:9 109:4,7
symbolism
  109:1
sympathetic
  46:19 106:2
  173:1
Syracuse
  238:1,2,3,9,
  23 243:6

system
  64:11,13
  85:7
systems
  268:21,23

_____

T

_____

T-SHIRTS
  77:16
T-V
  255:7,11,16,
  22
table
  8:11
tactic
  37:6
tactical
  109:17
  110:25
  112:18
  113:10
tagged
  262:7
tags
  262:1
take
  76:15 80:21
  96:21 101:15
  105:7,19
  138:4 142:1
  146:7,15
  161:14
  168:4,11
  173:11
  174:1,2
  175:5 179:9,
  18,22
  180:14,17
  181:1,25
  186:11,15,19
  209:3 213:4
  231:9,17
  235:20
  263:23 276:5
  277:3 280:15

taken
  45:8,11 49:7
  85:6,14
  87:13 100:21
  102:1 108:8
  110:6 163:12
  180:22
  206:18
  260:21,23
takes
  100:1 167:13
  168:8 173:20
taking
  112:3 146:23
  185:4,16
talk
  12:13 16:21,
  24,25 17:8
  19:5 35:13
  37:1 44:2
  45:19 49:23
  53:21 54:13
  60:7 84:13
  92:19 94:14
  96:16 97:12
  109:14 114:3
  120:12 130:8
  143:11
  144:12
  146:6,14
  147:11 162:6
  175:9 176:2,
  6,11,13
  182:2 184:11
  193:19 197:5
  211:13,20
  219:19
  221:24
  223:19
  224:22 229:9
  264:21 266:2
  269:7 270:15
talked
  15:22 23:19
  28:21 33:6
  34:21 38:18
  42:13 55:13
  64:4 65:23

  76:25 84:24
  94:1 98:2
  105:22
  108:13 113:8
  116:11,13
  129:10
  141:8,23
  143:25
  147:13
  150:14
  152:9,13
  158:16
  159:17
  172:2,3
  185:3 191:17
  192:19
  193:19
  211:22 216:6
  217:8 222:1
  223:4,25
  224:22
  226:19
  227:18
  247:20
  260:12
  281:22
  283:19
talking
  15:19 16:18
  29:16 35:4
  36:7 38:19
  43:23 51:7
  53:11,12
  54:8 72:23
  81:17 82:1
  94:22 95:25
  96:1,3,4
  98:4 101:18
  114:14
  129:25 130:2
  140:9 144:25
  158:12 161:2
  165:13
  168:20 171:9
  183:12
  186:13 198:1
  200:23
  210:19
  225:24

  226:17
  231:25
  235:8,12
  281:20
talks
  112:20 273:3
Tarrio
  39:15 45:25
  55:18
taught
  16:11
tax
  284:18
teach
  16:9,18
  238:3,4
teaching
  16:13 238:8
  243:5,7,9
team
  258:17
  262:20
teaming
  238:25
teams
  262:15
tech
  27:15
technical
  176:15
technique
  38:12
techniques
  50:16 65:22
technology
  130:13
technology-
free
  130:18
teeter-totter
  50:12
Telegram
  136:10
  138:13
television
  276:14
  286:10

tell
  12:3 13:17
  14:7,19
  20:12,25
  21:18,24
  23:20 24:11,
  13 27:6,22
  29:10 37:17
  39:11,22
  40:13 42:13,
  15 44:4,21
  52:12 54:24
  55:15 56:25
  58:12 66:5
  68:10 69:3,
  24 71:13
  72:14 74:16
  75:5 79:2
  81:11 82:8
  83:14 86:6
  88:4 92:6
  95:10 100:9
  115:1,18
  124:3 131:8
  177:1,9,22
  186:8 191:14
  199:9 205:24
  206:2 207:11
  221:13
telling
  92:22 93:2
  165:21
  182:12 235:5
Ten-second
  178:1
tend
  84:5 85:9
  169:5 177:14
  195:21
tendencies
  187:12
tender
  34:2 244:5
tenet
  36:17
tense
  195:24

term
  54:19 95:5
  105:24 106:2
  121:11,15
  123:17
  152:14,18
  153:12 168:3
  176:22
  179:22
  185:13,18,22
  231:4 242:10
terminology
  57:24
terms
  16:3,6 18:20
  21:4 22:7
  23:6,24
  25:2,4 29:2
  30:16,17
  31:19 32:15
  35:1 36:8,
  11,13 37:19
  38:11 40:9
  42:21 45:4,
  7,20 46:9
  47:7,25
  49:3,7 50:13
  51:20,25
  52:20 54:9
  55:20,22
  57:21 58:1,
  17 59:2
  71:18 78:8
  80:11 83:21
  84:23,25
  86:1,2 87:9
  88:9,11
  90:20 91:18
  95:1 96:2,11
  100:4,12,18
  101:6,14,19
  102:14 105:5
  106:2 107:11
  113:15,19
  115:13
  116:19
  122:17,19
  124:15,23

  125:6,9,11,
  25 126:17
  130:2 135:7
  137:19
  138:21
  149:16
  155:7,19
  158:12
  163:25
  164:25
  166:10,14,23
  167:15,16
  169:2,5
  170:5,6,25
  171:9 172:9,
  16 173:14,15
  174:23
  180:6,14,21
  182:18
  183:16
  185:18
  186:3,4
  187:6 199:8,
  11 206:1,2
  207:4 208:4
  217:25
  221:3,15
  227:11
  229:21
terrible
  156:12 159:1
territory
  263:6
terror
  42:3
test
  7:22 268:24
testified
  10:23 20:9,
  13,17 21:1
  90:6 105:15
  161:21
  194:14
  198:18
  204:13,15
  237:12
  267:7,19
  282:11

testify
  90:9 111:20,
  22 198:17
  239:8 241:11
  242:7
testifying
  110:9,13
  244:11
testimony
  9:10 10:15
  12:17 25:11,
  15 97:13
  102:22
  103:7,10
  104:14
  110:18
  111:14,23
  112:7,9
  140:20 141:3
  142:4 168:20
  172:6 194:17
  195:20
  196:7,9,12,
  14 205:15
  206:5 207:10
  209:5,19
  239:5 244:15
  265:11
  273:14
  274:1,14
  279:22
thank
  7:13,20
  8:14,15 9:9
  26:25 31:12
  34:14 65:18
  71:10,12
  72:12 97:16,
  23 98:9
  114:16
  117:10 119:9
  124:10 128:4
  130:6,8
  131:4 134:19
  156:13
  159:14
  161:6,18
  175:16,19

188:11
209:12
210:11,12,17
227:13
228:9,23
235:16
237:13,15
253:25
264:18
266:11
267:6,19
269:5 288:14

thanked
69:3,5,13

thanking
227:6

thanks
15:16 118:2
218:6

Thedonald.win
81:22 82:7,
12,14,19,22
223:12

**Thedonald.
win.**
98:2

theft
85:6

thematic
174:9

theme
101:16
108:14
122:23
144:15
169:25

themes
100:22
116:19

**then-
president**
261:18

theories
35:21 41:6
142:11,25
144:1

theory
35:18,23
57:6 59:25
63:7 92:8
122:12
142:18,20
143:14
173:14

thing
9:11 32:2
93:12,16
94:3 96:6
119:3 147:3
148:13,14,17
156:9 159:11
167:1 171:2,
4 174:14
179:15
180:19
197:16 213:5
217:13
218:19
219:19
234:11,20
273:24

things
14:21 15:15
16:4 25:2
28:15,24
33:1,2 35:17
37:19 38:8
41:7 43:9
47:14 49:23
51:5,20
53:19 58:2
66:5 67:22
68:23,25
85:6,7,24
92:10 100:18
101:18
104:21 105:1
107:7,8
109:17,19
110:13
113:13,14
114:6 122:10
125:24
126:1,4,18,

22 127:15
129:19,20,24
137:14
139:23
146:15 153:2
180:4,6,9,12
181:19
182:25
185:11 188:7
204:4 206:17
208:7 217:21
221:25
229:23
230:13 232:5
257:10,20
266:21
280:16
283:8,14

think
7:19 8:18
9:6,18 14:23
15:6 27:15
32:17 33:3
34:24 35:2,3
36:3 45:19
47:14 49:10
51:1 54:24
89:5 90:6
95:23 96:18
97:20 103:23
106:7 115:15
117:19 119:2
122:10 126:7
137:23
138:10
143:10
145:17 148:1
158:17
159:16,17
161:21
163:13
165:10
166:9,18,21
167:1 168:1
182:1 186:10
187:5 189:21
194:11
195:15
197:20 201:1

207:3,21
208:14
210:7,17,25
211:22
226:25
232:5,7
236:6,9,11
240:19
241:19 242:3
243:12
244:20
245:16,21
246:9 270:10
274:18
276:11
277:18
280:18
281:11

thinking
35:2 127:3
240:18 276:3

third
14:16 256:23
257:2 268:15

thought
27:7,12
116:16
128:22 140:6
142:14
169:12
176:16
215:14 232:4
266:21

thousands
17:6 18:25
53:11

threat
36:10 44:13
81:18 84:6,
8,23 85:11
100:20 208:1
277:13 278:4
279:8

threaten
218:1

threatened
44:8

threats
  36:16 37:5,
  11 81:20
  83:22 87:9,
  10 92:10
  93:13,18
  94:4 102:4
  180:7 217:23
  241:13,21
  278:8
three
  15:21 17:14,
  20 18:11
  19:2,20,25
  20:5,7 22:2
  33:12 34:21
  36:22 39:9
  41:17,21
  42:1 48:10,
  12 69:13
  86:7,9,10,
  11,12,23
  87:14 109:4
  122:10,16
  130:12
  131:23 147:4
  227:6,8
  262:11
  282:13,25
three-hour
  286:8
three-page
  255:12
three-word
  212:16
threshold
  17:11 106:12
throwers
  213:16
tied
  87:10
Tierney
  7:11
tight
  225:18
time
  13:5,12
  18:20 28:9

31:21 32:21
34:2 40:23
41:21 43:21
44:8,15
48:25 50:2
54:19 61:12
63:16 64:25
65:1 80:21,
22 82:23
83:12,14
103:4,7,13
104:7 108:7
109:20 122:1
130:7 145:12
156:9 163:11
167:13,17
168:8 169:2
171:10
173:20 174:2
175:15
186:21,23,24
193:15
207:1,2
222:2 223:6
225:4,24
236:8,10
243:8 245:14
247:5,12
250:18 259:5
260:5,24
267:25
268:11
272:18,25
275:11 280:3
281:3 284:3
286:8
timeline
  243:23
  255:13,24
  256:1,3
  257:15 258:7
times
  12:16 21:12
  101:9 115:16
  208:6,22
  215:8 221:4
  265:19
  282:15

title
  22:16
to-be-
admitted
  116:7 117:1
today
  16:18 51:7
  90:23 100:12
  108:13 122:3
  130:23
  140:25
  206:5,21
  239:9 241:11
  242:7 264:17
  265:12
  273:14
  274:14 277:4
  279:22
  283:19
  288:22
told
  212:4 247:18
  278:18
  287:3,7,13,
  20
tomato
  213:16
tomorrow
  236:12
  288:22,25
tone
  152:24
tonight
  91:1
top
  216:15
  245:25
  258:19
topic
  21:23 27:22
  140:1
  241:11,19,24
  242:6 253:23
topics
  19:15 28:8
  243:10
total

231:12
totaling
  257:21
touch
  108:11,21
track
  12:15 210:22
traditionally
  249:1
traffic
  198:19
  257:19
  258:15 259:6
trained
  127:10 128:1
training
  11:22 23:25
trainings
  23:21,22
  24:4,18
traitors
  121:9
transfer
  100:5 115:8
  124:25
transition
  263:25
transparent
  52:18
transpired
  61:12
treated
  123:19
  187:10
trick
  176:16
trick-or-
treating
  288:19
trickier
  18:16
tripped
  8:6
trivia
  245:17
troops
  251:10

252:16
254:5,11,23
256:5,11
257:8 258:7,
10 259:22
274:16
275:2,5,13

trouble
73:3

true
44:11 54:4
155:21,25
232:2 252:25
268:9,12
273:13

Trump
7:5,15 8:20
27:12 28:2,3
56:3,6,14,19
57:3 58:22
60:8,16
61:16 62:1,
22 63:16
64:4,19
65:21,25
66:9,19,25
67:14 68:4
69:21 70:3,7
71:25 72:3,
5,6,15 74:9,
23 75:11,18
76:11,22
77:5 78:14
79:1,7 81:3,
14 82:9,18
83:18 85:13
86:24 88:8,
13 90:19,24
92:14,19,24,
25 93:5
95:14 96:14
98:12,21
99:24 100:2,
5,8,11
102:7,10
104:2,12,18
105:2,9
107:19

116:20,22
119:17,20,25
120:9,12
121:19
122:23
123:3,20
125:9,16,23
126:4,13
127:2 128:1,
11 160:11
163:15,25
164:4,9
166:11,24
169:12
170:20
171:1,10
172:2,3
174:13,24
195:14
196:14 197:7
199:2,5,24
200:1,6,10,
12,16,19,25
201:21 202:4
203:17
204:15
206:3,21
207:15 212:4
213:20 216:8
218:13
219:1,11,24
220:22
221:19
222:25
223:1,5,8,
12,18 224:4,
12,23,24
225:15
226:1,8
227:7,17
229:22 230:7
232:22
233:19 234:5
235:5,13
239:6 244:8
245:24
249:13,22
250:8,20
251:9 259:21

260:10
261:5,8,18,
23 262:9
264:6 266:15
268:10
269:16
270:2,9,21
271:5,13
272:9,10,17
273:14,15
274:15
275:14
276:18
285:21 286:7
287:13,20

Trump's
28:6 33:24
56:24 57:1
59:19,20
62:18 65:21
67:10 71:14
76:7 77:1,10
80:2,15
85:16,22
89:3 91:11,
25 93:23
101:4,22
116:15,17
126:16
127:12
158:19
159:18
193:24 196:2
198:10
199:7,11
202:17
205:13,20,23
206:8
208:10,11
210:20
213:23
215:24
217:11,17,20
218:11 219:5
221:11
223:21
226:12 231:8
233:25 255:7

trust
31:20 179:13

trusted
146:2

truth
209:17

try
33:1 117:21
127:10
130:18 136:1
149:19
176:10
178:17
190:19 240:3
266:1

trying
18:3 29:23
46:9 65:5
99:12 115:25
116:1 136:20
145:7 178:9
190:3,8
195:1 204:20
223:6

tunnel
116:3

turn
34:16 42:12
44:19 56:1
59:18 65:20,
21 74:14
76:24 77:16
88:23 94:7
98:10 100:7
118:23 123:2
192:20
211:16
218:10
221:24 280:1

turned
20:17 47:10
89:20 196:3
198:9

Turner
121:2

TV
80:8,9
285:12

tweet
60:15 79:7,
9,16 80:2,
10,15,18
81:7 85:25
86:5 87:21
88:11 90:19
98:23 99:18
119:24
120:18
123:2,9
195:14,18
196:15
205:2,5
261:15,17,19
270:16,18,20
272:8 273:2
tweeted
223:16
tweeting
93:5 204:15
286:10
tweets
60:5,7 80:11
96:4 98:21
120:8 204:14
Twitter
82:9,19
136:7,8
two
12:4 14:4
21:23,24
62:16 64:4
96:19 98:21
104:21
108:25
122:14 123:8
137:14
139:23
151:22 160:2
181:9 187:25
188:22,24,25
207:17,20
217:21 225:9
228:2 258:16
259:4 269:17
272:22
276:12 280:4

282:13
two-
212:15
two-minute
161:15
type
12:10,24
14:10 15:10
22:5 38:20
44:16 49:5
53:5 135:6
137:2 160:4
185:17,18
193:8 207:24
208:1 231:24
252:17
types
13:12,25
19:12 28:15
35:21 41:6
42:1 43:23
50:23 61:8
125:13 126:2
134:25
168:13
178:16
188:10
typically
19:9 166:19
tyrannical
41:4 42:11

U

U.S.
42:10 109:3,
8 244:6
246:22
276:22 279:3
Uh-huh
87:5
ultimate
103:8
ultimately
22:12 40:21
43:2 82:25
90:20 91:1

96:11 105:6
125:10
163:24 264:3
270:25
un-american
65:11
uncertainty
158:13
unclear
63:19 278:7
uncommon
170:1
**unconventiona
l**
72:22
undecided
63:19
undercover
29:22
undercut
95:21
undergraduate
16:9
underneath
219:16
underscore
58:19 66:17
68:14 125:4
149:13
underscores
63:23 126:7
underscoring
149:21
understand
13:6,8 28:25
29:23 32:8
38:24 45:11
49:22 53:8
59:10,11,14
75:2,21
80:19 94:10
140:8 141:9
148:24 153:5
154:3,5,10
155:13
157:3,10,14,
15 163:14

164:3 166:18
171:2 172:2
177:19,21
178:7,9
184:14,16
187:18,25
188:7 202:21
205:8,9
209:6,7
233:9
understanding
23:9 28:14
54:6,10,19
81:1 97:9
101:20
102:14,20
108:2 112:10
113:11 142:3
148:19,22
149:2 151:24
152:3,24
153:3 157:11
158:2 163:19
167:14,17
168:16
184:20,23
186:4 187:6
194:1,2,3
196:20,24
223:3
224:13,16
278:10
**understanding
s**
152:22 154:2
understood
53:16 69:15
76:12 78:15
101:21
102:5,10
145:3,5
148:20
152:15,19
underway
10:8
undo
58:24

unexpected
  278:24
unfair
  169:25
unfairly
  123:19
unilaterally
  271:5 281:17
unintentional
ly
  156:9
unique
  28:24 50:17
  125:3 246:25
uniquely
  247:24
Unite
  20:14,19
  42:16,24
  44:25 47:12,
  24 68:13,14
  69:7,9,11
  74:19 128:7,
  15 158:10
  159:19
  163:21
  166:12
  192:2,9
  193:9 227:2,
  5
United
  87:17 121:5
  166:16
  172:22
  184:18
  240:16,23
  241:25
  244:1,2
  246:24
  248:14 249:5
  251:18 252:3
  263:20
  272:11
  274:23 279:4
uniting
  42:21
units
  260:16

281:12
unity
  106:14,24
  107:10
  115:13
universe
  231:16
  232:13
universities
  15:9
university
  11:11 16:11
  32:10 238:2
  241:17
  242:19
unprecedented
  56:15 278:24
unprompted
  128:24
unrelated
  252:10
unsealing
  9:22
upper
  60:15 98:22
upset
  143:8 169:8
  172:23
urging
  80:12 105:9
us-versus-
them
  141:15
  144:13,20,22
USCP
  279:4
utilize
  136:5

―――――――

V

―――――――

Vaguely
  166:1
valid
  169:20
value
  186:12

Vanderboegh
  41:22
vanguard
  42:10
vantage
  55:21 99:6
variability
  142:21
variant
  143:13
variation
  101:8
variety
  12:9 19:17
  44:14 60:3
  113:13
various
  15:2 36:21
  41:11 46:7
  75:25 80:5
  83:3 96:3,4
  108:8 109:18
  121:9 125:24
  126:2 134:25
  135:3 141:24
  146:4 180:4,
  6 193:3
  238:6 248:11
  250:24 262:1
vary
  152:22 168:9
varying
  39:6
Vegas
  67:18
vehicle
  194:8,15
  195:7
vehicles
  194:13
vein
  118:15
verbatim
  160:13
verbiage
  60:20

verge
  87:12
version
  212:21
versus
  102:16 127:6
  135:20
  137:19
  158:15
Vice
  98:22,24
victory
  63:25 64:2
  199:22 222:7
video
  15:7 47:18
  48:3,8,14,
  16,17,21,23
  49:24 50:4,6
  61:21 62:2,
  4,7,25 63:2,
  4,12,20
  66:21,24
  67:4,5 68:2,
  8,10,11
  70:25 71:6
  72:13,16
  74:15,22
  77:9 78:4
  79:25 80:3
  81:3,5,7,8,
  10,12,21
  82:3,8,16
  83:19 89:2,
  3,9,11 90:3,
  16 92:4,5,6,
  17,18,21
  93:4,6,10,21
  94:14,17,21
  95:8 101:2
  107:7,20,23
  113:14
  115:15,18
  116:4,23,24
  117:11,13
  120:17,20
  121:22,25
  122:2,4

159:4,18
161:16
162:1,17,21,
24 171:20
175:1,8,12
176:19,20
178:25 179:7
182:6 183:21
184:10,23
186:17
193:23
194:12
197:20,24
198:1 211:23
213:19,21
214:15
215:2,12,13,
21 216:10
217:1,12,15
218:9
220:17,24
222:17,20
223:16 226:3
227:23 228:1
232:18,21,23
233:1,4,13,
19,20 234:2
260:2
videos
61:19 72:3
107:14
111:25
115:12 135:5
175:14,15
182:1 188:10
209:16
227:16
view
9:18 10:4
40:11 56:11
78:19 83:20
84:16 85:10
91:11 102:24
162:11
163:6,8
167:2,22
168:5 173:22
177:24

201:12
202:3,17,19,
24 204:6
246:8
viewed
36:9 37:6,9
172:25
viewing
87:21 89:16
viewpoint
85:2
views
138:8,9
166:19
Vikings
36:5
violating
41:4
violence
11:16,18,23
12:7,12
20:20 21:16,
22 22:8
24:25 27:3,
14 29:9
36:25 37:1,
6,8 38:9,11,
13 39:24
40:2,11
42:14,16,17,
21 44:1,9,15
45:5,8,14,
17,21,22,24
46:6,7,11,
14,16,22,23
47:4,6 49:8,
13,18 51:9
52:2,3,4,8,
9,14,21,23
54:20 55:12
65:23 66:2,
14 67:14,16,
23 68:19
69:20,21
71:15 73:7
74:9 76:20
82:25 83:3,
22 89:18

90:21 91:4,
12,20,21
92:2,15,23
93:3,11,14
95:1 101:7,
23 103:9,15
104:2,11
105:23
106:5,18
108:15
109:11,15,21
111:3 112:17
122:25
124:17,20
125:3,10,13
126:1 127:21
137:7,10
138:24 140:7
141:20 142:4
145:1 147:5,
10 149:23
150:3,11
156:24
158:14
167:3,22
168:6
170:11,12
179:24
180:2,15
181:6,11
182:15
183:7,8
184:2 186:13
187:1 189:19
191:10 193:9
194:16 195:8
196:3,5,11,
19,22 197:3
199:15 201:5
202:18,25
203:2,9,20
204:7,25
205:6,11
206:22
207:2,3
213:24
215:24
217:19,23
218:15

221:12,16,
19,21 230:14
233:8,14,17,
18,24 234:8,
12 239:7
246:4
249:15,24
260:2 271:19
274:12
275:18,23
276:1 284:25
285:5,8
286:20,24
violent
20:17 39:17
46:2,9 55:3,
5 66:15,16
67:20 68:17
81:19,23
88:23 89:21
93:17 102:6
108:6,8
110:24 111:3
180:3,8
182:21,22
187:11 196:3
198:25 250:9
273:12,15
276:15
Virginia
20:15 68:18
254:18
260:15,24
vis-a-vis
34:12 246:25
vision
268:24
visualizing
35:2
vocabulary
38:18
vocalization
115:23
voice
152:25
voiced
169:13

volition
  281:12
volume
  53:14 138:16
volumes
  21:21
vote
  60:19
voter
  93:9 169:21
votes
  60:18 264:1
**vulnerabiliti
es**
  55:23

───────────

W

───────────

waded
  234:5
waging
  185:4
waited
  90:25
waiting
  215:20
  259:14
wake
  250:24
walk
  23:13 102:8
want
  9:15,25
  12:13 16:21,
  24 19:5
  23:4,6 32:21
  33:6 44:2
  50:1 56:1
  57:15 59:18
  65:20,21,23
  76:24 77:2,4
  81:2,4 94:7,
  13 96:22
  97:9 98:10
  99:1,19
  100:25
  104:21

107:24
110:15
112:12
118:23
120:19 123:2
126:21
130:14
131:10
133:23 136:1
137:16
138:3,19
141:9 142:1
154:17
165:16
174:12 176:2
177:17
178:6,7,10,
16 179:14
185:11
188:3,13,18
204:11 205:3
210:19,22
211:13,14,
18,25 213:4
215:17 216:6
217:8
218:10,25
219:10
221:5,24
222:14
223:19
224:22 229:9
230:5 235:4
246:18 248:5
252:4 255:6
256:19
257:22
264:21 269:6
273:9 277:22
285:18
286:13
wanted
  10:5 114:6
  120:2
  126:22,23
  150:15
  209:18
  243:15
  245:19 248:8

288:6
wanting
  149:17
war
  29:6 109:8
  185:4,14,16,
  19,22 248:4
war-game
  265:9
warning
  99:23 261:24
warnings
  274:11
Washington
  85:17,21
  87:19,23
  88:13 213:17
  238:16,24
  250:21
  258:23
  261:25 267:5
  268:11
  269:17,25
  274:19
  275:2,13
  281:4,7
watch
  65:18 100:24
  103:3 196:17
  213:19
  214:13
watched
  90:3 102:23
  103:7 111:25
  119:3
watching
  262:1 286:9
water
  210:16
Waters
  183:2
Watson
  118:18
wave
  40:17,20,24
  41:20,23
  153:22

way
  20:19 22:17
  30:11 31:2
  34:24 38:6,
  14 43:18
  45:6 58:14
  69:20 73:8
  85:3 86:20
  100:22 127:6
  137:18
  142:22
  143:17
  148:20,23
  149:18
  150:25
  151:1,13,14
  152:15
  154:4,5
  158:12
  161:15
  166:21
  181:23 188:7
  190:6 194:19
  196:15
  205:10 229:4
  231:7,22,23
  248:9 252:21
  272:2 281:1
ways
  37:9 46:23
  66:12 148:18
  163:17
weak
  73:4
weapon
  47:10 105:16
  189:3
weaponry
  110:16
weapons
  43:24 46:7
  47:14
  109:17,22,
  23,25 110:3,
  5,6 111:1
  112:18 193:4
  240:17

wearing
  46:25
web
  213:17
website
  98:2 198:6,
  7,9,11,13,20
  199:1,5,19
websites
  15:12 18:21
wedding
  80:8
weeks
  168:12
weird
  198:8
well-
  intentioned
  149:16
well-known
  240:2
went
  105:12,20
  118:18,20
  194:15
  229:10
  265:25
West
  58:18
Western
  39:18,19
  58:6,13,14,
  15,20
whatnot
  162:11
  200:24
whimsically
  240:17
white
  21:8 22:1,6
  47:21 68:16,
  24 69:1
  95:11 163:1
  164:4,17
  200:2 226:4
  276:9 283:3

who've
  53:20
wide
  110:4
widely
  53:16 135:7
wild
  79:14 80:15,
  18 81:4,7
  86:5 87:21
  105:4
  204:16,21,24
  205:15
Wildlife
  41:13
William
  237:10,22
win
  98:25 198:5
wing
  177:3 278:9
wink
  38:2
withdraw
  267:4
withdrawing
  9:4
witness
  9:4 11:1,14
  26:5,10,14,
  24 29:25
  31:10 40:6
  48:11 65:19
  73:11 78:21,
  25 83:7
  84:4,11
  91:6,8 99:9,
  11,14 103:5,
  10 106:25
  107:3 112:6
  127:8 128:3
  130:10 131:6
  150:2 152:12
  159:12,15
  161:11 170:6
  196:4 229:1
  234:20

235:19
  236:6,11,12,
  19 237:15,17
  245:4,7,11,
  18 249:18
  259:18 266:3
  269:2
witness's
  209:19
witnesses
  9:14,19,24
  10:2,6,9
  97:10 288:21
WMD
  258:17
woman
  165:13 182:9
  191:21
women
  185:3
wondered
  189:25
wondering
  188:21
word
  38:24 76:16
  77:23 83:20
  149:6,7
  163:19
  168:23 171:5
  177:9 219:3
  230:9
words
  37:24 39:17
  76:14 100:18
  126:13 152:6
  173:2 186:9,
  11 188:8
  195:23
  206:18 209:8
  219:1 220:1
work
  12:4 14:19
  19:6,8,21,24
  24:20 25:21,
  22 26:21
  27:23 33:7,
  9,13,21

37:18 51:13
  52:5,10 55:1
  61:16 66:6
  69:18 74:2
  75:10 76:2
  79:8,15
  83:16,25
  85:11,15
  89:18 90:9
  93:22 94:19
  96:13 113:22
  118:6 124:1
  140:13 151:9
  215:23
  238:24 270:3
worked
  20:22 21:10,
  12 27:16,18
  239:13
worker
  93:2 217:19
workers
  92:11 93:14
  218:2
working
  12:1 16:1
  25:17,18
  26:12,15
  73:25
works
  48:25 130:19
  131:7
world
  13:2,9 81:15
  137:2 143:9
  186:11 242:1
  264:9
worldview
  44:12 64:10
  85:9 87:8
  169:6
worries
  102:25
  271:25
worth
  112:4
write
  12:15 17:20

writing
  195:22
written
  21:19 25:14
  241:10,19
  244:18
wrong
  114:19
  117:20
  191:22
  207:11 257:1
wrote
  32:4 140:13
  143:21
  240:25

Y

Yale
  40:16
yeah
  8:6,23 12:5
  17:22 26:14
  37:19 38:20
  48:1 50:1
  52:8 53:2
  58:11 59:24
  60:15 64:6,
  23 71:3,5
  75:16 78:1,
  7,11,21
  80:20 83:7,
  12 84:4,11,
  12,21 86:19
  88:7 91:8
  95:21 97:2
  100:14
  103:11 107:3
  108:6,22
  109:3 114:15
  115:4 116:18
  124:9 128:20
  130:5 131:19
  132:14 133:3
  135:24
  137:3,5,14
  139:10,14
  140:3,17,24

141:1,14
142:17
144:11,18
145:6,23
146:17 149:4
150:23 154:1
157:6 158:24
159:4 160:14
162:12
164:22
167:4,6
169:10,15
171:19
173:25
180:10,20
183:11
184:25 188:2
189:18 190:6
191:8
194:23,25
198:5,7
202:14
207:20,21
209:24 210:4
211:8 217:6
220:12
226:25
234:22
246:21
247:24
253:22 266:1
269:3,23
277:18
282:19
year
  41:18 243:25
  255:1 256:14
years
  11:21 12:2
  16:1 19:18
  23:24 28:8
  53:10 56:7
  59:19 73:25
  74:6 76:13
  125:21,23
  126:5 127:14
  131:16,18
  144:2 174:5

198:22 224:8
239:17 241:9
yesterday
  8:25 105:15
  106:8 109:23
  131:2
YMCA
  245:15
York
  215:8 238:2
young
  288:16
Youtube
  15:7 135:6
  214:11,14

Z

zoom
  268:25