

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

Case Number 2023CV032577, Courtroom 209

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CERTIFIED STENOGRAPHER'S TRIAL TRANSCRIPT  
TRIAL DAY 4: November 2, 2023

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NORMA ANDERSON, MICHELLE PRIOLA,  
CLAUDINE CMARADA, KRISTA KAHER,  
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.

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The trial in the above-entitled matter commenced  
on Thursday, November 2, 2023, at 8:01 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:  
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1	I N D E X	
2	WITNESSES	PAGE
3	FOR INTERVENOR DONALD J. TRUMP	
4	AMY KREMER	
	Direct Examination by Mr. Blue	13
5	Cross-Examination by Mr. Grimsley	54
	Redirect Examination by Mr. Blue	88
6		
	TOM VAN FLEIN	
7	Direct Examination by Mr. Blue	93
	Cross-Examination by Mr. Sus	102
8	Redirect Examination by Mr. Blue	128
	Recross-Examination by Mr. Sus	130
9	Further Examination by Mr. Blue	132
10	CONGRESSMAN KEN BUCK	
	Direct Examination by Mr. Gessler	184
11	Cross-Examination by Mr. Grimsley	234
	Cross-Examination by Mr. Nicolais	263
12	Cross-Examination By Mr. Nicolais (Cont'd)	341
	Redirect Examination by Mr. Gessler	347
13		
	TOM BJORKLUND	
14	Direct Examination by Mr. Gessler	136
	Direct Examination By Mr. Gessler (Cont'd)	283
15	Cross-Examination By Mr. Sus	321
	Cross-Examination by Mr. Sus (Cont'd)	350
16	Redirect Examination By Mr. Gessler	357
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS	RECEIVED
2	Exhibit 166	357
	Exhibit 1000	146
3	Exhibit 1001	153
	Exhibit 1002	157
4	Exhibit 1003	159
	Exhibit 1004	162
5	Exhibit 1005	164
	Exhibit 1006	165
6	Exhibit 1007	167
	Exhibit 1008	169
7	Exhibit 1009	170
	Exhibit 1010	172
8	Exhibit 1011	175
	Exhibit 1012	178
9	Exhibit 1013	179
	Exhibit 1014	293
10	Exhibit 1015	300
	Exhibit 1016	302
11	Exhibit 1017	305
	Exhibit 1018	305
12	Exhibit 1019	309
	Exhibit 1020	310
13	Exhibit 1022	90
	Exhibit 1023	52
14	Exhibit 1025	25
	Exhibit 1082	101
15		
16		
17		
18		
19		
20		
21		
22		
23		
24	*STENOGRAPHER'S NOTE: All quotations from exhibits are reflected in the manner in which they were read into the record and do not necessarily indicate an exact quote from the documents.	
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1 P R O C E E D I N G S

2 THE COURT: We're on the record  
3 in 2023-CV-32577, Norma Anderson versus Jena  
4 Griswold and Intervenors, Colorado Republican  
5 State Central Committee and Donald J. Trump.

6 May I have entries of appearance.

7 MR. GRIMSLEY: Good morning,  
8 Your Honor. For Petitioners, Sean Grimsley,  
9 Eric Olson, Nikhel Sus, Jason Murray, Martha  
10 Tierney, and Mario Nicolais.

11 MR. BLUE: Good morning,  
12 Your Honor. Geoff Blue on behalf of  
13 Intervenor, Donald J. Trump. With me is  
14 Scott Gessler, Jacob Roth, and Justin North  
15 and Joanne Miller.

16 MS. RASKIN: Good morning,  
17 Your Honor. Jane Raskin on behalf of the  
18 Republican State Central Committee. And with  
19 me are Mick Melito, David Moelker, and Robert  
20 Kitsmiller.

21 THE COURT: Great.

22 MR. KOTLARCZYK: Good morning,  
23 Your Honor. Michael Kotlarczyk from the  
24 Attorney General's Office on behalf of  
25 Respondent Jena Griswold, in her official

1 capacity as Secretary of State. With me at  
2 counsel table is Deputy Secretary of State  
3 Christopher Beall.

4 THE COURT: Okay. Thank you.

5 You're having technical  
6 problems, Mr. Blue?

7 MR. BLUE: Yeah. I have  
8 multiple monitors that I use, and apparently  
9 the computer is trying to put my second  
10 monitor up there. So I need to turn off  
11 that. And I did it so long ago, I don't  
12 remember how I did it, so it's going to take  
13 me a few minutes.

14 THE COURT: Okay.

15 (Pause.)

16 MR. BLUE: All right. I think  
17 we're good, Your Honor.

18 THE COURT: Okay.

19 MR. BLUE: And before we start,  
20 Your Honor, I just want to give you -- we  
21 have three witnesses today. We're going to  
22 start with Ms. Kremer, and we have Tom --  
23 four witnesses today. I'm sorry. Four  
24 witnesses.

25 THE COURT: It just keeps

1           growing.

2                       MR. BLUE:   Yeah.   No.   We have  
3       Ms. Kremer and we have Mr. Van Flein and then  
4       we have Mr. Bjorklund and then  
5       Congressman Buck today.

6                       THE COURT:   Okay.

7                       MR. BLUE:   We actually expect  
8       to be done fairly early in the afternoon:   2  
9       or 3 o'clock.

10                      THE COURT:   Okay.   And then is  
11       the Colorado Republican Party going to be  
12       calling any witnesses?

13                      MS. RASKIN:   Your Honor, we  
14       haven't made an absolute final decision, but  
15       I think it likely we will not.

16                      THE COURT:   Okay.

17                      MR. BLUE:   We have our expert  
18       tomorrow morning, Mr. Delahunty.   He'll be on  
19       first thing tomorrow.

20                      THE COURT:   And will the  
21       Plaintiffs have any -- will the Petitioners  
22       have any rebuttal case?

23                      MR. GRIMSLEY:   We're not sure  
24       yet at this point, Your Honor, but we are  
25       scheduling Mr. Heaphy for 1 o'clock tomorrow

1           afternoon, or thereabouts.

2                       THE COURT:   Okay.  On that, it  
3           sounds like we're going to have time.  
4           I think it might make sense, if people want  
5           to do closings, to do closings on Friday, if  
6           the parties want to.  So why don't we talk  
7           about that after your expert.

8                       MR. BLUE:   Okay.

9                       THE COURT:   Because we previously  
10          talked about doing closings after the fact or  
11          not at all.

12                      MR. BLUE:   We talked about  
13          doing them ten days from now, on Wednesday,  
14          the 15th.

15                      Your Honor, if you remember,  
16          part of the reason for doing the closings  
17          then, though, was to give you your 48 hours.

18                      THE COURT:   Yeah.

19                      MR. BLUE:   And we're not doing  
20          our findings of fact and conclusions of law  
21          until next Wednesday, so you would be way  
22          outside of that.  I think the point of that  
23          was to give you that ability.

24                      THE COURT:   Yeah.  But at the  
25          same time, I thought that the general

1 consensus was that the parties could waive  
2 the 48-hour requirement.

3 So why don't we readdress that  
4 sometime later today. If that's no longer  
5 the parties' position, then I think it would  
6 make sense to do the closings later. But  
7 there's a chance, I guess, theoretically,  
8 I -- well --

9 MR. BLUE: And I'm not the one  
10 doing the closings, so that would be  
11 Mr. Gessler having that conversation.

12 THE COURT: Okay. I'm not  
13 trying to rush people, but just thinking if  
14 we have time reserved and people still have a  
15 view that we can waive the 48-hour  
16 requirement, that it might make everybody  
17 happier just to be done with me for the time.

18 So anyway, is -- it looks --  
19 this "Kremer" or "Kremerer"?

20 MR. BLUE: Kremer. The  
21 Intervenor, Donald J. Trump, calls Amy  
22 Kremer.

23 THE COURT: Okay. Ms. Kremer,  
24 can you hear us?

25 THE WITNESS: Yes, ma'am, I

1 can.

2 THE COURT: Will you raise your  
3 right hand, please.

4 AMY KREMER,  
5 having been first duly sworn to state  
6 the whole truth, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BLUE:

9 Q. Good morning, Ms. Kremer. How  
10 are you doing?

11 A. Good morning. I'm good. How  
12 are you?

13 Q. Doing well. Thank you.  
14 So could you please start with  
15 telling us a bit about your history in  
16 politics.

17 A. Yes. I am -- I started -- I'm  
18 one of the founders of the modern-day  
19 Tea Party back in 2009. I've never been in  
20 politics before. I'm a former flight  
21 attendant. And I got engaged then, and we  
22 came together over Twitter and started the  
23 modern-day Tea Party movement.

24 Tea Party Patriots was actually  
25 founded in my kitchen. And I was with

1       Tea Party Patriots for a while. And then  
2       I left and joined the Tea Party Express and  
3       spent -- I guess I was there until 2014-2015.

4                   And we just -- I mean, honestly,  
5       the Tea Party movement started, you know, we  
6       were opposed to government spending with the  
7       Bush administration. And then Obama got  
8       elected, we were fighting Obamacare.  
9       Government taking over healthcare. And we  
10      just mobilized people across the country.

11               Q.       And then -- so after the  
12      Tea Party -- you worked with the Tea Party.  
13      What did you do next?

14               A.       Then in 2016, I started Women  
15      for Trump. I was one of the earliest  
16      supporters out there, doing press and  
17      rallying the troops for President Trump as a  
18      grassroots activist. And we did that in  
19      2016.

20               Q.       And then after President Trump  
21      was elected, what happened? What did you do  
22      next?

23               A.       So then in 2019, I founded  
24      Women for America First. And that was to  
25      focus on policy and the legislative agenda

1 and pushing the America First agenda.

2 Q. And who runs Women for America  
3 First?

4 A. I do. We have a board.

5 Q. And who else is a part of it?

6 A. Jennifer Hulseley and then Kylie  
7 Jane Kremer.

8 Q. And does Women for America  
9 First have any social media accounts?

10 A. We do.

11 Q. And who runs those?

12 A. There's a number of us that run  
13 them.

14 Q. So different people have access  
15 to those? Is that what you're saying?

16 A. Yes.

17 Q. And did there come a time that  
18 you worked with an organization called Angel  
19 Families?

20 A. Yes. It wasn't the organization,  
21 but in 2019, when President Trump was -- wanted  
22 to declare an emergency and use the funds for a  
23 border wall, and the government was shut down  
24 and everybody was talking about the effect on,  
25 you know, the government workers. They're

1 going to run out of their healthcare,  
2 paychecks, and whatnot.

3 And there are a number of Angel  
4 Families. And Angel Families are families  
5 who lost a family member to an illegal  
6 immigrant.

7 So we gathered the Angel  
8 Families and went to Washington, D.C., to  
9 give President Trump some support. And we  
10 just want the border secure. And so we --

11 Q. All right. I'm sorry. I didn't  
12 want to go that far. I just wanted to finish  
13 up with your -- where you've been in politics  
14 leading up to the election.

15 A. Oh, I'm sorry.

16 Q. No. That's okay.

17 A. Okay.

18 Q. All right. So let's move to  
19 the election of 2020. And can you tell us  
20 kind of what happened and how you started  
21 getting involved after the 2020 election.

22 A. Yeah. So 2020 was a crazy  
23 year, as we all know, from COVID. And so  
24 nothing seemed normal. And then the night of  
25 the election, I think Trump was winning big.

1           And then you go to bed and wake up the next  
2           morning, and it's totally flipped.

3                   And so it was obvious something  
4           was going on. These states stopped counting.  
5           And there were a number of states that  
6           stopped counting. And there was something  
7           going on. And people knew it across the  
8           country.

9                   And so we started -- nobody was  
10          doing anything. The campaign wasn't doing  
11          anything. The RNC wasn't doing anything.  
12          I mean, there was nobody. And so I did what  
13          I do, and that's mobilize people and bring  
14          people together.

15                  And so I came together with a  
16          group of people, a coalition, and we --  
17          people started going to their state and  
18          showing up, standing together, and demanding  
19          election integrity.

20                  Q.          And at that point -- at some  
21          point did you decide that you needed to head  
22          to Washington, D.C.?

23                  A.          Yes. Well, it was obvious that  
24          there was something going on. And so  
25          Washington, D.C. -- you know, people can go

1 to their state capitols, but not everybody  
2 can go to Washington D.C. But a lot of  
3 people wanted to go to Washington, D.C.

4 We could not get a permit for  
5 the Saturday after the election. We couldn't  
6 get one that quick. And so we applied for a  
7 permit for Saturday, November 14th -- so a  
8 week and a half later. And we had a rally  
9 that Saturday.

10 Q. And who was the organizing  
11 force behind that rally on November 14th?

12 A. It was Women for America First.

13 Q. So your organization; right?

14 A. Yes.

15 Q. And what was the plan for that  
16 rally?

17 A. The plan was -- it was pretty  
18 simple. Like I said, we were working with  
19 this coalition. And we wanted everybody  
20 involved and engaged.

21 And so we were going to have a  
22 rally at Freedom Plaza. And then we were  
23 going to march to the Supreme Court and have  
24 a stage there, where we had speakers there.  
25 And that would -- at the end of that program,

1           that was it.

2                       MR. BLUE: Hold on just a  
3           second, Ms. Kremer.

4                       Your Honor, do you want us to  
5           wait until we get a better -- have her  
6           picture up? Or can we just continue?

7                       THE COURT: Oh. You know,  
8           I don't --

9                       MR. BLUE: My assumption is she  
10          has a bandwidth issue on her end, but I don't  
11          know.

12                      THE COURT: It's weird.

13                      (A discussion was had off the  
14          record regarding technology issues.)

15                      THE COURT: Ms. Kremer, for  
16          some reason, the screen that the court  
17          reporter is looking at doesn't have you -- a  
18          picture of you, and so she can't read your  
19          lips, which is part of the whole process.

20                      So we're going to continue, but  
21          if you could talk slowly and articulate, then  
22          we'll see if we can proceed. If she's still  
23          having trouble, we may have to take a break  
24          and figure out what's going on.

25                      THE WITNESS: Okay. Yes,

1           ma'am. Thank you.

2                           MR. BLUE: Oh. Apparently  
3           there was a setting on my computer that  
4           was -- that tells you how technically savvy  
5           I am, or not.

6                           THE COURT: Is there a way  
7           where you could make it so she is the  
8           primary...

9                           (A discussion was had off the  
10          record regarding technology issues.)

11          BY MR. BLUE:

12                   Q.       So, Ms. Kremer, you dropped off  
13          again for some reason, so we'll see what  
14          happens.

15                   A.       I can see y'all fine.

16                   Q.       It's that the court reporter  
17          doesn't see you, is what the issue is. But  
18          we'll work through this.

19                   A.       Okay.

20                   Q.       Okay. So we just talked about  
21          the plan. You said there was a coalition of  
22          people, of groups, involved in the  
23          November 14th rally. Correct?

24                   A.       Correct.

25                   Q.       Can you tell us who was in that

1 coalition?

2 A. There was Brandon Straka, Ali  
3 Alexander, Tea Party Patriots, Moms for  
4 America. I'm trying to think who else.  
5 Scott Presler was involved.

6 Q. So it's fair to say then that  
7 there was a fairly large coalition of groups  
8 and people; right?

9 A. Yes. It was a large coalition.  
10 Eagle Forum was one.

11 Q. And so when you went -- so you  
12 started at Freedom Plaza. Who were your  
13 speakers at Freedom Plaza that day?

14 A. Oh, my gosh. Well, our team,  
15 and then the influencers and coalition that  
16 we -- that we had brought together.

17 So I think it was, like, an  
18 hour-and-a-half program. And you think  
19 you're going to be short on speakers, but we  
20 always have way more.

21 Q. And then after Freedom Plaza,  
22 I think you said that you marched down to the  
23 Supreme Court of the United States. Is that  
24 correct?

25 A. Yes, we did.

1                   Q.       And you had more speakers  
2       there; correct?

3                   A.       Correct.

4                   Q.       Now can you describe the rally  
5       at Freedom Plaza.

6                   A.       Yeah. I mean it was huge. And  
7       people came from everywhere. And these are  
8       patriotic, freedom-loving citizens that  
9       really just dropped everything in their  
10      lives, at a moment's notice, to come to  
11      Washington, D.C., because they felt like the  
12      election had been stolen.

13                               So there's a lot of love there.  
14      Love of God, love of country, love of each  
15      other, and a lot of patriotism. And so it  
16      was very joyful. Singing, dancing, that sort  
17      of thing.

18                  Q.       And was there any violence that  
19      occurred during the rally at Freedom Plaza?

20                  A.       No.

21                  Q.       And so y'all marched down to  
22      the Supreme Court. And can you similarly  
23      describe the crowd as they marched up to the  
24      Supreme Court.

25                  A.       I mean, the crowd was very

1 happy, like I said, and people dancing and  
2 singing and whatnot. And we got to the  
3 Supreme Court, same type of atmosphere.

4 I mean, these are happy people.  
5 They're there because they want to be -- they  
6 want to be there. And they're extremely  
7 happy. And they love this country. So it  
8 was the same atmosphere at the Supreme Court.

9 Q. So it was the same atmosphere  
10 from Freedom Plaza, during the march, and at  
11 the Supreme Court as well; correct?

12 A. I didn't march up there with  
13 the group. I went after the group. So  
14 I can't say what, you know, the -- but, yes,  
15 these are -- when they got there, it was the  
16 same type of atmosphere.

17 Q. Great.

18 THE COURT: I'm sorry. This is  
19 in, like, mid-November?

20 MR. BLUE: November 14th,  
21 Your Honor.

22 And if we could play Exhibit 1025,  
23 please.

24 (Pause.)

25 ///

1 BY MR. BLUE:

2 Q. Ms. Kremer, we're having some  
3 technological difficulties again, so hold  
4 with us.

5 A. It's okay.

6 (Video played.)

7 Q. So, Ms. Kremer, you just saw  
8 that video; correct?

9 A. Yes.

10 Q. Okay. Can you tell us what's  
11 happening there?

12 A. Well, that video is actually  
13 from December 12th, the second rally that we  
14 had. But, I mean, it's the same -- same type  
15 of atmosphere. There were just more people  
16 December 12th. And we didn't have the  
17 flyover.

18 But that, what we were  
19 watching, was Faye Kaegel [phonetic], who was  
20 with Women for America First, singing the  
21 national anthem. And they're singing along,  
22 and all of a sudden here comes Marine One,  
23 the President. And as you saw that, he flew  
24 over twice. And the crowd loved it. They  
25 went nuts.

1                   Q.       And you didn't take that video,  
2       did you?

3                   A.       No.

4                   Q.       But you were there when that  
5       was happening; correct?

6                   A.       Yes. One of my team members  
7       took it.

8                   Q.       And that is a fair -- that's a  
9       fair and accurate representation of what was  
10      occurring at that time; correct?

11                  A.       Yes.

12                   MR. BLUE: Your Honor, I'd like  
13      to move admission of Exhibit 1025.

14                   THE COURT: Any objection?

15                   MR. GRIMSLEY: I question the  
16      relevance of it, but we'll let it in.

17                   THE COURT: 1025 is admitted.

18                   (Exhibit 1025 was received  
19      into evidence.)

20                   THE COURT: But I just want to  
21      make clear: So that was on December 12th; is  
22      that right?

23                   MR. BLUE: Yeah. And we'll  
24      reference back to it when we get to the  
25      December 12th rally, because we'll be talking

1           about that in a few minutes.

2                           THE COURT:   Okay.

3           BY MR. BLUE:

4                   Q.       Now, Ms. Kremer, do you know a  
5           man named Vernon Jones?

6                   A.       I do.

7                   Q.       And can you tell us who he is?

8                   A.       Yes.   He is a politician here  
9           in Georgia who is a Democrat, and then left  
10          the party and became a Republican.   He ran  
11          for governor here in the state of Georgia.  
12          He was in the state legislature before that.

13                  Q.       And did he speak at the rally  
14          at the Supreme Court on November 14th?

15                  A.       Yes, he did.

16                  Q.       And was there anything specific  
17          that he said that you thought was relevant or  
18          notable?

19                           MR. GRIMSLEY:   Your Honor,  
20          objection.

21                           We tried to get in other  
22          speeches from the Ellipse that day, on  
23          January 6th, including from Rudy Giuliani and  
24          John Eastman.   The other side objected  
25          strenuously.   That was far more relevant,

1 I think, to what President Trump was doing,  
2 since he was referencing those two.

3 So we'll object to any  
4 reference to other speeches.

5 THE COURT: Sustained, unless  
6 we want to open up the door to other  
7 speeches.

8 MR. BLUE: Well, what we're  
9 asking to have put in the record would just  
10 go to the state of mind of the crowd and what  
11 was happening in the crowd.

12 MR. GRIMSLEY: As would the  
13 Rudy Giuliani and John Eastman speeches,  
14 Your Honor.

15 THE COURT: Yeah. I think you  
16 can ask her what the state of the mind of the  
17 crowd was without having her repeat what the  
18 speeches said, which is clearly hearsay.

19 And you've objected, and I've  
20 sustained your objections on what other  
21 people said at the January 6th rally.

22 MR. BLUE: Okay. Thank you,  
23 Your Honor.

24 BY MR. BLUE:

25 Q. So, Ms. Kremer, did anything

1 notable happen as the November 14th rally was  
2 wrapping up?

3 A. Well, so we were at the Supreme  
4 Court. And as the speeches were going on,  
5 Congressman Louie Gohmert was there, and he  
6 kept bringing up new members of Congress:  
7 Lauren Boebert, Nancy Kopelmer [phonetic],  
8 and a few others popped up.

9 And it was November, and so the  
10 sun was starting to go down. And the Supreme  
11 Court Police kept saying, "You need to wrap  
12 it up. You need to wrap it up." And he  
13 finally said, "You need to wrap this up  
14 because Antifa is over there at the church,  
15 and we're not going to be able to keep y'all  
16 separated. And you need to get out of here  
17 before dark."

18 And so we wrapped it up because  
19 we wanted people to be safe.

20 MR. GRIMSLEY: Your Honor,  
21 I would move to strike the testimony about  
22 what she was told by an officer. That is  
23 being offered for the truth of the matter  
24 asserted.

25 THE COURT: Sustained.

1 BY MR. BLUE:

2 Q. So, Ms. Kremer, when you -- was  
3 there a specific reason -- without referencing  
4 anybody else, was there a specific reason you  
5 were trying to wrap it up before dark?

6 MR. GRIMSLEY: Same objection,  
7 Your Honor.

8 THE COURT: We'll see if she  
9 can answer without just saying what people  
10 told her.

11 A. We wanted -- I mean, this was  
12 our rally. Our name was on the permit. And  
13 we wanted to know that people were safe. We  
14 didn't want to put our supporters in a  
15 dangerous situation. And we knew there were  
16 agitators, and so we wanted everybody to get  
17 out of there.

18 And that was simply it. It was  
19 to keep our supporters safe.

20 Q. And when you wrapped up, what  
21 happened? Did you go back to your hotel at  
22 that point?

23 A. Yes. People --

24 Q. And did -- go ahead.

25 A. I was going to say, people

1 dispersed and, I mean, I guess went to the  
2 train station, hotel, buses, whatever. We  
3 went back to the hotel.

4 Q. And which hotel were you in?

5 A. We were in The Willard.

6 Q. And did something happen back  
7 at the hotel that night?

8 THE COURT: Okay. I'm just  
9 getting a little bit confused here.

10 Are we talking about  
11 November --

12 MR. BLUE: We're still on  
13 November 14th.

14 THE COURT: Okay. Sorry.

15 MR. BLUE: Yes. Fair enough,  
16 Your Honor.

17 MR. GRIMSLEY: And, Your Honor,  
18 I'd object to the relevance of what happened  
19 back at The Willard hotel on November 14th.  
20 It has nothing to do with Trump or any of the  
21 issues in this case.

22 THE COURT: I have no idea one  
23 way or the other, but I'm going to let her  
24 testify.

25 MR. BLUE: Thank you,

1 Your Honor.

2 BY MR. BLUE:

3 Q. So can you -- Ms. Kremer, I'll  
4 repeat the question.

5 Can you tell us what happened  
6 at The Willard hotel that night?

7 A. Yes. The Willard hotel was  
8 attacked by Antifa and Black Lives Matter.  
9 They were throwing Molotov cocktails into  
10 Cafe du Parc, the cafe/restaurant that is  
11 there in the hotel. And then they shut down  
12 the hotel because then they started shooting  
13 fireworks at the building.

14 So The Willard shut down. And  
15 nobody could go in or out. And so it was  
16 that way for a number of hours, probably  
17 three or four hours.

18 Q. And are you aware of any  
19 violence perpetrated by any of the members --  
20 any of the people who attended the  
21 November 14th rally?

22 A. No, I'm not.

23 Q. So after the November 14th  
24 rally, it's my understanding that y'all did a  
25 bus tour. Is that correct?

1 A. Yes.

2 Q. And what was the name of that  
3 bus tour?

4 A. March for Trump.

5 Q. And where did you go?

6 A. We started out in south  
7 Florida, and we ended up in Washington, D.C.,  
8 on December 12th, for the next rally. We  
9 went to a number of the swing states. I  
10 can't remember the exact route.

11 Q. And who organized that?

12 A. Women for America First. My  
13 team.

14 Q. And was the coalition that was  
15 involved in the November 14th rally, were  
16 they involved in the bus tour?

17 A. So, no, they weren't.

18 Some of them were, and supported  
19 us and came to our events and whatnot. But  
20 that core group of Ali Alexander, that -- we  
21 stopped working with him right after that very  
22 first rally --

23 Q. And why is that?

24 A. -- so he was not -- I'm sorry.

25 Q. I'm sorry. I talked over you.

1 I shouldn't do that. Please finish what you  
2 were saying.

3 A. We stopped working with him  
4 right after that first rally. And he --  
5 I mean, we cut off all communication because  
6 he was out online attacking us and whatnot.

7 So we just went and did our  
8 thing. We went and did what we know to do.  
9 And that is to mobilize people, rally people  
10 across the country. That's what Tea Party is  
11 for us. That's what we did with Tea Party  
12 Express. I don't even know how many bus  
13 tours we did.

14 Q. And over that time, did you  
15 hold rallies in various cities during that  
16 tour?

17 A. Yes, we did. As I said, we  
18 went through a number of those states, and we  
19 held rallies in those states.

20 Q. And can you describe the crowds  
21 at those rallies?

22 A. I mean, it was -- you know,  
23 it's the same type of atmosphere like we just  
24 saw on the Freedom Plaza rally. The people  
25 come there. They're happy. They want to be

1 part of this. And they love their country.  
2 And they love President Trump. And they  
3 really believed that the election was stolen,  
4 so they wanted to have their voice heard.

5 Q. And are you aware of any  
6 violence by any members -- any people who  
7 came to your rallies as supporters during the  
8 bus tour?

9 A. There was nothing perpetrated  
10 by our supporters, but there was -- there  
11 were incidents where we were attacked.

12 Q. And can you give us a few  
13 examples of those?

14 A. Yeah, so --

15 MR. GRIMSLEY: Your Honor, may  
16 I just have a standing objection to the  
17 relevance of attacks on them by other  
18 organizations?

19 MR. BLUE: Your Honor, this is  
20 going to be relevant to kind of how -- first  
21 of all, it's relevant to the crowds and what  
22 the expectation is of the people attending  
23 the rallies. So that's very relevant.

24 And to the security -- any  
25 security concerns were not about the people

1       who were attending the rallies, but the other  
2       people who were counter-protesters.

3                   THE COURT:   Okay.

4                   MR. GRIMSLEY:   I'm not sure it  
5       would be relevant in any event.   But if that  
6       were true with regard to the January 6th  
7       rally, I might see the relevance, but to  
8       rallies predating January 6th, I don't.

9                   THE COURT:   My assumption is  
10      that it's a precursor to what happened on  
11      January 6th and that -- I don't know -- maybe  
12      that's why people brought weapons, so they  
13      could defend themselves.   We'll find out.

14                   But I'm going to let the  
15      Intervenors put their case on.   So you may  
16      have a standing objection.   And I'm going to  
17      let them put their case on.

18                   So it's overruled.

19                   MR. GRIMSLEY:   And I will stop  
20      standing then.

21      BY MR. BLUE:

22                   Q.       All right.   So, Ms. Kremer,  
23      continue, please.

24                   A.       I'm sorry.   I forgot where we  
25      were.

1                   Q.       You had talked about various  
2       attacks on the -- on your supporters -- on  
3       the supporters who were coming to your  
4       rallies, and you were talking about what  
5       those were.

6                   A.       Yeah.   So we did a rally in  
7       Nashville, one of the suburbs outside of  
8       Nashville.   And we had four security guys  
9       with us.   And they would stand -- I mean,  
10      they were doing what they needed to do.

11                               And so there was a guy standing,  
12      like, in the back of the crowd, and one of our  
13      security guys noticed he had a Molotov  
14      cocktail.   And so Greg, our security detail,  
15      I guess tackled him, got the Molotov cocktail  
16      away from him.   And they arrested him.   The  
17      police arrested him.

18                               So he was going to throw that  
19      into the crowd.   That same rally, there was  
20      somebody that ran over Greg's foot, and Greg  
21      maced him.   And then he hit a car, and the  
22      police came and arrested him.

23                               We were in Nashville another  
24      time -- and this was before Christmas -- and  
25      we were doing a can food drive at a shopping

1 center parking lot. And here comes somebody  
2 with a sharpened screwdriver to stab us.  
3 And, again, our security detail handled it.

4 I mean, they tried to run us --  
5 you know, a number of times they tried to run  
6 us off the road, so -- all over the country.  
7 But we had our security detail and a car in  
8 front and back, and so, I mean, we were --  
9 nothing ever happened from that. But those  
10 are the kind of things that happened.

11 Q. Thank you.

12 And, again, did your -- did the  
13 supporters who were at the rallies engage in  
14 any violence?

15 MR. GRIMSLEY: Objection.  
16 Foundation.

17 A. No, not to my knowledge.

18 BY MR. BLUE:

19 Q. Thank you.

20 THE COURT: Overruled.

21 BY MR. BLUE:

22 Q. And so let's move on to  
23 December 12th. December 12th, y'all ended up  
24 in Washington, D.C., again; is that correct?

25 A. That's correct.

1           Q.       And can you just -- and that  
2       was going to be another rally. Can you  
3       describe what the plan was for that rally?

4           A.       It was the same plan as  
5       November 14th, that we got a permit for  
6       Freedom Plaza. We were going to march to the  
7       Supreme Court. We had a stage at the Supreme  
8       Court. Do the same type of program, some of  
9       the same speakers. I think we had new  
10      speakers too. And that was it.

11          Q.       And were any of the former  
12      members of the November 14th coalition who  
13      you had cut ties with, did any of them speak  
14      at the December 12th rally?

15          A.       No, they did not. I mean, I  
16      wanted at that point to keep ourselves away  
17      from the crazies, the agitators, like Ali  
18      Alexander and Alex Jones. And so we had cut  
19      ties. We were having nothing to do with  
20      them. And they were not -- we didn't invite  
21      them to speak.

22          Q.       And what kind of people came to  
23      the December 12th rally?

24          A.       The same type of people that  
25      were there before. Exactly the same. Some

1 of the same people were there. And then, of  
2 course, new people.

3 But again, just freedom-loving  
4 Americans. I mean, people came -- you know,  
5 single people, married people. Sometimes  
6 three generations: the grandparents, the  
7 parents, and the children. I mean, it's a  
8 family-friendly type of atmosphere. And so  
9 it was the same type of people. Joyful  
10 crowd.

11 Q. And did you take any precautions  
12 with your buses in -- on December 12th?

13 A. Yeah, so, I mean, we were  
14 concerned because we knew that Antifa was --  
15 again, they were there. They were trying to  
16 instigate, agitate. And because of what they  
17 did the night of -- we didn't have a bus on  
18 November 14th, and they attacked the hotel.

19 So my concern was that --  
20 December 12th, we had two buses with us. And  
21 these are big buses that are very expensive.  
22 And my concern was that the buses would be  
23 attacked and vandalized.

24 So we actually parked the buses  
25 in Arlington, I believe, so that they would

1           be safe and not right there in the open for  
2           attack.

3                   Q.       Great. Thank you.

4                           And was there any violence at  
5           the rally on December 12th?

6                   A.       No, there was not.

7                   Q.       And we showed a video earlier,  
8           which was Exhibit 1025, that was from that  
9           rally. And that was a good representation of  
10          the crowd during the rally on December 12th?

11                  A.       Yes. That was December 12th.  
12          And it was an amazing day.

13                  Q.       And did anything happen as you  
14          were leaving the rally -- as you were leaving  
15          Washington, D.C., later that week?

16                  A.       Yeah, so we were -- we were  
17          actually going to do -- we were going to take  
18          a big card to Metro PD to say thank you for  
19          your service. And on the way there, the bus  
20          was attacked. Somebody started throwing  
21          burritos at the bus and attacking us.

22                           And so one of our security guys  
23          got out and handled it. And then we were on  
24          our way.

25                  Q.       So I want to jump forward now

1           -- well, let me just -- after December 12th,  
2           you continued the bus tour; isn't that right?

3           A.       Yes. We did continue the bus  
4           tour. We took a break there and traveled to  
5           the West Coast. Some of the team did not go  
6           home, because we're in the middle of  
7           Christmas. So we did a couple of events,  
8           went to the West Coast, took some days off,  
9           and then started off from the West Coast.

10          Q.       And at that point -- at what  
11          point did you decide to head to Washington,  
12          D.C., for January 6th?

13          A.       Well, we had planned, like, in  
14          November, as this was all happening -- even  
15          before, I think, our November 14th rally, you  
16          know, we looked at the dates and said we need  
17          to be in D.C. on these three dates.

18                   I mean the day we were there,  
19          November 14th. And then we picked  
20          December 12th, the Saturday, because we  
21          wanted as many people to come on the weekend  
22          as we could. And I think it was --  
23          December 14th was the day that the states  
24          were going to certify their slate of  
25          electors, and so we picked December 12th.

1           And then January 6th was the day that the  
2           electoral college certification would happen.

3                       So we had decided that --

4           I mean, we knew that this movement -- it was  
5           a movement, and we knew that those were the  
6           three dates. And so that's when it was  
7           decided.

8                       Q.       And who was in charge of organizing  
9           the rally on January 6th, when you first started  
10          planning it?

11                      A.       So when we first started  
12          planning it, it was -- we were going to do  
13          the exact same thing. What we did worked.  
14          And it was two beautiful days, you know, with  
15          great events. And so we were going to do the  
16          same thing: Back at Freedom Plaza; march up  
17          to the Supreme Court; hold an event, you  
18          know, at the Supreme Court, maybe with  
19          speakers, and then wrap it up.

20                      But --

21                      Q.       And so -- I'm sorry. When you  
22          first started planning it, was  
23          President Trump expected to speak?

24                      A.       No.

25                      Q.       And then did there -- let's

1 step back a bit. I'm sorry.

2 So before President Trump  
3 agreed to come speak at the rally, where was  
4 it planned to be held?

5 A. Originally it was going to be  
6 at Freedom Plaza, just like the other two.

7 Q. And then --

8 A. But then --

9 Q. And then at some point there  
10 came a time that President Trump agreed to  
11 speak; isn't that correct?

12 A. Yes. They -- Trump's campaign  
13 reached out and said, "Would you mind moving  
14 your January 6th rally to the Ellipse and  
15 possibly having the President speak?"

16 Well, of course. I mean,  
17 absolutely. But -- and it was a security  
18 thing, you know. And, I mean, I would --  
19 common sense, I mean, that -- Freedom Plaza,  
20 there was no way the Secret Service was going  
21 to let him come there. There are open  
22 buildings and whatnot all around. But  
23 I think it was -- we moved it to the Ellipse  
24 because they could control that environment,  
25 and he was safer there. So we just applied

1 for the permit for the Ellipse.

2 Q. And how did the organization or  
3 the planning for the speech change when it  
4 was -- after President Trump agreed to speak?

5 A. So before I committed to doing  
6 it, I went to my team and said, "Okay. We  
7 have an opportunity. They want to move to  
8 the Ellipse. And it's possible that  
9 President Trump is going to come speak. But  
10 I want everybody to, you know, weigh in on  
11 it."

12 Because if you do something  
13 with the White House, we're probably, you  
14 know -- they're going to take control and  
15 whatnot, and Secret Service. And I just need  
16 to know my team's on board.

17 And they're like, "Absolutely.  
18 Why would we not."

19 And so what happened was,  
20 logistically, it was different because we had  
21 a much bigger stage. The National Park  
22 Service required flooring. And, you know,  
23 then they -- the Secret Service, I guess the  
24 magnetom- -- I can't even say it.

25 Q. Metal detectors?

1           A.       Yeah, the metal detectors.  
2                    So logistically, it was  
3       different, but -- and so what we did was when  
4       Caroline Wren had come to me -- Justin  
5       Caporale, with the Trump campaign, actually  
6       came to me first and asked me to talk to  
7       Caroline about -- Caroline. And I said we  
8       would. And then we agreed to move it to the  
9       Ellipse. We did the permits.

10                   And then all of a sudden,  
11       Caroline is trying to take over our event and  
12       put these wacko speakers up there that we had  
13       already cut out, the Ali Alexanders and Alex  
14       Jones of the world.

15                   And so it was a power struggle.  
16       And Caroline thought it was her event.  
17       I mean, she tried to hijack our event. At  
18       the end of the day, that's what it was.

19           Q.       And let me just stop you and  
20       direct you a little bit more.

21                   THE COURT: And if you could  
22       just try to speak a little bit slower, that  
23       would be great, since the court reporter  
24       can't see you.

25                   THE WITNESS: Okay. Sorry.

1 BY MR. BLUE:

2 Q. So was the -- Ms. Pierson's  
3 testified earlier, so we don't need much  
4 detail, but could you tell us how this  
5 dispute was resolved with Caroline Wren?

6 A. Right. So when she -- Caroline  
7 stepped into a hornet's nest. She had no  
8 idea what she was getting into with all these  
9 different people. And it was just a mess and  
10 people arguing. And so Katrina was brought  
11 in to smooth everything out and try to get  
12 everybody on the same page.

13 And so the morning, actually,  
14 of -- go ahead.

15 Q. And so at some point she  
16 went -- it's your understanding that she went  
17 to the White House to resolve the speaker  
18 issue; correct?

19 A. Right.

20 So we said, you know, "Alex and  
21 Ali are not speaking." And she's insisting,  
22 "Yes, they are."

23 And so what we did is Katrina  
24 combined -- because they had one list and we  
25 had one list. And Katrina combined the list.

1           And she went and met with the President, with  
2           the list.

3                   Q.       Thank you.

4                           And when you're talking about  
5           "Katrina," you're meaning Katrina Pierson;  
6           right?

7                   A.       Yes, Katrina Pierson.

8                   Q.       And what happened -- we don't  
9           need to go into too much detail, but what is  
10          your understanding of what happened at the  
11          White House with regard to the list?

12                           MR. GRIMSLEY:  Objection.  
13          Hearsay.

14                           THE COURT:  Sustained.

15                           MR. BLUE:  Okay.

16          BY MR. BLUE:

17                   Q.       So did you go to the speech --  
18          let's talk about the speech and the rally on  
19          January 6th.  Were you there?

20                   A.       Yes, I was.

21                   Q.       Could you describe what it was  
22          like?

23                   A.       It was cold as hell, number  
24          one.  But it was the same type of atmosphere.  
25          You know, people had come from all over the

1 country. And they were concerned because  
2 they believed the election had been stolen.

3 And, I mean, same type of  
4 thing. You know, it was very, very  
5 uplifting, patriotic, and just full of love.  
6 I mean, happy people dancing and just waiting  
7 to see their President.

8 Q. And what kind of people were  
9 there?

10 Were there individuals?  
11 Families?

12 What kind of people were at  
13 this event?

14 A. I mean, I would say -- I mean,  
15 all -- you know, many types of people. We  
16 had elderly people there. We had blue collar  
17 workers there. We had professionals there.  
18 There were donors there. It was, you know,  
19 just a wide variety of people that were  
20 there.

21 Q. And were you there for  
22 President Trump's speech?

23 A. Yes.

24 Q. And can you describe the  
25 reaction of the crowd while he was speaking?

1           A.       Well, these people love  
2       President Trump, and so they couldn't wait to  
3       see him. And, I mean, they're cheering for  
4       him. And, you know, when he does these  
5       speeches, he plays off the crowd. And  
6       they're very reactive.

7                   And so it was the same type of  
8       thing. It's the same type of thing that you  
9       would see at a Trump rally.

10          Q.       And were you seeing any anger  
11       in the crowd?

12          A.       No. No. I mean, no, not at  
13       all.

14          Q.       And as you were listening to  
15       President Trump, did you get -- did you get  
16       the feeling that he was telling people to  
17       storm the Capitol?

18          A.       Absolutely not. Absolutely  
19       not.

20          Q.       And when he talked about  
21       fighting, what was your understanding of what  
22       he meant?

23                   Was he looking for physical  
24       fighting or was he looking for political?

25          A.       No. He was, like --

1           metaphorically. You know, political. I  
2           mean, we say "Fight like hell" all the time  
3           or, you know, "Never back down," "Continue to  
4           fight." I mean, that is not physical  
5           fighting. That's metaphorical.

6           Q.       And so as President Trump was  
7           making his speech -- I want to kind of do  
8           this again -- and making the statements about  
9           fighting, how was the crowd reacting to that?

10          A.       I mean, I can't remember  
11          specifically, but I'm sure they -- cheering  
12          him on; you know, agreeing with him and  
13          encouraging him, that sort of thing.

14          Q.       And then after President Trump  
15          finished speaking, what was the emotion of  
16          the crowd that you could see?

17          A.       I mean, people were happy.  
18          They came there, you know -- the President  
19          was there. They came there to see their  
20          President. Many people never have been to  
21          Washington, D.C., so it was like a highlight  
22          of their life. And people were just happy  
23          that -- the whole event, it was a fantastic  
24          event, and lots of love.

25          Q.       Okay. We're going to play a

1           few videos for you here.

2                           MR. BLUE:   Could you pull up  
3           1023, please.

4                           (Video played.)

5           BY MR. BLUE:

6                   Q.       So Ms. Pierson [sic], have you  
7           seen that video before?

8                   A.       Ms. Kremer.

9                   Q.       I'm sorry.   Ms. Kremer.   I  
10          apologize.

11                          Have you seen that video  
12          before?

13                   A.       Yes, I have seen that video.

14                   Q.       And do you know who took that  
15          video?

16                   A.       One of my colleagues.

17                   Q.       And were you there?

18                          Did you see that scene, with  
19          the "YMCA" playing?

20                   A.       I wasn't right there when the  
21          video -- where they took that video, but yes,  
22          I was there at the Ellipse.   That was after  
23          it was over and people were leaving.

24                   Q.       And was that an accurate  
25          representation of the mood of the crowd as

1           they were leaving?

2                   A.       Yes.   Absolutely.   Very happy.

3                           MR. BLUE:   I'd move to admit

4       Exhibit 1023.

5                           MR. GRIMSLEY:   No objection.

6                           THE COURT:   1023 is admitted.

7                           (Exhibit 1023 was received  
8                   into evidence.)

9                           THE COURT:   I think we've  
10       lost --

11                           MR. BLUE:   She's back.

12                           Can we do 1022 now.

13                           (Video played.)

14       BY MR. BLUE:

15                   Q.       So, Ms. Kremer -- we had to  
16       turn the volume off on one of the computers  
17       so we didn't get the echo.

18                           That is -- that's another video  
19       of the people leaving the rally on  
20       January 6th; isn't that correct?

21                   A.       I didn't see another video.   It  
22       didn't come up on my screen.   I'm sorry.

23                   Q.       All right.

24                           THE COURT:   I saw it.   And I  
25       will take judicial notice that was a video of

1 January 6th.

2 MR. BLUE: So we don't want to  
3 play it again.

4 MR. GRIMSLEY: If you could  
5 play it again, that would be great, so she  
6 can see it.

7 MR. BLUE: You want to see it?  
8 All right.

9 THE COURT: So I'm just wondering  
10 -- and I don't profess to be technical at all,  
11 but it seems like it works better when -- on  
12 Joanna's computer than yours. Is there any way  
13 to just have --

14 MR. BLUE: It actually is on  
15 her computer, and it's being cast into the  
16 WebEx from her computer.

17 (A discussion was had off the  
18 record regarding technology issues.)

19 MR. BLUE: We just won't enter  
20 that exhibit. We have the other video that  
21 you saw. We don't need this video. They're  
22 basically the same, so...

23 THE COURT: I was just  
24 thinking, moving forward --

25 MR. BLUE: Well, I don't have

1           any more exhibits, so this solves the  
2           problem, by dropping that exhibit.

3                       MR. GRIMSLEY:   What was that  
4           exhibit number?

5                       MR. BLUE:    1022.

6           BY MR. BLUE:

7                       Q.       Ms. Kremer, just to finish up  
8           here.  It was -- can you again describe the  
9           mood of the crowd as they left the Ellipse on  
10          January 6, please.

11                      A.       People were happy.  They -- I  
12          mean, it was a fantastic event.  They got to  
13          hear their President.  And they love him.  
14          And so it was just a happy, joyful occasion.  
15          And you could see it on people's faces.

16                      Q.       Great. Thank you very much.

17                      MR. BLUE:   I have no more  
18          questions, Your Honor.

19                      THE COURT:   Cross-examination?

20                      MR. GRIMSLEY:  Yes, Your Honor.  
21          Briefly.

22                      CROSS-EXAMINATION

23          BY MR. GRIMSLEY:

24                      Q.       Good morning, Ms. Kremer.

25                      A.       Good morning.

1 Q. Is it still morning for you?

2 A. Yeah, for another hour.

3 Q. At the Ellipse, for the speech,  
4 you were actually standing at the stage;  
5 right?

6 A. Right. I was standing off to  
7 the right of the stage.

8 Q. And it was pretty cold.

9 A. Very cold.

10 Q. And you wanted to get out of  
11 there, basically, once the speech was done.

12 A. Yes.

13 Q. And you did get out of there  
14 once the speech was done. You went back to  
15 the hotel, The Willard?

16 A. Yes. But I was one of the last  
17 ones there.

18 Q. But you didn't march to the  
19 Capitol or go along with the people who were  
20 marching to the Capitol in that Exhibit 1022  
21 that we, in this courtroom, saw. But you did  
22 not?

23 A. No, I did not march to the  
24 Capitol.

25 Q. I'd like to show you

1 Exhibit 165, starting at 1:43 in the video,  
2 and see if you saw this.

3 (Video played.)

4 Q. Now, Ms. Kremer, were you able  
5 to hear what they were saying there?

6 A. I've never seen that video  
7 before. And when you're asking me what and  
8 who was saying, the people that were holding  
9 the camera or the crowd?

10 Q. The people holding the camera,  
11 the people in the crowd around them. Have  
12 you seen that video before?

13 A. I have not seen that video  
14 before.

15 Q. That video is from the Ellipse  
16 during the speech; correct?

17 A. If you say so.

18 Q. Now you were standing on the  
19 side of the stage, so you weren't out beyond  
20 where the magnetometers were, were you?

21 A. No, I was not.

22 Q. And you didn't have good  
23 visibility into who was out there beyond the  
24 magnetometers, did you?

25 A. At that time, no. But when

1 I spoke on the stage, I could see it was a  
2 sea of people and American flags and Trump  
3 flags as far as I could see. But did I see  
4 their faces? No.

5 Q. And there were people -- well,  
6 you recall the setup. There was some people  
7 inside the magnetometers and some people  
8 outside the magnetometers that didn't come  
9 in?

10 A. Yes. That's correct.

11 Q. And from your vantage point,  
12 you couldn't tell whether those individuals  
13 outside the magnetometers were armed?

14 A. No.

15 Q. You had talked about some  
16 wackos, I think you referred to them. Alex  
17 Jones and Ali Alexander?

18 A. Yes.

19 Q. And why do you call them  
20 "wackos"?

21 A. I mean, they just -- you know,  
22 Ali -- they're flamethrowers; you know,  
23 bombastic bomb throwers -- and I mean  
24 metaphorically -- and agitators. They want  
25 to get everybody riled up.

1 And so I'm not like that.

2 I don't like that. And I just didn't want  
3 them to be part of it.

4 Q. You do know that even if they  
5 didn't speak that day, both of them  
6 encouraged their supporters to come to the  
7 Ellipse speech on January 6th.

8 A. Okay. I mean, I assume they  
9 did. But they were also trying to undercut  
10 all of our efforts, so -- holding events at  
11 the same time in another location. And so,  
12 I mean, I don't know what they were doing.

13 Q. And you have no idea whether  
14 and to what extent their supporters were  
15 standing outside the magnetometers and were  
16 armed, do you?

17 A. No.

18 Q. And you have no idea whether  
19 President Trump had been in communication  
20 with Ali Alexander or Alex Jones prior to the  
21 Ellipse speech, do you?

22 A. No, I don't. But I know that  
23 he chose for them not to speak on the stage  
24 that day.

25 Q. Well, he had originally wanted

1           them to, but then there was a reconciliation  
2           and the decision was made that they wouldn't  
3           speak, but --

4                   A.       I don't think he wanted --

5                           MR. BLUE:   Hold on just a  
6           second, Ms. Kremer.

7                           Go ahead.   Finish your  
8           question, and then I will do my objection.

9           BY MR. GRIMSLEY:

10                   Q.       Somebody wanted them to speak  
11           that day, and there was a reconciliation at  
12           some point; right?  There was a decision made  
13           that they wouldn't speak?

14                           MR. BLUE:   So, Your Honor,  
15           I just want to make sure that the question is  
16           not that President Trump wanted them speak,  
17           but that somebody did.

18                           Is that correct?

19           BY MR. GRIMSLEY:

20                   Q.       Somebody, to your knowledge,  
21           did.  Maybe you don't know who.  Correct?

22                   A.       Caroline Wren wanted them to  
23           speak.  She was working with them.  It was  
24           Caroline Wren.  And when Katrina merged the  
25           list and went to the President, he said no.

1           Q.     All right.  You're familiar  
2     with a group called the Proud Boys?

3           A.     I am now.

4           Q.     The Oath Keepers?

5           A.     I am now.

6           Q.     The Three Percenters?

7           A.     I am now.

8           Q.     You don't know whether and to  
9     what extent any individuals from those groups  
10    were present at the Ellipse that day, do you?

11          A.     I have no idea.

12          Q.     And they could have been  
13    standing outside the magnetometers, armed and  
14    ready to go to the Capitol; right?

15          A.     I mean, I guess they could  
16    have.

17          Q.     I'd like to play Exhibit 1022,  
18    which was the exhibit that counsel, during  
19    direct, attempted to play.  Hopefully you can  
20    see it this time.  And I want you to listen  
21    around 20 seconds in, what you can hear some  
22    people say.

23          A.     Okay.

24                    (Video played.)

25          Q.     Did you hear the person yell

1 "1776" and then "whoop"?

2 A. Yes.

3 Q. Now, you weren't there marching  
4 the Capitol. You were going back to The  
5 Willard or already back at The Willard at  
6 that point?

7 A. Yes, I went back to The  
8 Willard.

9 Q. So you don't know what that  
10 person meant when that person says "1776  
11 whoop," and while somebody is carrying a  
12 Don't Tread on Me flag?

13 A. No.

14 Q. Now you had said that individuals  
15 at these rallies were patriotic, freedom-loving  
16 citizens. And I think you may have referred to  
17 them in one of your Tweets as happy warriors.

18 I'd like to show you Exhibit P-94,  
19 a clip from that.

20 MR. GRIMSLEY: P-94-A, please.

21 (Video played.)

22 BY MR. GRIMSLEY:

23 Q. Were the individuals attacking  
24 the police officers in that video patriotic,  
25 freedom-loving citizens and happy warriors?

1           A.       I would say those that were  
2       doing that, no.

3           Q.       Okay.

4                   MR. GRIMSLEY:  Let's play 94-B,  
5       please.

6                   (Video played.)

7       BY MR. GRIMSLEY:

8           Q.       Were the individuals you saw  
9       there attacking the Capitol and chanting  
10       "Hang Mike Pence" patriotic, freedom-loving  
11       citizens and happy warriors?

12          A.       I would say no, they weren't.  
13       But, I mean, I can't speak to who was there  
14       and what everybody was doing.  I mean, it's  
15       the first time I've seen that video.

16          Q.       You were at The Willard at that  
17       time, huh?

18          A.       Yes.

19                   MR. GRIMSLEY:  Let's play 94-C,  
20       please.

21                   (Video played.)

22       BY MR. GRIMSLEY:

23          Q.       Ms. Kremer, the individuals you  
24       saw in that video, were those patriotic,  
25       freedom-loving citizens and happy warriors?

1           A.       I can't speak to everyone in  
2       that crowd, but the people that were -- that  
3       breached the Capitol, no, they were not happy  
4       warriors.

5           Q.       And they were not patriotic,  
6       freedom-loving citizens either, were they?

7           A.       No.

8           Q.       And that's true of everybody  
9       who breached the Capitol; correct?

10          A.       What's the definition of a  
11       "breach"?

12                   Because people went into the  
13       Capitol, and they were invited in. The doors  
14       were open, and they were invited in.

15          Q.       Did it look like, in that video  
16       that you just saw, P-94-C, that any of those  
17       individuals had been "invited in"?

18          A.       No.

19          Q.       So all of those people you just  
20       saw in P-94-C, you would agree are not  
21       patriotic, freedom-loving citizens or happy  
22       warriors?

23                   MR. BLUE: Objection,  
24       Your Honor. Calls for speculation.

25                   MR. GRIMSLEY: She was asked

1       many questions about the mood of the crowd  
2       and who was there and grandmas and grandpas  
3       and --

4                   THE COURT:  Overruled.

5                   MR. BLUE:  Your Honor, if I  
6       just may, just to make a record on that in  
7       response, please.

8                   She was -- she has made very  
9       clear that she was at The Willard when these  
10      videos were taken and not there when those  
11      videos were taken; whereas, when -- the  
12      previous questions were about a rally and  
13      other rallies that she was actually present  
14      at.

15                  THE COURT:  Overruled.  She can  
16      answer.  If she's not able to answer, then  
17      she won't.

18      BY MR. GRIMSLEY:

19                  Q.       So you were back at The  
20      Willard.  You were watching this on TV.  Not  
21      these videos in particular, but you were  
22      watching on TV what was happening at the  
23      Capitol, weren't you?

24                  A.       I mean, we had the TVs on, and  
25      they started covering it on the news.  And,

1 I mean, I wasn't sitting there glued to the  
2 TV because we didn't -- we didn't know what  
3 all was going on and how bad it was. And  
4 then when they started reporting on that,  
5 yes, we were watching.

6 Q. And you were pretty much glued  
7 to the TV once they started reporting on it;  
8 right?

9 A. I mean, I was sitting in a room  
10 with a TV, but there were people coming in  
11 and out. I mean, our entire team were there.  
12 You know, we ordered food. So I wouldn't say  
13 I was glued to the TV, no.

14 Q. But to be honest, you were  
15 aghast at what you saw happening at the  
16 Capitol, weren't you?

17 A. Yes, I was.

18 Q. It was an awful, awful attack  
19 on the seat of our democracy.

20 A. Yes.

21 Q. And you saw in that last set of  
22 videos that at 2:24, President Trump sent out  
23 a Tweet referring to Mike Pence.

24 Did you see that in the video?

25 A. Yes.

1           Q.       And you heard the individual  
2       who you've acknowledged is not a patriotic,  
3       freedom-loving citizen reading that Tweet  
4       over a bullhorn to the crowd?

5           A.       Well, I didn't see him read --  
6       speaking through a bullhorn. I mean, I don't  
7       know if that -- if it was added to it. I  
8       wasn't there. I didn't see it. But somebody  
9       was saying that.

10          Q.       And the individual over the  
11       bullhorn, at least from what it looked like  
12       on the video, if it wasn't doctored, was  
13       reading off Vice President Pence --  
14       President Trump's Tweet about  
15       Vice President Pence.

16                   MR. BLUE: Objection. Calls  
17       for speculation.

18                   THE COURT: Sustained.

19       BY MR. GRIMSLEY:

20          Q.       And because you were at The  
21       Willard, you had absolutely no idea how the  
22       crowd reacted to hearing or reading  
23       President Trump's 2:24 p.m. Tweet about  
24       Vice President Pence?

25          A.       No. I mean, I wasn't there, so

1 I didn't -- I couldn't speak to that.

2 Q. You have to agree that if  
3 somebody sent a Tweet like that, as President  
4 of the United States, at 2:24 p.m., knowing  
5 that the Capitol was under attack, that's a  
6 despicable thing to do.

7 MR. BLUE: Objection,  
8 Your Honor. Argumentative.

9 MR. GRIMSLEY: They went into  
10 President Trump's intent.

11 THE COURT: Overruled.

12 A. I can't speak to what the  
13 President did.

14 BY MR. GRIMSLEY:

15 Q. But you would agree that it's a  
16 despicable thing to do, to send out a Tweet  
17 like that if you know the Capitol is under  
18 attack and Vice President Pence is in the  
19 Capitol building.

20 A. Can I see the Tweet again,  
21 please?

22 Q. Yes. It will just take a  
23 minute to pull it up.

24 A. I'm sorry.

25 Q. No. That's perfectly fine.

1 MR. GRIMSLEY: Pull up P-94-B,  
2 and just pause it.

3 MR. BLUE: Excuse me. She  
4 asked to see the Tweet.

5 MR. GRIMSLEY: 49-B has the  
6 Tweet on it.

7 MR. BLUE: Oh, okay. I thought  
8 you were just going to do a video. Sorry.

9 MR. GRIMSLEY: No.

10 BY MR. GRIMSLEY:

11 Q. So there's the Tweet,  
12 Ms. Kremer.

13 A. Okay.

14 Q. And you agree that if you knew  
15 the Capitol was under attack at 2:24 p.m., as  
16 the Commander in Chief -- and you also knew  
17 that Vice President Pence was in the Capitol  
18 -- that this is a despicable Tweet to send  
19 out.

20 A. Well, I don't know when the  
21 President learned about what was going on at  
22 the Capitol, number one. And I don't know if  
23 he knew that Pence was there or not.

24 He was stating what he believed  
25 -- I mean, those were his beliefs. Those were

1 his beliefs, and he stated it. You may not  
2 like it, but that's what he put out.

3 Q. Now, you personally -- we've  
4 already said this -- believe that the attack  
5 on the Capitol that day was a horrifying  
6 event. Right?

7 A. Yes.

8 MR. GRIMSLEY: And if you could  
9 pull up P-267, please.

10 BY MR. GRIMSLEY:

11 Q. And this is a Tweet, I think,  
12 from you on January 6th at 6:24 p.m.

13 A. Right.

14 Q. And you say, "I think today  
15 signified the end of the Republican Party."

16 A. Right.

17 Q. And you have a photo of the  
18 crowd basically heading into the Capitol;  
19 right?

20 A. I have a photo with a sea of  
21 people. I don't know that they were heading  
22 into the Capitol, but there was a sea of  
23 people.

24 Q. Why did you say, "Today  
25 signified the end of the Republican Party"?

1           A.       Because actually that day --  
2       the RNC had done nothing through this entire  
3       time, the two months, eight weeks, whatever  
4       it was. The RNC had done nothing. They had  
5       not reached out to us for support. They had,  
6       you know, not come to speak at our rallies --  
7       absolutely nothing -- but yet they were  
8       fund-raising off of election integrity.

9                   And then that day, which was a  
10      big day, Ronna McDaniel -- no one was there  
11      from the RNC. They were on Amelia Island at  
12      the Ritz Carlton for their winter retreat.

13                  So people already are mad at  
14      the Republican Party. And I said, "You know,  
15      I think today signified the end of the  
16      Republican Party."

17           Q.       So your view is it was a bad  
18      day for the Republican Party not because  
19      there was an attack on the Capitol, but  
20      because the RNC wasn't there?

21           A.       I think there are two different  
22      things. I mean, I can think -- I can think  
23      that it was a horrible attack on the Capitol,  
24      and the RNC has nothing to do with that.

25           Q.       Now, you, to this day, believe

1           that anyone who thinks there was an  
2           insurrection on January 6th is an idiot.

3           A.       There was no insurrection.

4                   MR. GRIMSLEY: Pull up P-273,  
5           please.

6           BY MR. GRIMSLEY:

7           Q.       And is this a Tweet from you on  
8           January 1st, 2022?

9           A.       Yes.

10          Q.       It's a jitter. I didn't even  
11         know that was a thing, so I apologize.

12          A.       Yes.

13          Q.       And you say, "There was no  
14         insurrection on January 6th. And if you  
15         think there was, you're an idiot. The  
16         'insurrection narrative' is nothing more than  
17         psychological warfare being perpetrated on  
18         the American people by the Deep State to  
19         distract from the coup that happened on  
20         November 4th, 2020."

21                   Did you write that?

22          A.       I did write that.

23          Q.       So your view is there was no  
24         insurrection on January 6th, but there was a  
25         coup on November 4th, 2020, because

1 President Trump was not elected President.

2 A. There was no insurrection on  
3 January 6th. There was a riot on  
4 January 6th. There was no insurrection.

5 Q. Okay. You weren't there?

6 A. Excuse me?

7 Q. You were not at the Capitol  
8 that day?

9 A. No.

10 Q. What about the coup on  
11 November 4th, 2020? What are you talking  
12 about there?

13 A. I was talking about,  
14 metaphorically, they stole an election. So  
15 metaphorically, they were taking out a  
16 sitting President.

17 Q. Who stole the election,  
18 exactly?

19 A. We don't know who stole the  
20 election. I mean, it happened in a number of  
21 states. And we don't know.

22 Q. Shadowy figures?

23 A. I can't speak to that. We  
24 don't know.

25 Q. Do you know how they stole the

1 election?

2 A. I mean, there were a number of  
3 things that happened with the election that  
4 were inconsistent. Officials breaking the  
5 laws. And it would be -- you know, different  
6 states have different laws. Different things  
7 happened in different states.

8 So you would have to speak  
9 specifically to that state. And I'm not an  
10 expert on these state laws.

11 MR. BLUE: Excuse me,  
12 Your Honor. I have to object. We're getting  
13 way beyond the direct examination now.

14 MR. GRIMSLEY: This is bias.

15 THE COURT: Yeah, this goes to  
16 credibility.

17 MR. GRIMSLEY: Absolutely.

18 THE COURT: He can continue.

19 BY MR. GRIMSLEY:

20 Q. You're not an expert on state  
21 laws, but courts are; right?

22 A. I would hope so.

23 MR. GRIMSLEY: Pull up  
24 Finding 164 in Plaintiffs' Exhibit 78. So  
25 78.51.

1 BY MR. GRIMSLEY:

2 Q. Do you see a set of findings  
3 there?

4 A. I do. I can't read them.

5 MR. GRIMSLEY: If you could  
6 blow up Finding 164, please.

7 MR. BLUE: Your Honor, again,  
8 this is way beyond the direct. And she was  
9 talking about -- basically her testimony  
10 today was talking about the people that were  
11 coming to the rallies and what she was  
12 seeing.

13 We are now getting into all  
14 sorts of other areas. And I know you said  
15 this is credibility, but I'm not sure how --

16 THE COURT: Well, she testified  
17 at the beginning of her testimony that the  
18 reason that they were having all the rallies  
19 was because the election had been stolen. So  
20 it's not actually beyond the scope of the  
21 direct.

22 Plus, I gave you free reign to  
23 ask her about anything you wanted, and he can  
24 probe into that both for bias and to show  
25 prejudice and credibility.

1 MR. BLUE: Thank you,  
2 Your Honor.

3 MR. GRIMSLEY: Your Honor,  
4 sorry. I'm going to march over to this table  
5 to ask this question because, for some  
6 reason, it's not showing up on my screen.

7 BY MR. GRIMSLEY:

8 Q. You see Finding 164? And this  
9 is from the January 6th Committee.

10 A. Yes.

11 Q. Its final report.

12 It says, "In total, the Trump  
13 campaign and allies of President Trump filed  
14 62 separate lawsuits between November 4,  
15 2020, and January 6, 2021, calling into  
16 question or seeking to overturn the election  
17 results. Out of 62 cases, only one case  
18 resulted in a victory for President Trump or  
19 his allies, which affected relatively few  
20 votes, did not vindicate any underlying  
21 claims of fraud, and would not have changed  
22 the outcome in Pennsylvania. 30 of the cases  
23 were dismissed by a judge after hearing on  
24 the merits.

25 "In every state in which claims

1        were brought, one or more judges specifically  
2        explained as part of their dismissal orders  
3        that they had evaluated the plaintiffs'  
4        allegations or supposed proof of widespread  
5        election fraud or other irregularities and  
6        found the claims to be entirely  
7        unconvincing."

8                    You have no basis for disputing  
9        that finding, do you, ma'am?

10            A.        I'm not a lawyer. I don't play  
11        one on TV.

12                    But I will say that a number of  
13        cases were thrown out on technicalities, and  
14        they never got to the evidence part of the  
15        hearing or they weren't heard. Here in  
16        Georgia, there was a lawsuit filed. And when  
17        it was finally put on the calendar, it was  
18        too late. So it was irrelevant.

19            Q.        How many of the 62 cases  
20        referred to in Finding 164 were thrown out on  
21        technicalities?

22            A.        I don't know.

23            Q.        And do you understand that all  
24        of these 62 cases had been decided prior to  
25        January 6th?

1                   A.       If you say so.

2                               But, again, the Georgia case,  
3       it wasn't even heard.  So...

4                   Q.       There were Georgia cases that  
5       were heard, though, weren't there?

6                   A.       Excuse me?

7                   Q.       There were cases in Georgia  
8       that were heard, weren't there?

9                   A.       I'm not sure, but I know the  
10      main case was not heard.

11                               MR. GRIMSLEY:  Pull up  
12      Plaintiffs' Exhibit 271, please.

13      BY MR. GRIMSLEY:

14                   Q.       And do you see this is a Tweet  
15      that you sent out just last week?

16                   A.       Yes.

17                   Q.       In fact, I think it would have  
18      been Saturday.  So less than a week ago;  
19      right?

20                   A.       Yeah.  Yeah, it was right after  
21      Pence dropped out of the presidential race.

22                   Q.       And you say, "Question on  
23      Pence.  Do you think he was in on the coup to  
24      remove President Trump?"

25                               You wrote that; right?

1                   A.       I did write that.

2                   Q.       You can't possibly believe  
3       that's true.

4                   A.       I don't think Pence was ever on  
5       Team Trump. You can go back to 2018, and  
6       I was in the media raising hell because  
7       Vice President -- all this Russia collusion  
8       story was going on, and he wasn't defending  
9       the President. He was part of the campaign,  
10      and he wasn't defending him. And I was on  
11      CNN saying, "Where in the hell is the  
12      Vice President?"

13                               So I don't know what Pence was  
14      doing. I have no idea. But on January 6th,  
15      we didn't want to overturn an election or  
16      overthrow the government. All we wanted was  
17      for the evidence to be laid out and heard,  
18      where they could test it.

19                               And what we were asking for  
20      Mike Pence to do was to delay for ten days so  
21      that the states could get their stuff  
22      together and then, you know, have the  
23      certification. Just a delay. And he chose  
24      not to do that.

25                   Q.       Well, do you know whether he,

1 in fact, had constitutional authority to do  
2 such a thing?

3 A. I believe he did.

4 MR. GRIMSLEY: If you could,  
5 please pull up --

6 A. And that's why they --

7 MR. GRIMSLEY: -- Plaintiffs'  
8 252.

9 THE COURT: I'm sorry,  
10 Ms. Kremer. Were you finished with your  
11 answer?

12 BY MR. GRIMSLEY:

13 Q. And I apologize if you were  
14 not.

15 A. No. Go ahead.

16 THE COURT: Okay.

17 BY MR. GRIMSLEY:

18 Q. This is Plaintiffs' 252. This  
19 is a Tweet from you, re-Tweeting something  
20 from President Trump, on January 5th, 2021.

21 And the Donald J. Trump Tweet  
22 says, "The Vice President has the power to  
23 reject fraudulently chosen electors." And  
24 then you re-Tweet, "Just do the right thing  
25 @VP."

1           A.       Right.

2           Q.       Your basis for believing that  
3       President -- or Vice President Pence had the  
4       power to reject fraudulently chosen electors  
5       was because Donald Trump told you that.

6                   MR. BLUE:  Objection.  
7       Misstates the exhibit.

8                   THE COURT:  She can answer.  
9       Overruled.

10          A.       We just wanted Pence -- what we  
11       were asking for is to delay it for ten days  
12       to give the states the time to get stuff  
13       together, and then at the certification, lay  
14       all the evidence out there.

15                   If the evidence was there and  
16       it couldn't, you know, be certified, then you  
17       proceed from there.

18       BY MR. GRIMSLEY:

19          Q.       No, I understand that's what  
20       you're saying, ma'am.  I'm asking about why  
21       you had the belief that that was within  
22       Vice President Pence's authority to do that.

23                   And I'm pointing you to this  
24       Tweet, Plaintiffs' 252.  And you have  
25       Donald J. Trump on January 5, 2021, saying,

1 "The Vice President has the power to reject  
2 fraudulently chosen electors." And then you  
3 re-Tweet that. Correct?

4 A. I did re-Tweet that, yes.

5 Q. And you're not a lawyer.

6 The reason you believe that  
7 Vice President Pence had the ability to  
8 reject fraudulently chosen electors was  
9 because President Trump told you that.

10 A. No, President Trump didn't tell  
11 me that. And I don't have the U.S.  
12 Constitution in front of me, but I believe  
13 that he had the authority to delay the  
14 electoral -- to delay the certification.

15 Q. You did your own constitutional  
16 analysis?

17 A. I didn't do my own constitutional  
18 analysis. But I read and discussed a number of  
19 things with people. And that is why, in the  
20 dark of night, with a big omnibus bill, they  
21 changed the law so that this wouldn't happen  
22 again.

23 Q. They changed the law to make  
24 clear that the Vice President did not have  
25 the ability to do what you're suggesting.

1           A.       So you're saying that he didn't  
2       have the ability to delay for ten days?

3           Q.       Let's move on.

4                    When you heard the next day, or  
5       after that, that attackers at the Capitol  
6       were chanting "Hang Mike Pence," did you  
7       regret having sent the Tweet that is  
8       Plaintiffs' 252?

9           A.       No.

10          Q.       Now you've said that, I think  
11       in your interview before the January 6th  
12       Committee, that you didn't like, personally  
13       at least, to use language like "Freedom or  
14       death," that type of kind of inflammatory  
15       language that you attributed to people like  
16       Ali Alexander.

17          A.       Did I say that?

18          Q.       Do you remember testifying  
19       about that?

20          A.       Can you show me where I testified  
21       about that?

22                   MR. GRIMSLEY:  Could you go to  
23       page P-241, page -- I'm sorry --  
24       Exhibit Plaintiffs' 241, page 27.

25       ///

1 BY MR. GRIMSLEY:

2 Q. So this is a bit of a long --  
3 if you could go -- starting at line 12. And  
4 we don't have to read it out loud. I'll let  
5 you read that. And let me know when you're  
6 done with that. Line 12 to 25.

7 A. Okay. Hold on. It's running  
8 off my...

9 (Document[s] reviewed.)

10 Okay. Where do you want me to  
11 read to?

12 Q. From lines 12 to 25.

13 A. Yes. Okay. I've read them.

14 Q. Okay. Let's go to the next  
15 page and blow up the top.

16 And if you could -- well, so on  
17 the next page, you were asked: "Okay. All  
18 right. So the type of language he would use,  
19 I think he said 'victory or death,' that --"

20 You said: "Yes, that  
21 language."

22 And you're talking about Ali  
23 Alexander here?

24 A. Yes.

25 Q. And the question then is:

1 "Yeah, using language like that gave you a  
2 concern about, as you said, inciting. And  
3 I guess it wasn't the way you spoke about  
4 things, I guess. Is that right?"

5 And your answer: "Yeah, I'm  
6 not -- I'm not like that. And, I mean, I guess  
7 I would probably be -- I'm passionate. I'm  
8 very passionate, and, I mean, I can get people  
9 fired up. But I'm not going to go out there  
10 and say 'victory or death.' I mean,  
11 that's just -- to me, that's ridiculous. And  
12 you don't know if somebody is going to take it  
13 seriously. Right? Literally. So I'm not a  
14 fan of that."

15 Did you give that answer in  
16 your interview?

17 A. I did.

18 Q. And you were concerned that --  
19 from the page before, that rhetoric like that  
20 could incite people to violence?

21 A. I don't think that is helpful.  
22 Yes.

23 Q. And you actually said "inciting"  
24 on the page before.

25 A. Right.

1           Q.       So rhetoric like that can incite  
2       people to violence?

3           A.       If that's what I said.

4           Q.       Now you'd be especially worried  
5       if somebody as powerful and as popular as the  
6       President of the United States used rhetoric  
7       like that, wouldn't you?

8           A.       I mean, a number of people use  
9       rhetoric like that. I personally do not.

10          Q.       But given your concerns that  
11       such rhetoric could be viewed as inciting  
12       violence, you'd be quite concerned that  
13       somebody who had the biggest bullhorn  
14       probably in the history of the world saying  
15       things like that.

16          A.       I would never be concerned  
17       about President Trump inciting violence. He  
18       wouldn't do that. That's not how he is.

19          Q.       Let's go to Plaintiffs' 148,  
20       page 49, the Tweet at the bottom.

21                   And you see there on  
22       December 26, 2020, "If a Democrat  
23       presidential candidate had an election rigged  
24       and stolen, with proof of such acts at a  
25       level never seen before, the Democrat

1 senators would consider it an act of war and  
2 fight to the death."

3 Do you see that?

4 A. I do.

5 Q. That's the type of rhetoric  
6 that would concern you could incite violence?

7 A. I mean, he was using that  
8 metaphorically there, "fight to the death."  
9 Just like we're going to fight for freedom or  
10 whatever.

11 I don't think he was inciting  
12 violence there.

13 Q. Well, he didn't say "freedom."  
14 He said "death."

15 A. Right. And I'm saying, he was  
16 saying metaphorically.

17 But, look, there have been many  
18 things that the President of the United  
19 States has said that I didn't agree with. So  
20 I'm not going to agree with everything he  
21 says. But I do not think he would ever  
22 incite violence or get his people to do that.  
23 That's just not him. That's not the way he  
24 is.

25 Q. Well, you're not inside his

1 mind, are you, ma'am?

2 A. I'm not inside of his mind.

3 But I know him.

4 Q. And you've not been a part of  
5 every conversation that he's been a part of?

6 A. No.

7 Q. Now put aside President Trump.

8 Do you know that in the lead-up  
9 to January 6th, some organizers of the  
10 January 6th rally were using language like  
11 "victory or death," the very language you  
12 said you wouldn't use?

13 A. Can you show me that? Are you  
14 saying our people? Who is saying that?

15 Q. Let's look at Plaintiffs' 254,  
16 please.

17 And you see that that is a  
18 Tweet from Women for America First from  
19 January 2nd, 2021. And it's re-Tweeting news  
20 about Senator Cruz circulating a letter  
21 calling for the rejection of electoral  
22 college results until a 10-day emergency  
23 audit can be conducted to examine  
24 unprecedented allegations of voter fraud.

25 Do you see that?

1 A. Yes.

2 Q. Read what your organization  
3 said as it re-Tweeted.

4 A. It says, "Victory or death.  
5 William Barret Travis @Ted Cruz."

6 MR. GRIMSLEY: No further  
7 questions.

8 THE COURT: Any redirect?

9 MR. BLUE: Yes, Your Honor.

10 Could we go back to  
11 Exhibit 148, page 49, please. Could you blow  
12 up the bottom one, please, so we could read  
13 it better.

14 REDIRECT EXAMINATION

15 BY MR. BLUE:

16 Q. Ms. Kremer?

17 A. Yes.

18 Q. Isn't President Trump in this  
19 Tweet talking about how Democratic senators  
20 would react?

21 A. Yes.

22 Q. And he is not telling his  
23 supporters to react this way?

24 A. Right.

25 Q. Now you had strong views on the

1           2020 election, about whether it was stolen,  
2           don't you?

3           A.       I do.

4           Q.       And you were the organizer of a  
5           bunch of rallies leading up to January 6th  
6           and on January 6th, weren't you?

7           A.       Yes.

8           Q.       And you did everything in your  
9           power to keep all those things peaceful,  
10          didn't you?

11                   MR. GRIMSLEY:  Objection.

12          Leading.

13                   THE COURT:  Sustained.

14          BY MR. BLUE:

15           Q.       How did you make sure -- what  
16           did you -- how did you want your rallies to  
17           go forth?  What was your plan for them?

18           A.       We are -- all of my rallies --  
19           I mean, I've never had any violence, from  
20           Tea Party days up through this point.  I mean  
21           we are peaceful, happy warriors.  And that's  
22           just not who we are --

23           Q.       Thank you.

24           A.       -- so I wanted it to stay that  
25           way.

1 Q. Thank you, ma'am.

2 MR. BLUE: No more questions.

3 MR. GRIMSLEY: And one  
4 housekeeping matter. We'd like to move to  
5 admit Trump's Exhibit 1022, which they had  
6 tried to play and then we played in our  
7 cross-exam.

8 MR. BLUE: We won't object.

9 THE COURT: 1022 is admitted.

10 (Exhibit 1022 was received  
11 into evidence.)

12 THE COURT: Did anybody else  
13 have any questions for Ms. Kremer?

14 MS. RASKIN: We have none,  
15 Your Honor.

16 MR. KOTLARCZYK: No,  
17 Your Honor. Thank you.

18 THE COURT: Ms. Kremer, thank  
19 you so much for your testimony today. You  
20 are released.

21 THE WITNESS: Thank you, ma'am.  
22 Have a good day.

23 MR. BLUE: So, Your Honor, our  
24 next witness is Tom Van Flein. He will be  
25 remote as well.

1                   THE COURT:   Why don't we -- so  
2                   you can get set up and make sure he's  
3                   actually there, we'll take our morning break  
4                   a little bit early and reconvene at 10:55 --  
5                   9:55.

6                   MR. BLUE:   Great.   Thank you  
7                   very much, Your Honor.

8                   (Recess taken.)

9                   THE COURT:   Before we proceed,  
10                  it's my understanding that there continues to  
11                  be streaming of these proceedings by  
12                  individuals or entities who have not received  
13                  permission from the Court.

14                  I am reading from Chief Justice  
15                  Directive 2303, put out by the Colorado  
16                  Supreme Court, which specifically says that  
17                  "Unless a court grants express permission or  
18                  unless otherwise governed by this directive,  
19                  no proceeding may be published, livestreamed,  
20                  or recorded other than for the official court  
21                  record."

22                  I have given express permission  
23                  to every single entity who made a timely  
24                  request, and that was an actual media entity.  
25                  So to the extent that those who are watching

1       are doing so in violation of this court  
2       order, I, again, reiterate that is not -- it  
3       is prohibited under Colorado law.

4                       Okay.

5                       MR. BLUE: I was surprised to  
6       hear that again. I thought it would have  
7       been taken care of.

8                       THE COURT: Yeah, well...

9                       MR. BLUE: Go figure.

10                      Apparently I'm no longer  
11       connected to WebEx. Do you see me in the  
12       room?

13                      (A discussion was had off the  
14       record regarding technology issues.)

15                      MR. BLUE: We're going to try  
16       it this way, Your Honor.

17                      THE COURT: Okay.

18                      MR. BLUE: We'll see what  
19       happens.

20                      THE COURT: Yeah. I mean,  
21       I see them.

22                      MR. BLUE: Yeah, I see him up  
23       there. He just won't be able to see me.

24                      THE COURT: Okay. And he  
25       actually --

1 MR. BLUE: I guess maybe he can  
2 from that camera.

3 THE COURT: Yeah, if he sees  
4 what I see, he can see you, so ...

5 MR. BLUE: Okay. Great.

6 THE COURT: Who is the witness?

7 MR. BLUE: Mr. Van Flein.

8 THE COURT: Mr. Van Flein, can  
9 you hear me?

10 THE WITNESS: I can hear you,  
11 Your Honor.

12 THE COURT: Okay. And we can  
13 hear you as well. Just make sure to speak  
14 up. Okay?

15 THE WITNESS: Yes.

16 THE COURT: Can you raise your  
17 right hand.

18 TOM VAN FLEIN,  
19 having been first duly sworn to state  
20 the whole truth, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BLUE:

23 Q. Thank you for making time for  
24 us today, Mr. Van Flein.

25 A. Absolutely.

1                   Q.       And just try to be -- stay  
2       fairly close to the microphone so the court  
3       reporter can hear you, if you don't mind.

4                   A.       All right.   And I'll try to  
5       speak up.

6                   Q.       Thank you very much.   Thank  
7       you, sir.

8                               So, Mr. Van Flein, can you tell  
9       us what your job is currently.

10                  A.       Currently I am general counsel  
11       and chief of staff for Congressman Gosar from  
12       Arizona.

13                  Q.       And how long have you been in  
14       that position?

15                  A.       Since approximately 2012.

16                               THE COURT:   I'm sorry.   You  
17       said Congressman Gosar?

18                               THE WITNESS:   Congressman  
19       Gosar, yes.   G-o-s-a-r.

20       BY MR. BLUE:

21                  Q.       G-o-s-a-r, is that what you  
22       said?

23                  A.       I did.   Yes.

24                  Q.       Thank you.

25                               On January 6th, were you in

1 Washington, D.C.?

2 A. I was.

3 Q. And at some point did you go to  
4 the Ellipse for the rally that was there?

5 A. I did. I did get to the rally  
6 about 8:30 in the morning.

7 Q. And why were you going to the  
8 rally that day?

9 A. Well, we had been invited to  
10 attend. And it was merely to show support at  
11 a rally, basically, and listen to the  
12 speakers. There was obviously an electoral  
13 count proceeding later that afternoon, and  
14 this rally was, I think, done in anticipation  
15 of that, to highlight what was going on in  
16 Congress that afternoon.

17 THE COURT: I'm sorry,  
18 Mr. Van Flein. You said "we had been  
19 invited." Were you -- did you attend with  
20 somebody else that you were referring to?

21 THE WITNESS: I did. I went  
22 with Congressman Gosar. And my wife was  
23 there as well.

24 BY MR. BLUE:

25 Q. And had the rally started when

1           you arrived?

2                   A.       No. We got there prior to --  
3           as people were setting up. We were backstage  
4           for a while as the guests and speakers were  
5           showing up, and they were doing pre-rally  
6           setup still and getting ready. I don't think  
7           it started until a little bit after 9:00, and  
8           we were there by 8:30.

9                   Q.       And how late did you stay?

10                  A.       I stayed there until  
11           approximately 10:40, I would say.

12                  Q.       And so did you see  
13           President Trump speak?

14                  A.       No. I saw most of the speakers  
15           up until him. I maybe missed one prior to  
16           him.

17                  Q.       Can you describe the rally for  
18           us, in terms of what the crowd looked like to  
19           you?

20                  A.       To me, the crowd looked like a  
21           typical, middle-aged...

22                           It was raining and cold that  
23           day, but people were in a good mood. People  
24           were singing. People were listening to  
25           music. They were broadcasting music over the

1           loudspeakers. It was pretty festive.

2                   Q.       Thank you.

3                           And did you take any videos  
4       that day?

5                   A.       I did.

6                   Q.       And did you take a video of  
7       Vernon Jones speaking?

8                   A.       I believe I did. Yes.

9                   Q.       Okay.

10                          MR. BLUE: Could we play  
11       Exhibit 1082.

12                          MR. SUS: Objection,  
13       Your Honor. This is irrelevant for the same  
14       reasons previously raised with respect to  
15       other speakers at the January 6th rally.

16                          MR. BLUE: Your Honor, we're  
17       not presenting the video to show Vernon Jones  
18       speaking. It actually shows the crowd as  
19       he's speaking. And the point is to see the  
20       crowd.

21                          MR. SUS: Same objection,  
22       Your Honor.

23                          THE COURT: Well, I'm going to  
24       let it in, but, you know, I may revisit the  
25       Eastman/Giuliani --

1 MR. BLUE: Like I said, this is  
2 not about showing the speaker.

3 THE COURT: I understand.

4 I've overruled the objection.

5 BY MR. BLUE:

6 Q. Just a minute here,  
7 Mr. Van Flein. We're working through the  
8 technology to get the video up.

9 A. All right.

10 (Video played.)

11 Q. So, Mr. Van Flein, in that  
12 video, you panned around to the crowd. Was  
13 that a good -- was what the crowd looked like  
14 in that video a good representation of what  
15 you saw when you were there that day?

16 A. It is a perfect representation  
17 of what I saw.

18 Q. And can you describe, again,  
19 for us how you viewed the crowd that you saw  
20 in the video?

21 A. The crowd that I saw and was  
22 next to --

23 THE COURT: You're going to  
24 have to speak up or get closer to the  
25 microphone, Mr. Van Flein. Sorry.

1 THE WITNESS: Okay.

2 A. The crowd that I saw, that  
3 I walked through on my way there and walked  
4 through on the way out and was next to, was  
5 just that way. They were cheering. They  
6 were chanting "USA." Sometimes they broke  
7 out in singing or praying. And it was, like  
8 I said, more like a festival than a rally.  
9 There was no anger.

10 BY MR. BLUE:

11 Q. And did you see any hate or  
12 anger among the crowd at all?

13 A. Not when I was there.

14 Q. And at any point -- and you  
15 said you left the rally around 10:45. Is  
16 that correct? Did I get that time right?

17 A. Give or take, yeah. Give or  
18 take. That's pretty accurate.

19 Q. And then you walked back to the  
20 Capitol; is that correct?

21 A. We actually got a ride back.  
22 We left -- we walked over to where the  
23 Department of Interior Building was and then  
24 got a ride to the Rayburn Building, actually;  
25 not the Capitol.

1           Q.       And did you see anything  
2       notable on the way back to the Capitol?

3           A.       On the way back, no. Things  
4       were still very calm. There were, you know,  
5       isolated groups of people walking. I think  
6       some going still in the direction of the  
7       rally, to attend the rally; some going the  
8       opposite direction. But on the streets at  
9       that moment, there was nothing.

10          Q.       And did you see anybody with  
11       BLM shirts at any time on that -- during that  
12       morning?

13          A.       I did. Later on that morning,  
14       I walked over to Capitol Hill Starbucks and  
15       was walking back. I was on the south side of  
16       Independence Avenue. And on the north side,  
17       there were a couple gentlemen wearing BLM  
18       T-shirts -- or shirts, rather. Maybe not  
19       T-shirts, but BLM shirts. And they seemed  
20       aggravated and loud.

21          Q.       And were they kicking signs or  
22       anything along those lines?

23          A.       They did, indeed. And they  
24       were chanting loudly. And just seemed  
25       visibly agitated. And that was -- they

1           were -- by the time I saw them, we were by  
2           the -- approximately by the Jefferson Library  
3           of Congress, which is right across the street  
4           from the Capitol.

5                     Q.       Thank you.

6                     MR. BLUE:   Your Honor, I have  
7           no more questions for this witness. But we  
8           would like to move admission of 1082.

9                     THE COURT:   Any objection?

10                    MR. SUS:   Was 1082 the speech?

11                    MR. BLUE:   The video we just  
12           saw, yeah.

13                    MR. SUS:   On the understanding  
14           that this would allow the other speeches from  
15           the January 6th rally, Your Honor. We  
16           believe that if this speech comes in, then  
17           the other speeches should come in as well.

18                    THE COURT:   I'm not going to  
19           rule on that, but I will offer the -- I will  
20           admit 1082, not for the truth of what's being  
21           said, but for the reaction of the crowd.

22                               (Exhibit 1082 was received  
23                   into evidence.)

24                    MR. BLUE:   Thank you,  
25           Your Honor.

1 CROSS-EXAMINATION

2 BY MR. SUS:

3 Q. Good afternoon, Mr. Van Flein.

4 A. Good afternoon.

5 Q. So there were thousands of  
6 people at the Ellipse rally; is that fair to  
7 say?

8 A. That is fair to say.

9 Q. And you had no way of knowing  
10 what each one of those thousands of people  
11 were doing throughout the day, did you?

12 A. No.

13 Q. And you had a limited vantage  
14 point. You were only able to tell what the  
15 people in your immediate area were doing at  
16 any given moment; right?

17 A. Absolutely.

18 Q. And about how long were you at  
19 the Ellipse rally?

20 A. Approximately two hours.

21 Q. And what was the time frame  
22 there?

23 A. Roughly 8:30 to 10:30 or 10:45,  
24 in that range.

25 Q. Okay. And you testified that

1 the crowd that you saw at the Ellipse rally,  
2 at least from your vantage point, was  
3 peaceful. Is that accurate?

4 A. That is accurate.

5 Q. Are you aware that the Secret  
6 Service confiscated hundreds of weapons from  
7 rally attendees that passed through security  
8 that day at the Ellipse rally?

9 A. I'm aware that that was  
10 debunked. It is my understanding that that  
11 was not true.

12 Q. Well, let me show you some  
13 findings from the January 6th Select  
14 Committee.

15 MR. SUS: Can we pull up  
16 Exhibit 78, Finding 107.

17 BY MR. SUS:

18 Q. Can you see that on your  
19 screen?

20 A. Yes.

21 Q. So do you see that the list of  
22 confiscated weapons included 242 canisters of  
23 pepper spray?

24 A. I see that.

25 Q. Do you see that it includes 269

1 knives or blades?

2 A. I see that as well.

3 Q. 18 brass knuckles?

4 A. I see that.

5 Q. 18 Tasers?

6 A. I see that.

7 Q. 30 batons or blunt instruments?

8 A. Yes.

9 Q. 17 miscellaneous items,  
10 including scissors, needles, or screwdrivers.

11 Do you see that?

12 A. I do.

13 Q. And were you also aware that  
14 the -- are you aware that the Secret Service  
15 observed members of the crowd wearing  
16 tactical gear, such as ballistic helmets,  
17 body armor, and military-grade backpacks?

18 A. That may be. I saw none of  
19 that.

20 I will say, as for the  
21 Finding 107 here, the only thing that is  
22 concerning are the brass knuckles, which are  
23 contraband, and the gas masks. Why anyone  
24 would bring a gas mask suggests they had some  
25 advanced knowledge that there might be tear

1 gas or some chemical to be sprayed.

2 But as far as pepper spray, a  
3 knife, a Taser, these are commonly used by  
4 many people, particularly women, in  
5 Washington, D.C., for self-defense and  
6 whatnot. None of that is illegal or wrong.

7 Q. So you acknowledge that if  
8 people had gas masks there, they probably had  
9 some forewarning that there would be tear gas  
10 there, deployed that day?

11 A. Yeah, I would find that  
12 concerning. I found it concerning that  
13 members of Congress were not warned of these  
14 findings. Apparently this was known as much  
15 as a day or two in advance, and none of --  
16 I don't think I would have had Congressman  
17 Gosar at a rally if we knew there was a  
18 potential for violence.

19 Q. Now, Mr. Van Flein, you said  
20 you didn't see President Trump speaking that  
21 day. Did you?

22 A. Not live. I caught some of it  
23 in my office. We had to go to the office.  
24 We were preparing for the objections under  
25 the Electoral Count Act of 1887. And so we

1 still had some work to do for that, which is  
2 why we had to get back to the office.

3 The electoral counting is done  
4 alphabetically by state, and Arizona was one  
5 of the first ones to be called. So we had to  
6 be ready to go by 1 o'clock.

7 Q. Understood. Okay.

8 So I want to show you some of  
9 the crowd's reactions to President Trump's  
10 speech at the Ellipse.

11 MR. SUS: Could we pull up  
12 Exhibit 165, starting at time marker 1:43.

13 (Video played.)

14 BY MR. SUS:

15 Q. Mr. Van Flein, did you see that  
16 video?

17 A. Yes, I just did.

18 Q. Did you hear members of the  
19 crowd yell, "Storm the Capitol," "Invade the  
20 Capitol building," "Take the Capitol"?

21 A. Yes.

22 It sounds like they've been  
23 speaking with Ray Epps. That's exactly what  
24 he said.

25 Q. And did that appear to be a

1 video from the Ellipse on January 6?

2 A. It did. Absolutely.

3 Q. But you didn't hear anything  
4 like that at the Ellipse rally that day when  
5 you were there?

6 A. No.

7 As you mentioned earlier, there  
8 were thousands of people, perhaps a hundred  
9 thousand people there. It wouldn't shock me  
10 if there's somebody who's a moron who would  
11 say something like that in a crowd of a  
12 hundred thousand.

13 But overwhelmingly that crowd  
14 was peaceful and patriotic and attending a  
15 rally for their President.

16 Q. So, Mr. Van Flein, do you know  
17 Ali Alexander?

18 A. I've met Ali. Yes, I have.

19 Q. And do you know that  
20 Mr. Alexander founded an organization called  
21 Stop the Steal, LLC?

22 A. I don't know the legal  
23 structure, but I'm aware it was Stop the  
24 Steal.

25 Q. You know that Mr. Alexander

1 organized Stop the Steal rallies after the  
2 2020 election?

3 A. Yes, I'm aware of that.

4 Q. And you told ProPublica in 2021  
5 that you were in regular contact with  
6 Mr. Alexander in the period after the 2020  
7 election, didn't you?

8 A. Yes. He organized probably at  
9 least three Stop the Steal rallies in  
10 Phoenix, Arizona.

11 Q. And was that with  
12 Representative Gosar?

13 A. I'm not sure if all of them  
14 were with Representative Gosar, but I think  
15 Representative Gosar spoke at least once or  
16 twice at those rallies, along with other  
17 elected officials.

18 Q. You told ProPublica that, "Ali  
19 was very talented and put on some very good  
20 rallies on short notice, and that they had a,  
21 quote, 'great turnout.'"

22 Is that right?

23 A. Yes.

24 This is about Arizona. He is  
25 talented.

1 Q. Okay. About how many communications  
2 did you have with Mr. Alexander between election  
3 day 2020 and January 6th, 2021?

4 A. I do not know that.

5 Q. Would you say, if you had to  
6 ballpark it, dozens?

7 A. Are we talking, like, phone  
8 calls, text messages, and in-person meetings?  
9 All communications?

10 Q. All of the above.

11 A. I would say at least a dozen.

12 Q. At least a dozen.

13 Are you aware of the violent  
14 rhetoric that Mr. Alexander used in Stop the  
15 Steal rallies leading up to January 6, 2021?

16 A. I'm aware of fiery rhetoric by  
17 many people who speak -- in all political  
18 spectrum. And they probably said some fiery  
19 rhetoric as well.

20 Q. Let me give you some examples  
21 -- did you finish your answer?

22 A. Yes.

23 Q. Okay. Let me give you some  
24 examples. Did you know that during a Stop  
25 the Steal rally outside of the Georgia State

1 Capitol in November 2020, Mr. Alexander urged  
2 the crowd to, quote, storm the Capitol with  
3 him?

4 A. Yeah, I was not aware of that.

5 Q. Did you know that in a  
6 different Stop the Steal rally in front of  
7 the Georgia governor's mansion in  
8 November 2020, Mr. Alexander goaded the crowd  
9 by saying, "We'll light the whole shit on  
10 fire"?

11 Are you aware of that?

12 A. No.

13 Q. Did you know that Mr. Alexander  
14 told the crowd at a Stop the Steal rally at  
15 the U.S. Capitol on January 5th, 2021, that,  
16 "We must rebel. I'm not even sure we're  
17 going to leave D.C. We might make this Fort  
18 Trump"?

19 A. Where is -- can you read that  
20 again?

21 Q. Sure.

22 The quote is from January 5,  
23 2021. And Alexander said, "We must rebel.  
24 I'm not even sure I'm going to leave D.C. We  
25 might make this Fort Trump."

1           A.       Again, I'm not sure I understand  
2       what he's saying there, but -- we must make  
3       what for Trump?

4           Q.       Did you know that Mr. Alexander  
5       was part of a group chat in which he  
6       communicated with Proud Boys leader Enrique  
7       Tarrio and Oath Keepers leader Stewart Rhodes  
8       between election day 2020 and January 6,  
9       2021?

10          A.       I am not part of that chat, so  
11       I'm not aware of it.

12          Q.       Did you know that Mr. Alexander  
13       was in contact with those two individuals?

14          A.       I was not aware.

15          Q.       Did you know that on the  
16       morning of January 6, 2021, at 3:13 a.m.,  
17       Mr. Alexander Tweeted, "First official day of  
18       the rebellion"?

19                   MR. BLUE:   Excuse me,  
20       Your Honor.   This is -- I apologize.

21                   We are way beyond the scope.  
22       I've been kind of letting it go because  
23       I understand that we're trying to kind of  
24       allow things to happen, but we are way beyond  
25       the scope.   And this sounds purely like an

1 attempt to get all sorts of statements made  
2 by Mr. Alexander in front of you, as opposed  
3 to actually asking questions that he's going  
4 to give an answer to that's going to help the  
5 Court.

6 MR. SUS: Your Honor, if I may.  
7 I will connect it up to January 6 with the  
8 next question.

9 THE COURT: Okay. I'll allow  
10 one more question. But I agree, that this is  
11 going a bit far afield.

12 MR. SUS: Okay.

13 BY MR. SUS:

14 Q. But, Mr. Van Flein, you were  
15 unaware of that Tweet by Mr. Alexander?

16 A. Yeah. I'm not aware of that.  
17 I think you should probably ask him those  
18 questions.

19 Q. You were in communication with  
20 Mr. Alexander on January 6th, weren't you?

21 A. I would say "probably." We had  
22 to confirm, you know, where we were going to  
23 be and stuff like that.

24 Q. In fact, you exchanged more  
25 than a -- I'm sorry. Were you talking?

1           A.       Yeah. I was just going to say,  
2       I don't know specifically what we said unless  
3       I -- unless you have a, you know, printout of  
4       a text message or something. But I'm sure  
5       I was in contact with him that morning.

6                   MR. SUS: Mr. Hehn, please pull  
7       up Exhibit 167.

8       BY MR. SUS:

9           Q.       So, Mr. Van Flein, I'll  
10      represent to you that this is a compilation  
11      of text messages to and from Mr. Alexander  
12      that was publicly released by the January 6th  
13      Select Committee.

14                   And if we zoom in on the bottom  
15      corner here, you'll see that there's a GPO  
16      seal, showing that this is an authenticated  
17      U.S. government record.

18                   Do you see that?

19      A.       I do.

20                   MR. BLUE: Excuse me,  
21      Your Honor. I still don't see the connection  
22      to the direct exam.

23                   MR. SUS: This is about  
24      Mr. Van Flein's communications on January 6th  
25      with an individual who was involved in

1 organizing rallies that day.

2 THE COURT: Yeah, I'm just  
3 going to -- let me see what happens with  
4 this, and then you can move to strike if no  
5 connection is made. Okay?

6 MR. BLUE: Yes. Thank you,  
7 Your Honor.

8 BY MR. SUS:

9 Q. So let's look at the text  
10 messages.

11 And just to note here that some  
12 of the text is garbled and the commas appear  
13 as apostrophes. So we'll try our best to  
14 read it. And, Mr. Van Flein, if you have any  
15 trouble, just let me know.

16 THE COURT: But these aren't  
17 texts with Mr. Van Flein, are they?

18 MR. SUS: They are.

19 THE COURT: Oh. Okay.

20 BY MR. SUS:

21 Q. So if we could go to page 34.

22 MR. BLUE: Excuse me,  
23 Your Honor. I don't see how they are --

24 THE COURT: I think we're just  
25 looking at the first --

1 MR. BLUE: Oh, okay. His name  
2 is coming up now. Okay.

3 MR. SUS: Yeah.

4 BY MR. SUS:

5 Q. So we're on page 34. And  
6 there's a text at 5:36 a.m. on January 6th.  
7 And Mr. Alexander texted you. "Nonspeaking  
8 members of Congress need to be there by 8:30.  
9 We don't have a shuttle. I will make sure  
10 they have security escorts walking back to  
11 the Capitol when it is time for session."

12 Do you see that?

13 A. Is that from me?

14 Q. That is from Mr. Alexander to  
15 you.

16 A. Okay.

17 Q. And you two were communicating  
18 that morning about members of Congress  
19 attending the Ellipse rally that day; is that  
20 right?

21 A. That's what this appears here.

22 I will object that these are my  
23 text messages. I was never notified. I was  
24 never subpoenaed for this. I was never given  
25 a chance to object to the disclosure of this

1 text message. I don't know if it's  
2 authentic. I'm not authenticating this,  
3 because this is the first I've ever seen  
4 this.

5 Q. So, Mr. Van Flein, as I  
6 mentioned and as I represented to you, this  
7 is authenticated information released by the  
8 January 6th Select Committee, and it's been  
9 stamped by an official GPO seal. So this is  
10 an official government record.

11 A. What I'm telling you is the  
12 communications are not authenticated.  
13 I didn't authenticate this. I don't know if  
14 this is accurate. I don't care who put a  
15 stamp on there.

16 This information, this text  
17 message, if it is authentic, was not obtained  
18 lawfully. I was never served with a subpoena  
19 and --

20 Q. Do you deny that --

21 THE COURT: Mr. Van Flein,  
22 we're going to move on because he is allowed  
23 to ask you questions about this document.  
24 Okay. And we understand that you didn't  
25 release these records, but they apparently

1           were released by Mr. Alexander.

2           BY MR. SUS:

3                   Q.       So, Mr. Van Flein, going back  
4           to what the text message says. You two were  
5           communicating here about members of Congress  
6           attending the Ellipse rally that day. Is  
7           that about right?

8                   A.       Yes.

9                   Q.       So members of Congress needed  
10          security escorts because there was a  
11          potential for violence on that day; isn't  
12          that right?

13                  A.       There's a potential for  
14          violence every day, when you're an elected  
15          official. There are many leftists and others  
16          who make threats to members of Congress. And  
17          other people make threats to members of  
18          Congress.

19                            So having security -- we have  
20          security briefings regularly. You have to go  
21          through security just to go into the Capitol  
22          and go into any of the office buildings. So  
23          dealing with potential violence is something  
24          that all elected officials have to be aware  
25          of.

1                   Q.       So let's go to page 35, to the  
2       text message at 5:37 a.m.

3                   Mr. Alexander wrote to you  
4       here, "We want 30 members minimum."

5                   And you responded, "Okay."

6                   Do you see that?

7                   A.       I see this.

8                   Q.       Okay. And then to the next  
9       text, also on page 35, at 5:46 a.m. You  
10      wrote to Mr. Alexander, "The objections are  
11      getting signed. They want a wet signature  
12      instead of autopen. The doc can be signed  
13      quickly."

14                  Do you see that?

15                  A.       I do.

16                  MR. BLUE: Objection,  
17      Your Honor. Now we're getting into issues  
18      about the actual certification of the votes  
19      as opposed to the rally, which is what he  
20      talked about.

21                  MR. SUS: So, Your Honor, my  
22      understanding was there was a one-touch rule  
23      with these witnesses. And we get to ask all  
24      questions we want of the witnesses,  
25      particularly relating to the events of

1 January 6th, while they're on the stand.

2 We aren't able to recall the  
3 witnesses, so we believe that this is fair  
4 game. And it's also within the scope of  
5 direct because Mr. Van Flein testified about  
6 his activities on January 6th and his  
7 connection to the rally that day and  
8 Representative Gosar's activities that day.

9 THE COURT: He also specifically  
10 testified that he had to get back to the  
11 office to work on exactly what these text  
12 messages are about.

13 So I'm going to overrule the  
14 objection. And you can address any of these  
15 things on redirect. Okay?

16 MR. BLUE: Thank you,  
17 Your Honor.

18 BY MR. SUS:

19 Q. So, again, you were referring  
20 in this text message to Representative  
21 Gosar's objections to the counting of  
22 Arizona's electoral college votes that day.  
23 Is that right?

24 A. This is correct.

25 Q. And let's go to page 35 again,

1 at 5:48 a.m. on January 6th.

2 Mr. Alexander texted you, "Can  
3 we send an e-mail to the entire House Freedom  
4 Caucus if they all need to be at the Ellipse?  
5 POTUS wants force."

6 Do you see that?

7 A. I see that.

8 Q. And you responded, "Will ask  
9 now."

10 Do you see that?

11 A. Yes, I see this.

12 Q. So, Mr. Van Flein, is it fair  
13 to say you were coordinating with Ali  
14 Alexander on January 6?

15 A. I was in communication with  
16 Ali, yep.

17 Q. And these text messages show  
18 that he asked you to do things and then you  
19 did them.

20 A. Well, I'm not sure if that  
21 e-mail ever went out. I said I would ask.  
22 I might have contacted the executive director  
23 for the Freedom Caucus; I may not have. But  
24 I don't know if that's a fair statement.

25 The text says, "Will ask now."

1           Whether I did ask now, I'm not sure I did.

2           Q.       So you may have just lied to  
3           him. Is that what you're suggesting?

4           A.       No. What I'm saying is there's  
5           a lot going on that day, and I can't always  
6           get to everything that people want me to get  
7           to.

8           Q.       So, Mr. Van Flein, I want to  
9           skip past the rally and talk about when you  
10          were at the Capitol building. You started  
11          texting with Mr. Alexander again, didn't you?

12                   MR. BLUE: I renew our  
13          objection, Your Honor. We are way beyond  
14          direct. Just because he happened to go to  
15          the -- just because he mentioned that he was  
16          going back to the Capitol for the counting of  
17          the electoral votes, that wasn't the  
18          substance of the testimony.

19                   The substance of his testimony  
20          was about what happened at the Capitol --  
21          I mean at the Ellipse and the rally. And now  
22          we are way beyond that.

23                   THE COURT: Are you going --  
24          are you planning on asking him questions  
25          about the siege of the Capitol?

1 MR. SUS: Both the siege and  
2 the electoral vote objections, which he had  
3 already testified about.

4 And, Your Honor, we would  
5 submit that his testimony about the knowledge  
6 of violence that day and the attack that day  
7 is relevant and within the scope of direct.

8 And, in fairness, we have no  
9 ability to recall this witness and ask him  
10 these questions.

11 MR. BLUE: Your Honor, first of  
12 all, let me address the second piece first.  
13 They rested their case and didn't call him.  
14 And if they had called him, then the  
15 one-touch rule would have made it for us to  
16 talk to him at that point. It doesn't give  
17 them the opportunity to come now.

18 The second piece is that,  
19 again, this was all about what happened at  
20 the Ellipse. We're talking about the rally  
21 that was coordinated by Amy Kremer and what  
22 happened there. And we're not talking --  
23 never once did we raise a question about the  
24 attack on the Capitol later on that day.

25 And so he's trying to get in

1 all sorts of additional information that  
2 didn't even -- doesn't even touch his direct  
3 testimony.

4 MR. SUS: So, Your Honor, as a  
5 practical matter --

6 THE COURT: Well, first of all,  
7 was he on your witness list?

8 MR. SUS: He was not on our  
9 witness list, no.

10 THE COURT: Okay. So you  
11 weren't going to call him. So the one-touch  
12 rule doesn't have any application.

13 And I'm going to apply the --  
14 they gave a limited -- very, very limited  
15 direct of Mr. Van Flein. You may ask him  
16 questions about the electoral count because  
17 he, you know, has -- he has opened the door  
18 when he testified that he had to rush back to  
19 go deal with those issues. But he's not  
20 going to talk about whatever his reaction may  
21 or may not have been to the siege of the  
22 Capitol.

23 MR. SUS: Understood,  
24 Your Honor.

25 ///

1 BY MR. SUS:

2 Q. So I want to talk about  
3 Representative Gosar's objections that day to  
4 the counting of electoral college votes.

5 Representative Gosar's  
6 objection was based on concerns of alleged  
7 voter fraud; is that right?

8 A. I would say "election  
9 irregularities."

10 Q. You supported and worked on  
11 that objection, didn't you?

12 A. Yes, I did.

13 Q. And you did so because you  
14 think the 2020 election was stolen from  
15 President Trump.

16 A. No, that is not true.

17 Q. You don't think the election  
18 was stolen from President Trump?

19 A. No, I don't know if that's  
20 true. All I -- what I worked on was there  
21 were reports from elected officials in  
22 Arizona, from county and state legislators,  
23 indicating that there were multiple  
24 irregularities. I don't know if it resulted  
25 in stealing the election from Trump.

1           Q.       You're aware that President Trump  
2       has claimed that the election was stolen from  
3       him, aren't you?

4           A.       I am aware. Yeah, I am aware  
5       of that.

6           Q.       So you disagree with  
7       President Trump?

8           A.       No. He has his opinion.

9                   MR. BLUE: Objection,  
10       Your Honor. Again, we're -- we started  
11       talking about electoral votes and now we're  
12       talking about what President Trump thinks.

13                   THE COURT: I'm going to  
14       overrule it. But let's move on, please.

15       BY MR. SUS:

16           Q.       Last question, though, on this:  
17       Representative Gosar won reelection on the  
18       same ballot as the presidential ballot for  
19       2020; isn't that right?

20                   MR. BLUE: Objection,  
21       Your Honor. Now we're talking about  
22       Representative Gosar's reelection.

23                   MR. SUS: So, Your Honor, this  
24       is about the --

25                   THE COURT: He just testified

1           that there was voting irregularities, and  
2           that's why they were objecting on the Floor  
3           of Congress. And his boss was elected in the  
4           exact same election. And he can ask him  
5           whether he thought that that was also --  
6           there was the -- whether there was  
7           irregularities in that election as well.

8                               MR. SUS: Thank you.

9           BY MR. SUS:

10                   Q.       Mr. Van Flein, do you need me  
11           to repeat the question?

12                   A.       I believe you asked if  
13           Congressman Gosar was elected in the 2020  
14           election as well. And he was.

15                   Q.       And did Representative Gosar  
16           object to his own reelection on the basis of  
17           alleged voter irregularities?

18                   A.       No. He did not have any  
19           concerns that his election was contaminated  
20           with any election irregularities. Most of  
21           his voting counties at that time -- at that  
22           time it was Yavapai, Mohave County, and Yuma  
23           County and La Paz County -- none of those  
24           counties, even in the presidential election,  
25           concerns were implicated. It was Maricopa

1 County and Pima County where the elected  
2 officials in Arizona had the most concern.

3 In addition, Congressman Gosar  
4 got re-elected, I think, by 20-some points in  
5 that election, maybe 25 points. It was not  
6 close at all; whereas in a close race, any  
7 election irregularities can be outcome-  
8 determinative.

9 And in the case of Mr. Biden  
10 and President Trump or President Biden and  
11 Mr. Trump -- however you want to look at  
12 that -- the election is far closer.

13 And if there was election  
14 irregularity within a 15,000-vote spread out  
15 of 2 or 3 million votes cast, it's a lot  
16 easier -- or a lot more concerning. But when  
17 you win by 20 points, it's not as urgent or  
18 concerning.

19 Q. Understood.

20 President Trump carried the  
21 state of Arizona in 2016; isn't that right?

22 A. To my knowledge, yeah.

23 Q. And did Representative Gosar  
24 object to President Trump's victory in that  
25 state in 2016?

1 MR. BLUE: Objection,  
2 Your Honor.

3 THE COURT: I'm going to  
4 sustain the objection. Let's move on,  
5 please.

6 MR. SUS: That was my final  
7 question. Thank you, Your Honor.

8 THE COURT: Any redirect?

9 MR. BLUE: Yes, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. BLUE:

12 Q. Mr. Van Flein, counsel asked  
13 you about the -- one of the January 6th  
14 Committee findings. Do you remember that?

15 A. With the Exhibit 107?

16 Q. Was that Exhibit 107?

17 THE COURT: I think it was  
18 Exhibit 78, Finding 107.

19 MR. BLUE: Exhibit 78,  
20 Finding 107.

21 BY MR. BLUE:

22 Q. Do you think the January 6th  
23 Committee's findings are credible?

24 A. No. The work that I saw was  
25 very incomplete and --

1 THE COURT: Counsel --

2 BY MR. BLUE:

3 Q. Hold on.

4 You're going to have to get  
5 closer and speak up, if we're going to hear  
6 you.

7 A. The answer to that question is:  
8 I don't think the January 6th Committee was  
9 initiating an investigation in good faith.  
10 It started with a preordained conclusion,  
11 which is not a good way to start an  
12 investigation. And they selected evidence  
13 that they wanted, in my opinion.

14 Q. And when you say "they selected  
15 evidence that they wanted," why is that a  
16 problem?

17 A. Well, a fair investigation, you  
18 would want to consider all evidence and not  
19 discard or not even bother to investigate  
20 evidence that could run counter to the theory  
21 that you started with. Actually, a real  
22 investigation wouldn't even start with a  
23 theory. It would just start with gathering  
24 facts and see where they went.

25 They started with a conclusion

1           and looked for evidence to support that  
2           conclusion. That's my fundamental disagreement  
3           with how that committee did its job.

4           Q.       Thank you very much,  
5           Your Honor -- Mr. Van Flein.

6                   MR. BLUE: No more questions,  
7           Your Honor.

8                   So I think he's done?

9                   THE COURT: I don't know.  
10          I mean, you -- if he -- you really opened up  
11          a whole new thing with this -- what his  
12          opinions on the January 6th Committee. So if  
13          they want to ask him about what the  
14          foundation is for those opinions, I'm going  
15          to let them.

16                  MR. BLUE: Okay.

17                  THE COURT: I don't know if  
18          they want to or not.

19                  MR. SUS: Briefly, Your Honor.

20                  RE CROSS-EXAMINATION

21          BY MR. SUS:

22                  Q.       Mr. Van Flein, what visibility  
23          did you have into the process of the  
24          January 6th Select Committee?

25                  A.       Say that again?

1           Q.       What visibility did you have  
2       into the process of the January 6th Select  
3       Committee?

4           A.       The visibility I had was what  
5       was ever made public. I was not a member of  
6       that committee or a member of staff, so I'm  
7       only aware of what was made public.

8           Q.       So you have no personal  
9       knowledge of the inner workings of that  
10      committee?

11          A.       The inner workings? No, I was  
12      not on the committee or the committee staff.

13          Q.       Thank you.

14          A.       I will say, for example, that  
15      they missed the FBI report that had already  
16      gone over this issue --

17                   THE COURT: Mr. Van Flein --

18                   MR. SUS: Your Honor, I would  
19      move to strike that answer.

20                   THE STENOGRAPHER: I can't hear  
21      him anyway, so...

22                   THE COURT: Mr. Van Flein, we  
23      can't hear you. And there wasn't a question  
24      pending.

25                   THE WITNESS: Okay. Sorry,

1 Your Honor.

2 THE COURT: Now you want to ask  
3 another question?

4 MR. BLUE: Well, I was going to  
5 follow up on what he wanted to talk about.

6 THE COURT: Fine. As long as  
7 it's personal knowledge. I'm not really  
8 interested in hearing about rumor.

9 FURTHER EXAMINATION

10 BY MR. BLUE:

11 Q. Mr. Van Flein, you were  
12 starting to talk about an FBI report; is that  
13 correct?

14 A. Correct.

15 And I was mentioning the FBI  
16 report because, to me, the FBI had already  
17 investigated whether there was any  
18 coordination between President Trump and any  
19 of the rally organizers, in terms of planning  
20 violence or promoting violence or even  
21 expecting violence. And they issued a  
22 report -- Reuters did an exclusive story --

23 MR. SUS: Objection,  
24 Your Honor. This has nothing to do with the  
25 January 6th report, and it's completely

1       beyond the scope of everything we've  
2       discussed today.

3               THE COURT:   It's also hearsay.  
4       He's talking about some report that I have  
5       never seen and nobody has presented as  
6       evidence in this case.

7               THE WITNESS:   It's an  
8       August 20, 2021, story by Reuters.   They have  
9       the report from the FBI saying there's no  
10      evidence that the Capitol attack was  
11      coordinated by anybody; that it was more or  
12      less a spontaneous situation on the ground.

13              And the January -- my point is  
14      that the committee never even references this  
15      report and findings by the top law  
16      enforcement agency in the United States.  
17      That was intended to determine the very issue  
18      this Court is looking at right now, and that  
19      is whether President Trump or some of his  
20      people coordinated the violence.   And the FBI  
21      said no.

22              That's an August 20, 2021,  
23      report and story by Reuters called  
24      "Exclusive:   FBI finds scant evidence  
25      United States Capitol attack was

1 coordinated."

2 BY MR. BLUE:

3 Q. And so because --

4 THE COURT: I'm striking all of  
5 that testimony.

6 If the Intervenors want to put  
7 on this evidence of an FBI report, I'm more  
8 than happy to consider it, but I'm not going  
9 to hear testimony from this gentleman about  
10 what some newspaper article said -- I've  
11 excluded all newspaper articles in this  
12 case -- and about a report that isn't before  
13 the Court.

14 So I'm striking all that  
15 testimony. I'm more than happy to look at  
16 the report itself, if the Intervenors want to  
17 put that on as evidence.

18 MR. BLUE: All right. Thank  
19 you, Your Honor.

20 And we have no more questions.

21 THE COURT: Okay. Anything  
22 from the Secretary of State?

23 MR. KOTLARCZYK: Nothing,  
24 Your Honor.

25 THE COURT: Anything from the

1 Colorado Republican Party?

2 MS. RASKIN: No, Your Honor.

3 THE COURT: Thank you so much  
4 for your testimony, Mr. Van Flein. You are  
5 released.

6 THE WITNESS: Thank you.

7 MR. BLUE: Your Honor,  
8 Mr. Gessler is going to call Mr. Bjorklund  
9 here. Joanna Bila is keying up the exhibits  
10 for him right now. It may just take a minute  
11 or two.

12 THE COURT: Okay. And am I  
13 correct that this will be the last witness  
14 this morning?

15 MR. BLUE: Yes, ma'am.

16 THE COURT: So it sounds like  
17 we'll have a longer break before Congressman  
18 Buck testifies?

19 MR. BLUE: Yeah. He's planning  
20 to testify at 1 o'clock.

21 THE COURT: Okay.

22 MR. GESSLER: Your Honor, if I  
23 may step out to get Mr. Bjorklund.

24 THE COURT: Oh. He's here.  
25 Great. Thank you.

1                   Mr. Bjorklund, will you please  
2           raise your right hand.

3                   TOM BJORKLUND,  
4           having been first duly sworn to state  
5           the whole truth, testified as follows:

6                   DIRECT EXAMINATION

7           BY MR. GESSLER:

8           Q.       Good morning, Mr. Bjorklund.

9           A.       Good morning.

10          Q.       Could you please state and  
11       spell your name for the record, please.

12          A.       Yes. My name is Tom Bjorklund.  
13       And that's B-j-o-r-k-l-u-n-d. Tom spelled  
14       like T-o-m.

15          Q.       Okay. Thank you.

16                   And do you live here in  
17       Colorado?

18          A.       Forgive me. I'm going to turn  
19       this off. I apologize.

20          Q.       Sure.

21          A.       Yes, I do.

22          Q.       Okay. And what do you -- what  
23       job, or your advocacy, what position do you  
24       hold?

25          A.       I'm the owner of Tactical Data

1 Solutions, a data company, and a small  
2 investment company called Rocking Horse  
3 Winners. And I serve as the State Party --  
4 Republican Party Treasurer.

5 Q. Are you here today on behalf of  
6 the Republican Party?

7 A. No, I'm not here on behalf of  
8 the Republican Party.

9 Q. Okay. Have you had any  
10 conversations about the substance of your  
11 testimony with Mr. Dave Williams, who is the  
12 chair of the Republican Party?

13 A. No, we have not.

14 Q. Okay. I'm going to take you  
15 back to the events of January 6th, 2021, and  
16 a few days leading up to that.

17 When did you first learn about  
18 a rally being held in Washington, D.C., on  
19 January 6th?

20 A. It was probably mid-December,  
21 I heard about it from my brother.

22 Q. Okay. And did you -- and  
23 what -- and did your brother express an  
24 opinion about the January 6th rally?

25 A. Yeah. Well, he just said that

1           there was going to be a big rally for Donald  
2           Trump, and he asked if I'd like to meet him  
3           up there. He's from Minnesota.

4                       And so I told him I'd think  
5           about it, and decided to go.

6           Q.        Okay. And when did you decide  
7           that you wanted to go?

8           A.        Well, as soon as he mentioned  
9           it, I wanted to go, but it was just a matter  
10          of logistics, trying to figure out if I could  
11          make it work.

12                   THE COURT: Mr. Bjorklund,  
13          would you just move a little bit closer to  
14          the mic.

15                   THE WITNESS: Yes. Thank you.

16                   THE COURT: Great. Thank you.

17          BY MR. GESSLER:

18           Q.        Had you been to a rally  
19          involving President Trump before?

20           A.        No, not a campaign rally.  
21          I went to the Western Conservative Summit,  
22          and he was speaking there.

23           Q.        Okay. And had your brother, to  
24          your knowledge, been to a rally involving  
25          President Trump?

1 A. Not that I know of.

2 Q. Okay. And did your brother  
3 express an opinion as to why he wanted to go?

4 A. Yeah. He's a big Trump  
5 supporter, and he just wanted to go and  
6 support the President.

7 Q. Okay. And -- so, I'm sorry,  
8 when did you decide you wanted to go,  
9 roughly?

10 A. Well, I decided I wanted to go  
11 as soon as he asked me, but I just didn't  
12 know if I could go. So about a week before  
13 is when I finally decided that, hey, I'm  
14 going to commit to going.

15 Q. A week before what?

16 A. A week before the 6th. So,  
17 yeah, like late December. Yeah.

18 Q. Okay. And why did you want to  
19 go?

20 A. My main reason was I wanted to  
21 see my brother.

22 Q. Okay. And --

23 A. And go camping.

24 Q. I'm sorry?

25 A. And go camping.

1 Q. And go camping as well.

2 A. Yeah.

3 Q. Okay. So when you're thinking  
4 of leaving, what did you do to prepare to --  
5 before you left?

6 A. Just, you know, got the camping  
7 trailer ready. And I contacted -- well, some  
8 people said they were going up there, and  
9 I contacted them. Decided I'd like to maybe  
10 have somebody to ride along with, and asked  
11 them if they knew anybody that wanted a ride.

12 Q. So you drove up there; is that  
13 correct?

14 A. Yes, we drove up.

15 Q. Did you wind up driving with  
16 anyone?

17 A. Yeah. There was a gentleman  
18 named -- introduced me to named Travis -- and  
19 I don't remember his last name, but he needed  
20 a ride. And so I told him I would include  
21 him in.

22 Q. Okay. Did you have any  
23 conversations with any of your -- did you  
24 tell your family members that you were  
25 leaving?

1 Did you have any conversations  
2 with them?

3 A. Yeah. I told --

4 MR. SUS: Objection. Hearsay.

5 THE COURT: It is hearsay. I'm  
6 not sure what the point is, but -- or if it's  
7 offered for that. Why don't you -- let's --

8 MR. GESSLER: I think we need  
9 to hear his answer before an objection is  
10 proper, Your Honor.

11 THE COURT: Not necessarily.  
12 It's asking him what somebody -- what he told  
13 other people out of court. But I'm going  
14 to -- I'll allow it.

15 MR. GESSLER: Okay.

16 A. Yeah. I told my family that I  
17 was going up to go to Trump's speech on  
18 January 6. And I told -- I think I posted it  
19 on Facebook, that I was going to go up there.

20 BY MR. GESSLER:

21 Q. Okay. And did you have any  
22 conversations with your son about whether you  
23 were heading to Washington, D.C.?

24 A. Yes. I told my son I was  
25 going.

1           Q.       And what was the substance of  
2       those conversations?

3           A.       The main thing, he was  
4       concerned about my safety.  You know, he was  
5       just worried about me.

6           Q.       And why -- were you concerned  
7       about your safety?

8           A.       Definitely.

9           Q.       And why is that?

10          A.       Well, I had seen videos of, you  
11       know, Beverly [sic] Betty, or whatever her  
12       name is.  She's an activist for pro-life  
13       causes.  And somebody in Antifa stabbed her  
14       in the back and tried to kill her.

15                   And then I saw a Portland riot.  
16       And they followed some Trump supporters and  
17       they shot them in the back.  Killed him.  
18       I saw Rand Paul get attacked by Antifa, Black  
19       Lives Matter.

20                   MR. SUS:  Objection,  
21       Your Honor.  Relevance.

22                   THE COURT:  What is the  
23       relevance?

24                   MR. GESSLER:  It goes to his  
25       state of mind and the motivation for some

1 actions that he took in going up to  
2 January 6th.

3 THE COURT: And why is his  
4 state of mind relevant?

5 MR. GESSLER: If you give me a  
6 few more questions, Your Honor, I think I'll  
7 tie it up. And if opposing counsel seeks to  
8 strike, we can deal with it then, Your Honor.

9 THE COURT: I'll let you  
10 proceed, Mr. Gessler.

11 MR. GESSLER: Okay.

12 BY MR. GESSLER:

13 Q. So based on the concerns you  
14 had, did you or your son -- did you take any  
15 action for preparations before you left?

16 A. Yeah. My son offered me --  
17 it's called a plate carrier. It's a body  
18 armor.

19 Q. Okay.

20 A. And he wanted me to wear it in  
21 case I got shot by Antifa or stabbed or  
22 something.

23 Q. Okay. And what's your son's  
24 occupation?

25 A. He works for the Lone Tree

1 Police Department.

2 Q. Okay. And -- okay. Did you,  
3 in fact, take that -- you called it a plate  
4 carrier or body armor?

5 A. Yeah.

6 Q. Did you take that or load it in  
7 your vehicle?

8 A. Yeah, I took it with me. And  
9 I put it in the back of the truck, in the  
10 backseat.

11 Q. Okay. How long did it take you  
12 to get to Washington, D.C.?

13 A. Oh, we drove straight through.  
14 I left the Denver area, and I picked up  
15 Travis, and then we drove straight through.  
16 It was about 24 hours or 25 hours, something  
17 like that.

18 Q. Okay. And when you got to  
19 D.C., where did you stay?

20 A. I stayed at a campground maybe  
21 20 minutes from the D.C. area.

22 Q. Okay. I'm going to play for  
23 you a video.

24 MR. GESSLER: Could you do  
25 1000, please.

1 BY MR. GESSLER:

2 Q. I want you to take a look at  
3 this video, Mr. Bjorklund.

4 A. Okay.

5 (Video played.)

6 Q. Did you take that video?

7 A. I did.

8 Q. So I will submit to you that it  
9 may seem like a boring video, but I'm going  
10 to ask you: Why did you take this video?  
11 What's going on in there?

12 A. I just saw all these giant  
13 buses with Donald Trump stuff. I was  
14 actually concerned about the campground, and  
15 so I felt kind of relieved that my -- the  
16 people right behind our camper was a bunch of  
17 Trump voters and supporters or whatever.  
18 People -- old people like her.

19 Q. Is this a video of the  
20 campground where you stayed?

21 A. Yes, it is.

22 Q. Okay. And did you meet any of  
23 the people in the campground?

24 A. Yeah. We went over and said  
25 hello. And my brother went over right away

1           when he saw their buses, and he met the owner  
2           of the buses, and they invited us to a  
3           barbecue.

4           Q.       Okay. And can you describe the  
5           people that you met.

6           A.       Average age, about 60-plus; and  
7           just very friendly. Like tourists. And  
8           I guess they paid this gentleman that owned  
9           these buses to come out and see Donald Trump  
10          speak.

11                   And so we had a big barbecue.  
12          Very friendly. And, yeah, it was a good --  
13          kind of a good time.

14          Q.       Okay.

15          A.       And we were hungry.

16                   MR. GESSLER: Your Honor, I'd  
17          move to admit Exhibit 1000, please.

18                   MR. SUS: No objection.

19                   THE COURT: 1000 is admitted.

20                   (Exhibit 1000 was received  
21          into evidence.)

22          BY MR. GESSLER:

23          Q.       Okay. And can you describe,  
24          sir, the -- you said there's a big barbecue.  
25          Can you describe the atmosphere?

1           A.       Yeah. It was just -- we were  
2       just having fun. It was a big party. And he  
3       had gazillions of burgers. And I actually  
4       helped flip some burgers for him while he ran  
5       around, the owner of the buses.

6                       We talked about his business  
7       model and stuff like that, which is something  
8       I'm always interested in.

9           Q.       And to your knowledge, why --  
10       I mean, why were all these people there in  
11       Trump buses?

12                   MR. SUS: Objection,  
13       Your Honor. Calling for speculation and  
14       hearsay.

15                   THE COURT: If he has an  
16       understanding as to why people were there, he  
17       can testify as to that.

18           A.       Yeah, there was a -- it was a  
19       tour bus caravan, and they were all just  
20       there to see Donald Trump's speech. And that  
21       was pretty much it.

22       BY MR. GESSLER:

23           Q.       Okay. So is it fair to say you  
24       slept overnight, then, at that location that  
25       you videoed?

1           A.       Yeah. Behind that is my  
2       camping trailer. Yeah.

3           Q.       Okay. And what day was that  
4       video taken?

5           A.       That was on January the 5th.

6           Q.       Okay. So tell me about the  
7       next morning of January 6. I'm assuming at  
8       some point you woke up.

9           A.       (Nodded head up and down.)

10          Q.       And then what did you do at  
11       that point?

12          A.       Yeah, I got up. And we just  
13       took all of our gear and equipment and other  
14       things and then I locked it in the back of  
15       the truck, because my camper is a popup, like  
16       a tent, and so I didn't feel like things were  
17       secure there, so I just crammed everything  
18       into the truck and locked it up. And then we  
19       took my brother's car to the D.C. area.

20          Q.       Okay. Let me back up just one  
21       second.

22                    So when you say you took your  
23       brother's car, did you, at some point while  
24       you're traveling from Denver to Washington,  
25       D.C., meet up with your brother?

1           A.       Yeah. He actually met me at  
2       the campground. I set up the tent and  
3       everything, and then they arrived after I did  
4       all the work.

5           Q.       So you didn't travel with him.  
6       He met you there.

7           A.       Yeah.

8           Q.       Okay. So the body armor that  
9       you had brought with you, what did you do  
10      with that?

11          A.       I left it in the truck.

12          Q.       And why did you leave it in the  
13      truck?

14          A.       It was kind of heavy. And it's  
15      just -- I just felt like it wasn't going to  
16      add to any type of warmth, which was my main  
17      concern. It was pretty cold that morning.

18                 And I just felt like I wasn't  
19      there to cause trouble. And I thought if I  
20      wore body armor, it would maybe make me a  
21      target. And so I decided to leave it.

22          Q.       Okay. And then when -- so you  
23      got in your brother's car. What did you  
24      all -- was there anyone with you, you and  
25      your brother?

1           A.       Yeah. My brother brought a  
2 friend -- or I guess somebody who worked for  
3 him and who was a huge Trump supporter. And  
4 his name was Scott. And --

5           Q.       I'm sorry. What was his name?

6           A.       I think it was Scott. Yeah.  
7 Sorry.

8                   And, yeah, we just got in the  
9 car. We actually did some repairs to the  
10 trailer because it kind of bounced around.  
11 But, anyway, they did that. They're in  
12 construction, so they helped me fix some  
13 stuff. And then we got in the car and left.

14          Q.       Okay. And where did you go?

15          A.       We drove directly to the  
16 Capitol. And we found a small parking lot  
17 right by the -- it's called The Tides Pond or  
18 The Tides Pool, I think is what it's called.  
19 And we parked right there.

20                   There was maybe a 25-car lot.  
21 It wasn't very big. And it was just lined  
22 up. And it was right across -- directly  
23 across from the Washington Monument -- the  
24 big, tall Washington Monument.

25          Q.       Had you been to D.C. before,

1 prior to this?

2 A. Never been to D.C., no. That  
3 was the first and only time.

4 Q. Okay. And then where did you  
5 go after you parked?

6 A. We tried to connect with some  
7 people that I had gotten in touch with. And  
8 they were all over the map and it was hard to  
9 find them, so we just hung out by the big  
10 Washington Monument.

11 Q. Okay. And when you say "we  
12 hung out," who was "we"?

13 A. Just my brother, his friend  
14 Scott, and myself.

15 Q. Okay.

16 A. I'm sorry. It was Steve. I  
17 apologize. It was Steve.

18 Q. Okay. And why did you go to  
19 the Washington Monument area?

20 A. I guess just that big, tall  
21 thing was calling to us.

22 So we hung out there. And  
23 there was a lot of people there. And it  
24 looked like the Ellipse area was really  
25 packed, and we just -- I don't really like

1 big crowds so I didn't -- we just hung out by  
2 the Monument.

3 Q. So is it fair to say you were  
4 there to listen to President Trump's speech?

5 A. Oh, yeah. We were there  
6 definitely to listen to speeches, yeah.

7 Q. Okay. And from your position  
8 near the Washington Monument, did you think  
9 that you were able to listen to the speech?

10 A. Yeah. They had big microphones  
11 -- speakers set up so we could hear what was  
12 going on. And then we listened to some of the  
13 speeches and --

14 Q. Okay.

15 MR. GESSLER: Can you play  
16 Exhibit 1001, please.

17 (Video played.)

18 BY MR. GESSLER:

19 Q. Did you take that video?

20 A. I did.

21 Q. Okay. And how did you take  
22 that video?

23 A. With my iPhone and -- yeah,  
24 I just panned around. I'm obviously not a  
25 very good photographer.

1 Q. And is that sort of where you  
2 were standing to listen to the speeches?

3 A. Yeah. That's exactly where we  
4 were.

5 Q. Okay. And do you know who was  
6 speaking in the background there?

7 A. I think that was Donald Trump  
8 Jr., I'm pretty sure --

9 Q. Okay. Yeah.

10 A. -- if I remember.

11 MR. GESSLER: And I'd like to  
12 move to admit Exhibit 1001, please,  
13 Your Honor.

14 MR. SUS: No objection.

15 THE COURT: 1001 is admitted.

16 (Exhibit 1001 was received  
17 into evidence.)

18 BY MR. GESSLER:

19 Q. And can you describe what the  
20 crowd was like or the people in the crowd.

21 A. Very friendly. There were --  
22 it was diverse. There was a lot -- there was  
23 actually a big line of people that said  
24 Asians for Trump, and they were really super  
25 nice. And, you know, we were talking to

1           them. Everybody was there having a good  
2           time, listening to the speeches.

3           Q.       Okay. What was the temperature  
4           like outside?

5           A.       It was freezing cold. It was  
6           windy. And, yeah, it was very cold.

7           Q.       Okay. Can you give us a sense  
8           of how big the crowd was there at the  
9           Ellipse?

10          A.       I'm guessing, like, if you  
11          looked at the whole crowd, maybe 350,000.

12          Q.       Okay. Let's look at  
13          Exhibit 1002, please.

14                    (Video played.)

15          Q.       Did you take that video?

16          A.       I did.

17          Q.       So what's going on in there?

18          A.       Well, we -- all these motorcycles  
19          pulled up, and I thought it was pretty cool, so  
20          I took out my camera and started filming.  
21          They're on Harleys.

22                    And then the horses came up.  
23          And I believe that was Park Police. And my  
24          brother was saying, "God bless you guys."  
25          And there was a woman there; you can hear her

1           in the background. And people were just kind  
2           of, you know --

3                       THE COURT: Mr. Bjorklund,  
4           would you just mind orienting for me where  
5           you were versus where the speeches were  
6           happening?

7                       I know you said you could hear  
8           them on speakers, but, like, how far were you  
9           from where the action was happening?

10                      THE WITNESS: Yeah. The  
11           speeches were kind of boring, and so we just  
12           decided to walk across the street from the  
13           Washington Monument. And we went over to --  
14           I think there's a World War II museum. There  
15           was a monument there, and we wanted to see  
16           that. So we just walked over there to take a  
17           look.

18                      And then that's where the Park  
19           Police were. So it was very close to where  
20           we were actually at. You could see the  
21           monument right there where we had been  
22           standing.

23                      THE COURT: And how far was the  
24           monument where you were in the original video  
25           from where the speeches were taking place?

1 THE WITNESS: It was probably a  
2 hundred yards or couple hundred yards, maybe.  
3 A couple football fields.

4 THE COURT: So a few football  
5 fields?

6 THE WITNESS: Yeah.

7 THE COURT: Thank you. Sorry.  
8 I'm just not oriented.

9 MR. GESSLER: I was planning on  
10 going there next.

11 THE COURT: Sorry.

12 MR. GESSLER: No. No. No.  
13 This is fine. I want to make sure: Do you  
14 have a good understanding, Your Honor?

15 THE COURT: I'm highjacking  
16 your direct.

17 MR. GESSLER: He's an open  
18 book -- Mr. Bjorklund.

19 But I want to make sure: Do  
20 you have a sense of comfort having a sense of  
21 where he was?

22 THE COURT: And was the crowd  
23 continuous from the Monument to where the  
24 speeches were taking place?

25 THE WITNESS: Yeah. It was

1           very packed. It was less so by the Monument.  
2           I think most of the crowd wanted to be closer  
3           to Donald Trump. And, you know, I wanted to  
4           be more away from the crowd.

5                       THE COURT: Go ahead. Sorry,  
6           Mr. Gessler.

7                       MR. GESSLER: Oh, no, problem,  
8           Your Honor.

9                       Your Honor, I'd move to admit  
10          Exhibit 1002.

11                      MR. SUS: No objection.

12                      THE COURT: 1002 is admitted.

13                      (Exhibit 1002 was received  
14                      into evidence.)

15          BY MR. GESSLER:

16                      Q.       Okay. And then after sort of  
17                      looking at the -- I'll call it motorcade and  
18                      the horses, did you move back to listen to  
19                      the speech?

20                      A.       Yeah. We went back -- we  
21                      wanted to hear Donald Trump, so -- and there  
22                      were, like, a whole string of people before.  
23                      So we went back across the street because we  
24                      wanted to hear Donald Trump's speech.

25                      MR. GESSLER: Okay. Can you

1 play Exhibit 1003, please.

2 (Video played.)

3 BY MR. GESSLER:

4 Q. So is that you in the video?

5 A. Yeah. That's a selfie.

6 Q. So it looks like -- as though  
7 you have a hoodie on and a cap. Why are you  
8 wearing the hoodie like that?

9 A. Actually, I didn't have enough  
10 layers. And so we found a vendor, and  
11 I bought that hoodie at the -- at one of the  
12 vendor tables. It was really cold, so I put  
13 that on.

14 Q. Okay. And was that a -- who  
15 was speaking?

16 A. That was Donald Trump  
17 speaking -- or Senior.

18 Q. I'm sorry?

19 A. Senior. The President.

20 Q. Okay. And how would you  
21 describe the crowd and the crowd's reaction?

22 A. It was entertaining. We were  
23 laughing because he was saying some really  
24 funny things. So we were just cracking up.  
25 It was hard to hear that stuff that he was --

1 throughout the speech saying things that we  
2 were -- just made us laugh. We were just  
3 having fun, hanging out.

4 Q. When you say "we were having  
5 fun, hanging out," who are you referring to  
6 when you say that?

7 A. Well, my brother, Steve. And  
8 we just talked to all the people around.  
9 Everybody was pretty happy and just being  
10 there, listening to the speech.

11 Q. Was there sort of laughter in  
12 addition to yourselves?

13 Were other people sort of  
14 laughing at what --

15 A. Definitely.

16 Q. -- some of what President Trump  
17 said?

18 A. Yeah. Definitely. It was very  
19 entertaining.

20 Q. Okay.

21 MR. GESSLER: I'd move to admit  
22 Exhibit 1003, Your Honor.

23 MR. SUS: No objection.

24 THE COURT: 1003 is admitted.

25 (Exhibit 1003 was received

1                   into evidence.)

2           BY MR. GESSLER:

3                   Q.       Okay. Now, did you listen to  
4           the entire speech?

5                   A.       No. Near the end -- he said  
6           that we were going to go down to the Capitol.  
7           And he said, you know, he wanted us to go  
8           down to the Capitol and, you know, peacefully  
9           make our voices heard, or something to that  
10          effect.

11                               And then we decided, well,  
12          let's go find a bathroom. And that was  
13          pretty much our main mission at that point.

14                  Q.       And did you succeed in that  
15          mission?

16                  A.       Yeah. We found a public  
17          restroom, and then we went back to the car  
18          and -- so, yeah.

19                  Q.       So you said you looked for a  
20          bathroom and then went back to the car. How  
21          long did that take, roughly?

22                  A.       Probably 15, 20 minutes,  
23          30 minutes, something like that.

24                  Q.       Okay. Okay. And from the car,  
25          did you all make a decision to, in fact, go

1 to the Capitol?

2 A. Yeah. We went to the -- we  
3 went to the car. My brother was complaining  
4 that his knee was hurting, and so he said  
5 he'd like to -- he wanted to go. And I was  
6 kind of of the same opinion, like we can --  
7 you know, we've seen the speech and let's  
8 take off. It's really cold.

9 And so my brother -- he heated  
10 up the car, and then Steve said he really  
11 wanted to see the Trump speech down at the  
12 Capitol. And he was really adamant. He said  
13 he didn't drive all the way from Minnesota to  
14 miss out on Trump's, you know, speeches.

15 So then my brother said he  
16 would stay in the car, smoke cigarettes; and  
17 he said he would wait around for us, and he  
18 understood if we wanted to go.

19 So I just went along with  
20 Steve, and we started walking towards the  
21 Capitol.

22 Q. Okay. Let's go to  
23 Exhibit 1004.

24 I'm sorry. This is a photo,  
25 Exhibit 1004. I may have to ask you to back

1 up in your testimony.

2 What's that a photo of?

3 A. Just the crowd looking at  
4 the -- I think they're headed -- they're  
5 looking at the Ellipse. And I just wanted to  
6 kind of get a sense of the crowd. This was  
7 after we, I think, came back from the  
8 bathroom. So, yeah.

9 Q. Okay. Did you take this photo?

10 A. I did.

11 Q. Okay.

12 MR. GESSLER: I'd like to move  
13 to admit this Exhibit 1004.

14 MR. SUS: No objection.

15 THE COURT: 1004 is admitted.

16 (Exhibit 1004 was received  
17 into evidence.)

18 THE COURT: You said this was  
19 at the Ellipse still?

20 THE WITNESS: Yeah. I think  
21 it's looking towards the Ellipse, I believe.  
22 Yeah.

23 THE COURT: From the Washington  
24 Monument?

25 THE WITNESS: Yes.

1 BY MR. GESSLER:

2 Q. Let me ask you again: Was this  
3 during the speech or was this after you had  
4 gone to the car and come back?

5 A. I believe it was after.  
6 I think that's -- yeah. Oh, actually it  
7 might have been during the speech because  
8 there was still a lot of people there.

9 Q. Okay. Can you orient us? Was  
10 this before you started walking to the  
11 Capitol?

12 A. Yes.

13 Q. Okay. Let's go to Exhibit 1005,  
14 please. This is another photo. Did you take  
15 this photo?

16 A. Yeah. These were taken in  
17 succession, so...

18 Q. Okay. So is it fair to say  
19 this is another photo of the crowd?

20 A. Yeah.

21 Q. Looking towards the Ellipse?

22 A. Yeah.

23 Q. Okay.

24 MR. GESSLER: I'd move to admit  
25 this photo, Your Honor.

1 MR. SUS: No objection.

2 THE COURT: 1005 is admitted.

3 (Exhibit 1005 was received  
4 into evidence.)

5 BY MR. GESSLER:

6 Q. And finally Exhibit 1006,  
7 please. Okay.

8 So this is a different type of  
9 photo than what we just saw. Did you take  
10 this photo?

11 A. Yeah, I did.

12 Q. And what's going on? Describe  
13 how you took the -- you know, what was going  
14 on when you took the photo? And what's in  
15 the photo, please?

16 A. I took a picture of the Capitol  
17 and just -- there was some people going down  
18 that direction, so I snapped a picture.  
19 I thought it was -- I just wanted to get a  
20 picture of the Capitol.

21 Q. Okay. And when did you take  
22 this photo in relation to the other stuff  
23 you've talked about?

24 A. I believe that was right before  
25 we started heading down there.

1 Q. Okay. So you've already been  
2 to the car at this point; is that correct?

3 A. Yeah. Yeah.

4 Q. And you're starting to walk  
5 down to the Capitol?

6 A. Uh-huh.

7 Q. Okay. And this is what you  
8 saw?

9 A. Yep.

10 Q. Okay.

11 MR. GESSLER: Your Honor, I'd  
12 move to admit Exhibit 1006, please.

13 MR. SUS: No objection.

14 THE COURT: 1006 is admitted.

15 (Exhibit 1006 was received  
16 into evidence.)

17 BY MR. GESSLER:

18 Q. Okay. Let's look at Exhibit 1007,  
19 please.

20 (Video played.)

21 Q. Okay. Did you take that video?

22 A. Yes, I did.

23 Q. And when did you take that  
24 video in relation to the last photo we saw?

25 A. That was immediately following

1           that last photo. And we just were heading  
2           down to the Capitol building.

3                   Q.       Okay.

4                           MR. GESSLER: I don't know if  
5           there's any more detail to ask beyond that,  
6           Your Honor.

7           BY MR. GESSLER:

8                   Q.       I mean, can you describe --  
9           were you talking to people on the way?

10                  A.       Oh, yeah. We were talking to  
11           different people. And there were some  
12           newspapers that were out, and we were -- we  
13           had picked up some of them, and we were  
14           handing them out to people.

15                          And that was Steve's idea.  
16           There was a bunch of newspapers, so he  
17           grabbed them. I told him to save me one.

18                  Q.       Okay. And in your conversations  
19           with people, can you sort of describe the  
20           atmosphere, their behavior.

21                  A.       Yeah. We were just casually  
22           going towards the Capitol building. And we  
23           were, you know, hoping to hear Donald Trump  
24           speaking down at the Capitol.

25                  Q.       Okay.

1 MR. GESSLER: I move to admit  
2 Exhibit 1007, Your Honor.

3 MR. SUS: No objection.

4 THE COURT: So that was 1007?

5 MR. GESSLER: Yes, ma'am.

6 THE COURT: 1007 is admitted.

7 (Exhibit 1007 was received  
8 into evidence.)

9 BY MR. GESSLER:

10 Q. So this is a photo. Did you  
11 take this photo?

12 A. Yeah. I kept just trying to  
13 get a sense of the big crowd coming behind  
14 us. And we were pretty late, and that crowd  
15 was still coming. So that was a huge crowd.  
16 So the Capitol would be directly behind me.  
17 And I'm looking at the Washington Monument.

18 THE COURT: What do you mean  
19 when you say you were "kind of late" or  
20 "pretty late"?

21 THE WITNESS: Well, we spent a  
22 lot of time looking for a bathroom after  
23 Donald Trump said to go down to the Capitol.

24 And then we went to the car and  
25 we warmed up, which took a while. And then

1           we -- yeah, so it was -- I mean, we weren't  
2           in a big rush to get down there.

3           BY MR. GESSLER:

4                   Q.       Do you have an estimate of  
5           time, you know, what time this was roughly  
6           after the -- in relation to the speech or  
7           time of day?

8                   A.       I'm thinking that it was around  
9           12:20, something like that. 12 o'clock.  
10          Noon.

11                  Q.       Okay. I'm going to represent  
12          to you that that there's a fact in this case  
13          that President Trump's speech ended around  
14          1:10.

15                  A.       Oh.

16                  Q.       Does that help you orient us to  
17          what time this --

18                  A.       Yeah, I guess it was closer to  
19          2 o'clock.

20                            Yeah, I was on Mountain Time.  
21          Sorry. All my pictures have Mountain Time on  
22          them.

23                  Q.       Okay. So what time do you  
24          think this was, roughly?

25                  A.       It was probably around

1           2 o'clock --

2           Q.       Okay.  Okay.

3           A.       -- Eastern Time.

4           Q.       Okay.

5                   MR. GESSLER:  Your Honor, I'd  
6       move to admit Exhibit 1008.

7                   MR. SUS:  No objection.

8                   THE COURT:  1008 is admitted.

9                   (Exhibit 1008 was received  
10       into evidence.)

11       BY MR. GESSLER:

12           Q.       Let's look at Exhibit 1009,  
13       please.

14                   So this is another photo.  Did  
15       you take this photo?

16           A.       Yeah.  It was following that  
17       first one.  I just zoomed in on the crowd and  
18       the Washington Monument.

19           Q.       Okay.  So at this point, your  
20       back is to the Capitol; is that correct?

21           A.       Yes.

22           Q.       Okay.  And then you're facing  
23       the Washington Monument?

24           A.       Um-hmm.

25           Q.       Okay.  And this is what you

1 saw; correct?

2 A. Yep.

3 Q. Okay.

4 A. That's all those people heading  
5 to the Capitol.

6 Q. Okay.

7 MR. GESSLER: I'd like to move  
8 for the admission of Exhibit 1009.

9 MR. SUS: No objection.

10 THE COURT: 1009 is admitted.

11 (Exhibit 1009 was received  
12 into evidence.)

13 BY MR. GESSLER:

14 Q. Okay. Let's move to Exhibit 1010,  
15 please.

16 (Video played.)

17 Q. So did you take that video?

18 A. I did.

19 Q. Okay. And just tell me what  
20 that's a video of.

21 A. That was a video, that we were  
22 getting really close to the crowd that was at  
23 the Capitol building. And I just did a pan  
24 around. And then -- that's what that was.

25 Q. Okay. And, again, who were you

1 with at the time?

2 A. I was with Steve.

3 Q. Okay. And were you talking to  
4 people in the crowd?

5 A. Yeah. Yeah, we were just small  
6 talk all the way down there.

7 Q. Okay. And can you describe  
8 sort of the atmosphere or people's reactions  
9 or emotional state?

10 A. Yeah. Some people were talking  
11 about the votes that were going on inside.  
12 You know, I heard a couple of people had  
13 radios and -- like, AM radios, and they were  
14 listening to speeches or whatever. But  
15 people were just generally talking.

16 Steve obviously doesn't like  
17 Mike Pence.

18 Q. So when you say "Steve  
19 obviously doesn't like Mike Pence," you heard  
20 someone in there say, "I hate Mike Pence"?

21 A. Yeah. That was Steve.

22 Q. Okay. And then let's look at  
23 Exhibit 1011, please --

24 MR. GESSLER: Oh, I move to  
25 admit Exhibit 1010, Your Honor.

1 MR. SUS: No objection.

2 THE COURT: 1010 is admitted.

3 (Exhibit 1010 was received  
4 into evidence.)

5 (Video played.)

6 MR. GESSLER: Let's start that  
7 video over. I want to make sure that,  
8 Your Honor, it doesn't seem that there's  
9 sirens in the video. Those are in the  
10 background.

11 (Video played.)

12 BY MR. GESSLER:

13 Q. Okay. Did you take that video?

14 A. I did.

15 Q. Okay. Now I'm going to ask you  
16 some questions. So are you closer to the  
17 Capitol than the last video?

18 A. Yeah. We -- on our way there,  
19 we heard these explosions. And Steve said,  
20 "Hey, they're lighting off fireworks." And  
21 so we were looking in the sky. We were  
22 looking for, you know, fireworks, but we  
23 didn't see any fireworks.

24 We thought that it was in honor  
25 of Trump speaking, and we thought we were

1 late to the speech. So we kind of just got  
2 closer to the crowd. And then I shot that  
3 video. And then a guy with a bullhorn  
4 telling people to get -- to go closer to the  
5 Capitol and that -- you know, we say "Back  
6 the Blue," and he used in expletives about  
7 our uniformed police officers.

8 Q. So when you say you said that  
9 you Back the Blue, what do you mean when you  
10 said that?

11 A. We are -- I mean, pretty much  
12 the crowd, I believe, and myself, you know,  
13 we respect law enforcement.

14 Q. I'm sorry. Say that again.

15 A. We have a respect for law  
16 enforcement.

17 Q. Okay. You have to lean into  
18 the mic to talk.

19 A. Okay.

20 Q. And so there's a person -- we  
21 heard a person with a megaphone. You spoke  
22 with that person?

23 A. No, I didn't -- well, perhaps.  
24 I mean, not really. He was yelling things at  
25 us, and I just kind of told him where to go.

1 Q. So you yelled back at him?

2 A. Yeah.

3 Q. Okay. And maybe without  
4 describing any expletives or anything, can  
5 you give a little more detail what you yelled  
6 back at him?

7 A. Yeah. He was yelling for us to  
8 go into the crowd. And that's where we saw  
9 there was tear gas. And he mentioned that  
10 they were tear gassing us, and he was telling  
11 people to go into the crowd.

12 And I said, "Screw you," is  
13 what I said, so...

14 Q. Okay. So did you go closer to  
15 the crowd at that point?

16 A. No.

17 Q. Okay. And why not?

18 A. I don't like crowds.

19 Q. Okay. And you said there was  
20 tear gas and whatnot?

21 A. Yeah.

22 Q. What did you see?

23 A. I saw the -- at that point, we  
24 realized they weren't fireworks; they were  
25 police officers, and they were shooting into

1 the crowd and big explosions going off right  
2 in the middle of a bunch of people.

3 And this guy is yelling, "Go  
4 into the" -- you know, "Go over there." And  
5 I'm, like, that's stupid.

6 Q. Okay.

7 A. So...

8 MR. GESSLER: I'd move to admit  
9 Exhibit 1011, Your Honor.

10 MR. SUS: No objection.

11 THE COURT: 1011 is admitted.

12 (Exhibit 1011 was received  
13 into evidence.)

14 BY MR. GESSLER:

15 Q. Okay. Let's go to Exhibit 1012.

16 (Video played.)

17 Q. Okay. Did you take that video?

18 A. I did.

19 Q. Now where were you in relation  
20 to the Capitol at this point?

21 A. I was on the -- I'm not sure  
22 the directions there, but I was on the --  
23 beside the Capitol. I went opposite of what  
24 that guy was yelling -- and he told us we  
25 were going the wrong way -- but I went --

1           there was some, it looks like, temporary  
2           bathrooms that were set up. And we walked  
3           over that way. And I just was coming around  
4           the side of the Capitol.

5           Q.       Okay. So I'm going to orient  
6           you. So you're walking earlier with the  
7           Washington Monument behind you and the  
8           Capitol in front of you. And when you said  
9           you went to the side of the Capitol, did you  
10          go to your right or left?

11          A.       I went to the right. Um-hmm.

12          Q.       Okay. And so you're wrapping  
13          -- walking around the Capitol at this point?

14          A.       Yeah. And I'm behind the  
15          temporary bathrooms they had set up.

16          Q.       Okay. And then you heard a --  
17          well, it sound like there was a big bang in  
18          there.

19                   What's going on with that?

20          A.       Yeah. They were still shooting  
21          flash-bangs and tear gas into the crowd, and  
22          so I didn't want to be there.

23          Q.       Okay. At this point did you  
24          see any violence? Anyone hurting anyone  
25          else?

1           A.       Only the Capitol Police --  
2       that's all I could see from where I was at --  
3       just shooting, you know, flash-bangs and  
4       stuff at people.

5           Q.       Okay. And from what you could  
6       see from where you were, you know, what were  
7       people in the -- that you were able to see or  
8       in the crowd doing at that point?

9           A.       A lot of them were in  
10      disbelief. And they were, you know, just  
11      saying, "I can't believe they're shooting at  
12      us." And people were just talking about what  
13      was -- you know, what was going on.

14                   And I just, you know, felt like  
15      they just -- they obviously don't want us in  
16      that spot.

17          Q.       Okay. Were people in your area  
18      of the crowd moving towards the Capitol? away?  
19      stationary?

20                   What were they doing as far as  
21      movement goes?

22          A.       Most people were just standing  
23      there. They weren't moving towards the  
24      Capitol. You know, I avoided the big crowd.  
25      So, you know, they were shooting. They

1 clearly didn't want people over there, so  
2 I didn't go over there.

3 And I was -- and at that point,  
4 I lost Steve somehow. I don't know where he  
5 went. I turned around, and he was gone.

6 Q. Okay. So at this point you  
7 were alone?

8 A. Yeah.

9 Q. Okay.

10 MR. GESSLER: Your Honor, I'd  
11 move to introduce Exhibit 1012.

12 MR. SUS: No objection.

13 THE COURT: Exhibit 1012 is  
14 admitted.

15 (Exhibit 1012 was received  
16 into evidence.)

17 BY MR. GESSLER:

18 Q. Okay. Let's go to Exhibit 1013,  
19 please.

20 (Video played.)

21 Q. Did you take this video?

22 A. I did.

23 Q. Okay. And where were you at  
24 this point?

25 A. That was just directly in front

1 of those temporary bathrooms.

2 Q. Okay. Still -- how about in  
3 relation to the Capitol?

4 A. It's -- yeah, near the  
5 scaffolding. So it was, again, on the right  
6 side of the Capitol. And I looked -- I tried  
7 to get a view of the scaffolding where a lot  
8 of people were. And so I just took that  
9 video.

10 Q. Okay.

11 MR. GESSLER: Your Honor --  
12 well, first, let me move to admit  
13 Exhibit 1013.

14 MR. SUS: No objection.

15 THE COURT: 1013 is admitted.

16 (Exhibit 1013 was received  
17 into evidence.)

18 MR. GESSLER: Your Honor, I'm  
19 probably about ready to move into a different  
20 section of testimony. And I don't think  
21 there's any way we'll finish -- it's highly  
22 unlikely we'll finish Mr. Bjorklund before  
23 noon.

24 If I may suggest, as a humble  
25 suggestion only, that perhaps we could break

1           now. We could have Congressman Buck testify  
2           at 1 o'clock. We could resume Mr. Bjorklund  
3           after that. And I'm confident we will be out  
4           well before -- probably well before  
5           4 o'clock, maybe even before 3 o'clock today.

6                       THE COURT: Okay. You don't  
7           think that you can finish your direct  
8           examination by noon?

9                       MR. GESSLER: I can try.  
10          I think it's probably unlikely. So that why  
11          I just wanted to make a suggestion,  
12          Your Honor.

13                      THE COURT: I'm fine with  
14          breaking from -- we will break from 11:30 to  
15          1:00. We'll hear Congressman Buck, and we'll  
16          then resume with Mr. Bjorklund.

17                      Is that okay with you,  
18          Mr. Bjorklund?

19                      THE WITNESS: Sure.

20                      THE COURT: Any objection?

21                      MR. GRIMSLEY: No, Your Honor.

22                      Just one quick issue to raise  
23          related to something that was suggested  
24          earlier.

25                      THE COURT: Okay.

1 MR. GRIMSLEY: We had talked  
2 about the possibility of doing closing  
3 arguments tomorrow. And it's the  
4 Petitioners' view that we should put them off  
5 until a later date, once the findings of fact  
6 and conclusions of law have been submitted,  
7 because I think at that point in time, the  
8 arguments of both parties will have been  
9 fully joined.

10 And Your Honor may have  
11 questions on some of the legal issues and  
12 some of the findings of fact at that point.  
13 And we believe at that point in time, it  
14 would be good to have the closing arguments.

15 We just effectively had closing  
16 arguments yesterday. And I don't know if  
17 that would be too much more robust or fulsome  
18 than that if we had them again tomorrow. And  
19 I'm not sure they would incorporate all of  
20 the legal issues that you would want perhaps  
21 to hear on. So it would be our position to  
22 put it off.

23 THE COURT: And, Mr. Gessler,  
24 how about you?

25 MR. GESSLER: I think that

1 makes sense, actually, Your Honor. We don't  
2 have any objection to that at all.

3 THE COURT: An agreement?

4 MR. GESSLER: I will note that  
5 I think opposing counsel has been able to  
6 cooperate pretty well on this case. I hope  
7 we have.

8 MR. GRIMSLEY: It's actually  
9 true. You don't see it behind the scenes,  
10 but I think it's been true.

11 THE COURT: Ms. Raskin, are you  
12 okay with that as well?

13 MS. RASKIN: Absolutely fine  
14 with that.

15 THE COURT: Mr. Kotlarczyk?

16 MR. KOTLARCZYK: That's fine  
17 with the Secretary, Your Honor.

18 THE COURT: Okay.

19 MR. GRIMSLEY: And one last  
20 thing, Your Honor, just on the that Reuters  
21 report. I was a little stunned to hear that  
22 there was some August 2021 FBI report.

23 That was just a Reuters  
24 article, not a report -- just to let you  
25 know -- quoting unnamed sources. Just as

1           that shouldn't come in, nor should The  
2           Washington Post article from January 30th,  
3           2021, saying that the FBI had found  
4           coordination amongst groups come in, so...

5                       MR. GESSLER: I don't think we  
6           have a big objection to that.

7                       It certainly explains  
8           Mr. Van Flein's state of mind, but we're not  
9           looking to insert that for the truth of the  
10          matter asserted, Your Honor.

11                      THE COURT: Okay. Well,  
12          I think I struck that testimony.

13                      So we will reconvene at  
14          1:00 p.m. with Congressman Buck. And I just  
15          ask that we be ready to go with him, from a  
16          technical standpoint.

17                      MR. GESSLER: That's another  
18          reason why I thought it would be a good  
19          reason to break now, so we can wrestle with  
20          the technology before 1 o'clock, to make sure  
21          we're good.

22                      THE COURT: I think the key is  
23          just not to have Mr. Blue's computer  
24          involved. But I say that with no real  
25          knowledge.

1 MR. BLUE: I wouldn't disagree  
2 with you.

3 THE COURT: Okay. So we'll be  
4 back at 1 o'clock. We're off the record.

5 (Recess taken.)

6 THE COURT: Congressman Buck,  
7 can you hear me?

8 THE WITNESS: Yes.

9 Oh. You heard me? Great.  
10 Okay.

11 THE COURT: Yeah. Could you  
12 raise your right hand, please.

13 CONGRESSMAN KEN BUCK,  
14 having been first duly sworn to state  
15 the whole truth, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. GESSLER:

18 Q. Good afternoon, Representative  
19 Buck.

20 A. Good afternoon.

21 Q. Thank you for being here.

22 I'm going to ask you some  
23 questions, as you well know, but I'd like to  
24 start with just a little bit about your  
25 current position and your background.

1                   So could you tell the -- for  
2           the record, your current position.

3           A.       Yeah. I'm a United States  
4           Congressman for the 4th Congressional  
5           District of Colorado.

6           Q.       And how long have you been a  
7           congressman?

8           A.       Almost nine years. Eight years  
9           and ten months.

10          Q.       Okay. And when were you first  
11       elected into Congress?

12          A.       I was elected in November of  
13       2014.

14          Q.       Okay. And what did you do  
15       prior to that?

16          A.       Before that, I was the elected  
17       district attorney in the 19th Judicial  
18       District, which is Weld County.

19          Q.       And how long did you serve in  
20       that position?

21          A.       I served as district attorney  
22       for ten years.

23          Q.       Okay. And then prior to being  
24       elected as district attorney, what did you  
25       do?

1           A.       I actually worked for Hensel  
2       Phelps Construction Company in a nonlegal  
3       position for two-and-a-half years.

4                   And before that, I was with the  
5       U.S. Department of Justice for 15 years;  
6       3 years in Washington, D.C., and 12 years in  
7       the U.S. Attorney's Office in Denver.

8                   And I also taught at the  
9       University of Denver Law School in the  
10      evenings. I'm not sure if the title was  
11      adjunct professor, but it was something along  
12      those lines. I was a -- I taught at the  
13      graduate law program, and I also taught for  
14      the law school criminal procedure.

15           Q.       Okay. Thank you very much.

16                   So I want to direct your  
17      attention to the events around January 6th  
18      and the electoral vote, the electoral count.

19                   Where were you on the afternoon  
20      -- in the afternoon of January 6th?

21           A.       I was on the Floor in the  
22      U.S. House.

23           Q.       Okay. And why were you there?  
24      What was going on?

25           A.       There was a procedure to

1 certify the votes from the November 2020  
2 election.

3 Q. Okay. And had you done that  
4 before, as a congressman?

5 A. Yes. So I'm trying to think.  
6 For the 2016 election -- I was not here for  
7 the 2012 election, so 2016. And that was my  
8 second time, 2020.

9 Q. Okay. And can you describe  
10 what the process is that Congress follows for  
11 the electoral vote count.

12 A. Sure.

13 So the vice president presides,  
14 and he orders the envelopes to be opened.  
15 And the clerk in the House opens the  
16 envelopes. It's a joint hearing. The Senate  
17 is in the House chambers, and we have a joint  
18 hearing. The envelopes are opened, and the  
19 electoral votes from each of the states in  
20 alphabetical order is announced.

21 Q. Okay.

22 A. That's how it's supposed to  
23 work generally, I guess.

24 Q. Okay. And what role does  
25 the -- does Congress play?

1                   Are you merely bystanders to  
2           that? Or does the Congress play a role in  
3           that process?

4           A.       It depends who you ask. In my  
5           opinion, we have a very ministerial function  
6           of sitting there and opening envelopes.

7                   I assume that at the time the  
8           Constitution was written, it was meant to  
9           make sure that the votes were opened in  
10          public so that the public would have some  
11          assurance of the integrity of the votes being  
12          counted.

13                   But we are not counting votes,  
14          and we are not opening envelopes. We are  
15          sitting there.

16          Q.       Okay. And now is there a  
17          process for objections?

18          A.       There is a process for  
19          objections based on the statute passed around  
20          the time of the Civil War, where people can  
21          make objections.

22                   Again, my understanding is that  
23          the statute is there in case there is a  
24          dispute of electors -- certified electors  
25          coming from a state capitol.

1           Q.       Okay.  So I want to go back to  
2       January 6th, 2017.  Were there any objections  
3       on the Floor at that time?

4           A.       Yes, there were.  There were  
5       six or seven objections made to different  
6       states' electoral count.

7           Q.       And can you describe what  
8       happened.

9           A.       I can.  
10                   Jim McGovern from Massachusetts  
11       -- a congressman from Massachusetts, stood up  
12       and objected to the votes.  I think it was  
13       Alabama.  And then there were five other  
14       objections -- clear objections to particular  
15       votes.

16                   Then the last objection, the  
17       seventh one, Maxine Waters from California --  
18       I don't know if she objected, but she just  
19       asked if a senator will agree to object with  
20       her.

21                   So the only way that a proper  
22       objection can be made is if a House member  
23       and a senator both object.  And in '16 -- and  
24       in years past, frankly -- there have never  
25       been, to my knowledge, a senator who has

1       objected. At least in this century, no  
2       senator has objected with the House member in  
3       the -- in '16, into '17. January 6 of '17,  
4       no senator agreed to object.

5           Q.       So all the objections were from  
6       House members?

7           A.       All the objections were from  
8       House members. And they were not heard  
9       because it wasn't properly made.

10          Q.       Okay. If a senator -- just  
11       from a process standpoint, if a senator  
12       agrees to the objection, then what happens?

13          A.       Then -- this is based on  
14       memory; I'd have to have the rules in front  
15       of me. But by memory, the objection then is  
16       recognized. The Senate goes back to their  
17       chambers. The House -- there's, I think, an  
18       hour of debate, a half hour from each side.  
19       And then there's a vote on whether the  
20       objection should stand or not. And then the  
21       Senate comes back and convenes with the  
22       House. And the next envelope is opened, and  
23       the process is continued.

24          Q.       Okay. Let's go to January 6th,  
25       2021. Were there -- when you were on the

1 House Floor, were there any objections?

2 A. Yes.

3 Q. Okay. Can you describe what  
4 happened?

5 A. Yeah. I know Paul Gosar objected  
6 to -- he's from Arizona -- a congressman from  
7 Arizona. He objected to the Arizona electoral  
8 count. And the Vice President asked if --  
9 Vice President Pence asked if there was a  
10 senator who agreed. And I believe it was Ted  
11 Cruz who agreed on that.

12 And the objection was proper.  
13 And so the Senate then went back to their  
14 chambers to debate, and the House started the  
15 process of debating that.

16 Q. Okay. So were you in the House  
17 as part of that debate?

18 A. I was in the House. It was  
19 unclear to me whether I would be speaking or  
20 not.

21 It was during COVID, and so the  
22 House had rules on how many seats had to be  
23 between each member when they're on the House  
24 [sic]. There were actually members in the  
25 gallery, so it was -- people were very spread

1 out.

2 But my guess is there are only  
3 -- probably half the members were actually in  
4 the House, on the House Floor, at the time.  
5 Most members were back in their offices.

6 Q. Okay.

7 A. Or at least -- maybe not most,  
8 but a large number of members were back in  
9 their offices.

10 Q. Okay. And did anything unusual  
11 happen that day?

12 A. Oh, yeah. It was unusual.

13 Q. I'm trying to give you  
14 open-ended questions.

15 Can you describe what happened?

16 A. Sure.

17 The -- so I -- we have -- we're  
18 permitted to have phones on the House Floor.  
19 I was not getting a signal, so I didn't know  
20 what was going on outside the House Floor.

21 But the first thing that I  
22 knew, a police officer -- uniformed officer  
23 came -- actually, no. I think the first  
24 thing that happened was a security detail  
25 escorted Speaker Pelosi off of the dais. And

1 she was escorted out. And then, of course,  
2 everybody is murmuring about what happened.

3 And then it may have been Jim  
4 McGovern who took over, but a Democrat member  
5 of the majority took over and was acting  
6 Speaker at that point.

7 A few minutes later, a police  
8 officer came to the microphone and said that  
9 tear gas had been dispersed. And we were  
10 advised that there was tear gas -- or gas  
11 masks, I guess, under our seats, and we  
12 should deploy those gas masks, which seems a  
13 little odd, because we continued to have the  
14 debate.

15 But she may have also said that  
16 the Capitol had been breached. I'm not sure  
17 if she said that, but there was clear  
18 indication that there was a danger at that  
19 point.

20 I can remember within seconds  
21 of that happening a member from the Democrat  
22 side, up in the balcony area of the gallery,  
23 yelled out, "This is your fault."

24 And I'm sitting there, without  
25 any context for what's going on because

1 I don't have anything, a text from my staff,  
2 or the ability to go online and figure out  
3 what was going on.

4 Q. Okay. And then did you -- so  
5 were you actually debating while wearing gas  
6 masks?

7 A. No. I don't think anybody put  
8 their gas mask on.

9 And at that time, it was more  
10 of milling around and trying to figure out,  
11 you know, what the threat was and what would  
12 happen next.

13 Q. Okay. And then did the security  
14 -- did the Capitol Police or security respond  
15 in any way to a perceived threat?

16 A. Yes. So after that and after a  
17 few minutes of that -- maybe longer, maybe  
18 10, 20 minutes -- a police officer came back  
19 to the podium and said that we would be  
20 clearing the House Floor. And that's when  
21 I saw officers, both uniformed and plain  
22 clothes, take positions.

23 I sit typically -- in that day,  
24 I was sitting near the center aisle. And for  
25 some context for the Court, that's the aisle

1 the President walks down to give the State of  
2 the Union address. And it typically divides  
3 the two parties.

4 But I was sitting close to the  
5 aisle. And that center door has -- there are  
6 big wood doors on the outside, but then the  
7 doors on the inside -- there is glass above  
8 the door on the inside.

9 Q. Okay. And so what did the  
10 security police do?

11 Were they security or police?  
12 How should I describe them?

13 A. They are uniformed -- they are  
14 sworn officers.

15 Q. Okay.

16 A. So, yes, police.

17 Q. So what did they do?

18 A. Well, they took up positions.  
19 And as members started leaving, I actually  
20 took my coat off. There were some -- my  
21 jacket off. There were some members who were  
22 moving furniture over to block the door. And  
23 the officers, I know at one point, had drawn  
24 their weapons.

25 My memory also is: After the

1 members had moved some furniture over, there  
2 was a popping sound. And it was the glass  
3 over the door. And someone had popped that  
4 glass. And that's when -- maybe that's when  
5 the officers drew their weapons. It's hard  
6 to -- in a room like that, it's hard to tell  
7 exactly what that noise came from.

8 I could see the glass, and so I  
9 knew, but it almost sounded like a bullet at  
10 first. And so the officers had drawn their  
11 guns and were securing that door.

12 Q. Okay. Now did you personally  
13 feel threatened?

14 How did you feel about --  
15 perceive what was going on?

16 A. Well, you know, I had felt kind  
17 of stupid afterwards because at the time,  
18 I took my jacket off, and I was there to help  
19 the police officers. I had no idea whether  
20 there were ten people in the building or a  
21 thousand people in the building.

22 So when we started to -- when  
23 the police started to clear the building --  
24 at the same time, there were police officers  
25 behind the wall of the -- the front wall of

1 the House chambers. There were police  
2 officers who were clearly milling around and  
3 securing the other entrances to the House.  
4 And I could see that from my seat.

5 But I -- when we started to  
6 clear, I put my jacket back on. I was one of  
7 the last to leave the House Floor. And the  
8 officers actually came over to me -- I was  
9 down in the middle aisle at this point, and  
10 they said, "It's time to go."

11 Nobody was, you know, yelling  
12 or screaming, but it was clear that it was a  
13 very serious situation.

14 Q. Okay. And what was your view  
15 of the sort of capabilities of the Metro  
16 Police -- I'm sorry, of the security  
17 officers?

18 A. The Capitol Police, you know,  
19 they -- there were probably six, seven of  
20 them that were there at that one door. And  
21 they -- it appeared to me, with their weapons  
22 and unknown threat to me at that point, that  
23 they were in control of the House Floor based  
24 on the number of officers, probably 30 to 40  
25 officers around the House -- well-armed

1 officers.

2 Q. Okay. And what was your  
3 perception as to -- let me ask you this: Was  
4 anyone that you saw shot?

5 A. No. In fact, I didn't even  
6 hear the shot. But the shot would have  
7 occurred while I was there because, like I  
8 said, I was one of the last to leave the  
9 House Floor.

10 But I understood later that a  
11 lady had tried to breach the House chambers  
12 through the Speaker's lobby coming in over  
13 the door, and she was shot and killed.

14 Q. Okay. So from your perspective,  
15 the way the security officers were operating,  
16 what did they -- were you able to infer any  
17 sense of what their protocols are based on  
18 their behavior?

19 A. Yeah, I think based on my  
20 experience in law enforcement and what I saw  
21 them doing, their goal/their function was to  
22 make sure that there wasn't a hostage  
23 situation, to make sure that no members were  
24 going to be hurt or taken by whatever the mob  
25 was.

1                    Obviously they have earpieces  
2                    in. They're aware of what's going on. But  
3                    they were there to secure the Floor until the  
4                    members left. And as soon as the members  
5                    left, I could see the officers leaving the  
6                    House at that point.

7                    Q.            Okay.

8                    A.            The House Floor, I should say.

9                    Q.            And why do you think they left  
10                   the House Floor?

11                   A.            Because I don't think --  
12                   I think the threat that they were -- and,  
13                   again, this is -- I'm speculating, but the  
14                   threat that they were there to minimize was  
15                   the threat of injury to members and staff.  
16                   And once that had been accomplished, they  
17                   were withdrawn.

18                   Q.            Okay. Are you aware of any  
19                   sort of breaches or occupations of the  
20                   Capitol prior to this event?

21                   A.            During the summer of 2020,  
22                   there were riots. And the rioters had  
23                   attempted to break through the barricades,  
24                   and, in some cases, had broken through the  
25                   barricades. Much smaller groups of people.

1 But clearly they were, you know, protesting.  
2 And the goal was to breach the Capitol at  
3 that point.

4 There was also an instance in  
5 2016 -- I believe it was June of 2016 --  
6 where there was a mass shooting. And I don't  
7 remember which one. It may have been a  
8 school shooting. The Democrats wanted the --  
9 the Republicans were the majority. The  
10 Democrats wanted to have gun control bills  
11 heard. Speaker Ryan refused to bring those  
12 to the Floor, and the Democrats occupied the  
13 Floor at that time.

14 The Speaker ordered that the  
15 C-SPAN coverage of the Floor end. And  
16 they -- the Democrats began to livestream  
17 from their phones. There was some -- it  
18 wasn't really a fight, though there was  
19 certainly some intimidation, some pushing and  
20 shoving around, whether the Democrats would  
21 control the Republican side of that -- of the  
22 Chamber.

23 We had a couple -- at least one  
24 Navy SEAL, a couple of veterans who ended  
25 that pretty quickly when they went over to

1 the microphones. And so the Dems stayed on  
2 their side to engage in that protest.

3 Q. Was the House able to continue  
4 its duties that day?

5 A. No. It was shut down.

6 Q. Okay. Let me ask you the -- if  
7 you're aware of how the police reacted when  
8 there were outsiders who came in to the  
9 Capitol, I think you had testified, in 2020.

10 A. Yeah. I don't think they ever  
11 breached the Capitol. The protesters were  
12 typically protesting in the evenings around  
13 the Capitol. The barricades -- and they're  
14 fairly weak barricades -- that were set up.  
15 They're kind of -- they look almost like  
16 the -- something that you put your bicycle in  
17 in a rec department or something. They  
18 weren't, you know, very sturdy barricades.

19 But some of the protesters may  
20 have breached that particular perimeter, but,  
21 to my knowledge, they never got into the  
22 Capitol.

23 Q. Okay. Okay.

24 Let me turn your attention to  
25 after the events of January 6th.

1                   So are you aware of the  
2           January 6th Select Committee that was -- that  
3           ultimately conducted a form of an  
4           investigation into the events of January 6th?

5                   MR. NICOLAIS:  Objection,  
6           Your Honor.  This is beyond the scope of what  
7           the congressman was provided for.  
8           Specifically, he was provided to testify  
9           about his experience as a sitting member of  
10          Congress at the Capitol on January 6th, 2021.

11                  MR. GESSLER:  Your Honor,  
12          I think we had verbally as well told the  
13          Court that we'd have two congressmen --  
14          obviously one, we can't -- who are going to  
15          testify about Congressional procedures,  
16          including the January 6th Committee.

17                  That's an event here.  And  
18          you've specifically asked for evidence about  
19          the January 6th Committee.  That's why Mr.  
20          Heaphy is going to be testifying, although he  
21          was not placed on the Petitioners' witness  
22          list.

23                  So that's in response to that  
24          as well.

25                  THE COURT:  We have two options

1       here. We can either take Mr. Nehls'  
2       declaration, and I can admit that into  
3       evidence, which would then deprive the  
4       Petitioners a chance to cross. Or we can  
5       allow Mr. Buck to testify about something  
6       that wasn't disclosed, and you can  
7       cross-examine.

8                       Which is your preference?

9                       MR. NICOLAIS: If I can have  
10       just a moment, Your Honor.

11                      THE COURT: Sure.

12                      (Pause.)

13                      THE COURT: Just one moment,  
14       Congressman Buck.

15                      THE WITNESS: Judge, I don't  
16       have a preference, if you're asking me the  
17       question.

18                      THE COURT: I wasn't. But I'm  
19       assuming you're willing to testify about this  
20       additional subject.

21                      THE WITNESS: Of course.

22                      MR. NICOLAIS: Your Honor,  
23       I think we're fine if the congressman wants  
24       to testify about that, as long as we're able  
25       to ask him about post-January 6th events as

1 well.

2 THE COURT: I'm not sure what  
3 post-January 6th events.

4 MR. NICOLAIS: They would  
5 probably revolve -- reference January 6th.  
6 As long as we had some leeway in asking him  
7 questions.

8 THE COURT: It's hard for me to  
9 rule on giving you leeway when I have no idea  
10 what that will be. But let's proceed with  
11 his testimony and play it by ear.

12 MR. GESSLER: Just so you know,  
13 our position, Your Honor, we're going to ask  
14 Representative Buck about the January 6th  
15 Committee and its processes. And we certainly  
16 agree that's fair game for cross-examination.  
17 But any events after January 6th that even  
18 reference January 6th, we'll probably object if  
19 it goes beyond the scope of our direct,  
20 certainly, Your Honor.

21 THE COURT: Well, I'm just  
22 going to rule as the objections come.

23 MR. NICOLAIS: Fair enough.

24 In that case, we would accept  
25 Congressman Nehls' declaration instead.

1 THE COURT: Let's hear what  
2 Congressman Buck has to say. And you're  
3 going to get a fair chance to cross-examine  
4 him.

5 BY MR. GESSLER:

6 Q. Representative Buck --

7 THE COURT: Before we go --  
8 before we move on to that, I'd like to ask  
9 him just one question about his prior  
10 testimony.

11 MR. GESSLER: Sure, Your Honor.

12 THE COURT: So, Congressman Buck,  
13 could you see -- when you were in the Chambers  
14 and you said that, you know, the police  
15 officers were all putting up barricades,  
16 et cetera, and you -- could you see what was  
17 going on in the hallway? Or were you kind of  
18 just in a vacuum at this point, in the sense  
19 that you see them seeming to prepare for  
20 something, but don't know what's going on  
21 outside the room?

22 THE WITNESS: Yeah, that's what  
23 I mentioned earlier. I felt kind of stupid  
24 taking my jacket off and getting ready for a  
25 fight because I didn't realize until I got

1 back -- actually, we were moved to a  
2 committee room after we were brought off the  
3 Floor.

4 I have young staff, and I was  
5 concerned about them. And so I came back to  
6 my office rather than the secure committee  
7 room, and I saw on TV what was going on. And  
8 I thought, "Oh, my goodness. There are a lot  
9 of people out there."

10 THE COURT: Thank you.

11 BY MR. GESSLER:

12 Q. Congressman Buck, if I may ask  
13 you: How did you get from the Capitol back  
14 to your office?

15 A. There's a series of tunnels  
16 underneath the Capitol building that connect  
17 -- the House offices, the Senate offices, the  
18 Library of Congress are all connected with a  
19 series of tunnels. And that's how the police  
20 escorted us, through those tunnels.

21 Q. Okay. Thank you.

22 So let's turn to the  
23 January 6th Committee. To your knowledge,  
24 how does the -- how are members of committees  
25 through the normal process chosen?

1           A.       So what happens is -- I can  
2       give the January 6th as an example. But the  
3       Speaker announces that there will be a  
4       January 6th Committee. There will be X  
5       number of Democrats -- I don't know if it was  
6       eight or nine Democrats on the committee.  
7       There will be, I think she said, five  
8       Republicans on the committee.

9                   And at that point, she started  
10      naming the Democrats -- within, you know, a  
11      week or ten days, she started naming the  
12      Democrats for the committee. And the  
13      leader -- Republican leader at the time -- we  
14      were the minority at the time -- the  
15      Republican leader, Kevin McCarthy, named five  
16      Republicans.

17                  I know three of the names. Jim  
18      Jordan, Jim Banks, and Kelly Armstrong were  
19      named to that committee. Speaker Pelosi then  
20      denied Jim Jordan and Jim Banks and said they  
21      would not be seated on the committee.

22                  And at that point, the minority  
23      leader, Kevin McCarthy, withdrew all five  
24      names and refused to have anybody from the  
25      Republican Party sit on the committee.

1                   The next move, Speaker Pelosi  
2           announces that Liz Cheney would co-chair the  
3           committee. Obviously Liz Cheney, a  
4           Republican, would co-chair the committee.

5                   And within a couple of weeks  
6           after that, Adam Kinzinger then was named to  
7           the committee by Speaker Pelosi. So there  
8           were this group of Democrats -- seven, eight,  
9           nine -- and two Republicans who were seated  
10          on the committee.

11                  Q.       Okay. And do you know  
12          Representative Cheney or Kinzinger?

13                  A.       I know them both very well.

14                  Q.       Okay. And your thoughts of  
15          them?

16                  A.       Well, my thoughts in terms of  
17          the January 6th --

18                  Q.       Let me ask you this: What's  
19          your relationship with them?

20                         When you say you know them, if  
21          you have a relationship with them?

22                  A.       We'll, I've had a long relationship  
23          with Liz Cheney. I worked for Dick Cheney on  
24          the Iran-Contra investigation back in 1986 and  
25          '87. I knew Liz before she ran for Congress

1 from Wyoming and was, you know, in contact with  
2 her pretty consistently as she served here in  
3 Congress.

4 Adam less so. I was on the  
5 Foreign Affairs Committee, he was on the  
6 Foreign Affairs Committee, so we saw each  
7 other during committee work and had some  
8 conversation, but he was not a particularly  
9 close friend or colleague.

10 Q. Okay. So they were appointed  
11 to the January 6th Committee.

12 To your knowledge, what were  
13 their views towards the January 6th events  
14 when they were on the committee?

15 A. So after January 6,  
16 Speaker Pelosi -- understand the time frame.  
17 We've got January 6, and then January 20th is  
18 the inauguration for the new president.

19 Between January 6 and  
20 January 20th, Speaker Pelosi announced an  
21 impeachment proceeding against President Trump.  
22 And there was actually a vote on the Floor.  
23 Both Liz Cheney and Adam Kinzinger voted for  
24 impeaching President Trump.

25 I think of the 200 some-odd

1       Republicans, maybe 10, 12 voted for  
2       impeachment. So it was a fairly small  
3       minority. 5 percent of the overall  
4       conference voted for impeachment. And they  
5       were 2 of the Republicans who voted for  
6       impeachment.

7               Q.       Okay. Let me go back to Liz  
8       Cheney. I mean, you talked about contact.  
9       Do you consider her a friend?

10                      Or how would you describe that?

11               A.       You know, Harry Truman said,  
12       "If you want a friend in D.C., get a dog."

13                      I think that Liz and I were,  
14       you know, acquaintances; and we, you know,  
15       shared stories on occasion. I've never been  
16       to her house to eat; she's never been to my  
17       house. We haven't seen much of each other,  
18       but certainly had a friendly history  
19       together.

20               Q.       Okay. So she and Adam  
21       Kinzinger were on the Floor. Based on the  
22       vote for impeachment as well as any other  
23       knowledge you have, did they represent the  
24       opinions of the large majority of the caucus?

25               A.       On what subject?

1           Q.       With respect to the events of  
2       January 6th.

3           A.       Well, I don't think they  
4       represented the views of most of the  
5       Republican conference because most of the  
6       Republican conference -- 95 percent of the  
7       Republican conference did not vote for the  
8       impeachment of President Trump and they did.

9                    So in the sense of where they  
10      were on January 6th, I think they stood out  
11      alone.

12          Q.       Were there other Republicans  
13      then who had different perspectives or  
14      viewpoints than Representatives Cheney or  
15      Kinzinger that did not serve on the  
16      committee?

17          A.       Well, the five Republicans who  
18      Leader McCarthy assigned to the committee did  
19      not serve on the committee and did not share  
20      the views of Liz Cheney or Adam Kinzinger.

21          Q.       Okay. I'm going to represent  
22      to you that Representative Swalwell testified  
23      earlier, and that there was a text from him  
24      referring to Representatives Cheney and  
25      Kinzinger in which he was saying that

1 Representative Cheney and Kinzinger -- he was  
2 happy that they were on the Democrats' team  
3 with respect to the January 6th Committee.

4 Is that an accurate description  
5 from your point of view?

6 A. You know, I would have a tough  
7 time answering that question. They were  
8 clearly -- they shared the view on  
9 impeachment of President Trump for the  
10 actions that occurred on January 6th.

11 I would say that when it came  
12 to most of the votes that were before the  
13 House, they did not share the views of the  
14 Democrats and how they voted on other  
15 subjects. But clearly on the January 6th  
16 issue, they were -- had similar views.

17 I don't know. You know,  
18 I don't think any Democrat wants to be known  
19 as being on a Republican team or the other  
20 way around.

21 Q. Okay. Okay.

22 Did you perceive any problems  
23 -- let me ask you this: Were there any other  
24 Republicans that served on that January 6th  
25 Committee besides Representatives Cheney and

1 Kinzinger?

2 A. No.

3 I actually called Kevin  
4 McCarthy, because of my background as a  
5 prosecutor, and I asked Kevin if I could get  
6 his permission to seek to serve on that  
7 committee because I thought it was important  
8 that witnesses were cross-examined and  
9 documents were challenged.

10 And Kevin told me that he did  
11 not want me serving on that committee, and he  
12 didn't want anybody else serving on the  
13 committee -- any other Republican serving on  
14 that committee.

15 Q. Why was it important for  
16 witnesses to be cross-examined and documents  
17 to be challenged?

18 A. Well, you know, in my experience  
19 as a prosecutor, if the defense attorney isn't  
20 present and the defendant isn't present, it's  
21 not a real fair trial.

22 In this case, you need to have  
23 both sides -- you need to have the adversarial  
24 system working in order to get accurate and  
25 full, complete information for an issue like

1 the January 6th investigation.

2 Q. Did you think that  
3 Representatives Cheney and Kinzinger would  
4 sort of fulfill that role of -- you know,  
5 fulfill that role of ensuring that the  
6 adversarial process was carried out?

7 A. Right. I think they both do  
8 their best to be fair, but I do think that  
9 they were more aligned with a -- the result  
10 that the Democrats were looking for than, for  
11 example, Jim Jordan or Jim Banks or Kelly  
12 Armstrong would have done.

13 So I think that it was not as  
14 adversarial, and it was not as challenging  
15 for the evidence as it would have been if the  
16 five members appointed by Leader McCarthy or  
17 others in the conference were allowed to sit  
18 on that committee.

19 Q. Do you think you would have  
20 fulfilled that role had you been on the  
21 committee?

22 A. I would have done my best.  
23 I think that it would take more than one  
24 person because there were so many documents,  
25 so much evidence that was considered. But

1           certainly I would have done my best.

2                       I worked, as I mentioned  
3           before, for Dick Cheney on the Iran-Contra  
4           investigation. We had an adversarial system.  
5           And we had a minority report on the  
6           Iran-Contra investigation on areas where we  
7           didn't agree.

8                       There is no minority report in  
9           this -- in the January 6th investigation  
10          because there was no minority. It was one  
11          viewpoint that was shared.

12                      Q.       So when -- let me ask you that.  
13          So Speaker Pelosi, did she -- when she  
14          rejected or refused to allow certain  
15          appointments by Representative McCarthy, in  
16          your experience in Congress, was that a  
17          normal event?

18                      A.       It was not normal in the  
19          history of Congress. Speaker Pelosi, on one  
20          or two other occasions, had removed members  
21          from committees. I know that Marjorie Taylor  
22          Greene was not allowed to sit on committees  
23          because of statements that she had made  
24          before winning her seat for Congress. And  
25          I know that Paul Gosar was removed from

1 committees.

2 In the past, it has typically  
3 been the party of the person who is alleged  
4 to have committed some wrongdoing that  
5 removes the person from committee seats. And  
6 I'm not sure in relation to January 6th  
7 whether those events occurred before or  
8 after.

9 But the typical process is for  
10 the minority party to be able to assign  
11 individuals/members to the committee  
12 assignments.

13 Q. Okay. So you said it's never  
14 happened in the history of Congress. Did  
15 I hear you correct there?

16 A. Well, I'm not --

17 Q. To your knowledge?

18 A. Yeah, to my knowledge,  
19 certainly in recent history, it has not  
20 happened.

21 Q. Okay. So observing the  
22 January 6th Committee procedures, were, in  
23 fact -- was, in fact, the evidence that was  
24 submitted to the committee subjected to the  
25 adversarial process?

1                   A.       No.

2                   Q.       And why is that?  If you could  
3                   give me a little bit more of a description  
4                   rather than a two-letter word "no."

5                   THE COURT:  Why don't you start  
6                   with how you know that.

7                   THE WITNESS:  How do I know it  
8                   wasn't?

9                   THE COURT:  Um-hmm.

10                  A.       Well, I had the opportunity to  
11                  observe some of the hearings.  I have had the  
12                  opportunity to read parts of the report.  And  
13                  I've had the opportunity to talk to some of  
14                  the people who were alleged to have done  
15                  things in the report and heard their side of  
16                  the story.  And they were never questioned.

17                  For example, Jim Jordan was up  
18                  for the speakership recently.  And I went  
19                  through with him some of the allegations in  
20                  the January 6 report and then heard his side  
21                  of the story.  Those were not included in the  
22                  January 6th report.

23                  And based on the makeup of the  
24                  committee, the -- there wasn't -- there  
25                  wasn't inquiries that I would certainly have

1 wanted to make.

2 For example, what was  
3 Speaker Pelosi's role in not having the  
4 National Guard present or at least assembled  
5 to be present? And what was the Sergeant at  
6 Arms' role in that?

7 There are some areas that  
8 I think would have been important to look at  
9 to be able to judge President Trump's actions  
10 and nonactions in this case.

11 BY MR. GESSLER:

12 Q. Do you know if there were any  
13 members on the committee who subpoenaed or  
14 produced evidence for witnesses that were  
15 supportive or sympathetic to the proposition  
16 that January 6th was not an insurrection and  
17 was not caused by President Trump?

18 A. So I'm aware that  
19 Leader McCarthy -- when he made the statement  
20 that we would not be assigning Republicans to  
21 the January 6th Committee after Speaker Pelosi  
22 had denied the assignments to Jim Jordan and  
23 Jim Banks, Leader McCarthy said he was going to  
24 have a separate investigation, and that  
25 investigation would be our side of the story.

1                   And there were some witnesses  
2           who were -- who testified, and there were  
3           some documents produced. Not through  
4           subpoena but produced. And had those been  
5           part of the January 6th report, I think the  
6           report would have been more complete.

7           Q.       I'm sorry. The report would  
8           have been more?

9           A.       Complete.

10          Q.       Okay. Is it fair to say it  
11          would have been more balanced?

12          A.       I think if you're looking for  
13          balance -- yes, I think it would have  
14          presented both sides.

15          Q.       Okay. Let me ask you about  
16          that separate committee real quick.

17                   Did that committee have any  
18          subpoena power?

19          A.       It did not.

20          Q.       Did it have any ability to  
21          compel the production of documents?

22          A.       It did not.

23          Q.       Or witnesses?

24          A.       No.

25          Q.       Okay.

1 THE COURT: You're talking  
2 about the January 6th Committee?

3 MR. GESSLER: No, Your Honor.  
4 I'm talking about the separate report that  
5 Representative Buck referred to that Speaker  
6 [sic] McCarthy had created.

7 BY MR. GESSLER:

8 Q. Let me just clear up the  
9 record, Representative Buck.

10 A. It's not Speaker McCarthy at  
11 the time; it was Leader McCarthy.

12 Q. I'm sorry. Leader. Yes.

13 I want to help clear up the  
14 record a little bit. So your testimony was  
15 that Minority Leader McCarthy had sort of  
16 established a separate committee. Correct?

17 A. I wouldn't call it a  
18 "committee" because there were no Democrats  
19 on his effort, just as there were -- well,  
20 I shouldn't say "no Republicans."

21 There were no Democrats on his  
22 effort. There were, I think, Jim Banks and a  
23 few others -- Kelly Armstrong -- were on this  
24 other group that was formed to investigate.

25 Q. Okay. Let me go back to the

1 January 6th Committee.

2 You said there was no minority  
3 report produced by the January 6th Committee.  
4 Is that correct?

5 A. Yes.

6 Q. Okay. And why is that  
7 important?

8 A. Well, because it provides the  
9 other side of the story. It provides context  
10 for what one side is alleging. And it is  
11 important to have the -- I believe the full  
12 picture in a situation like the January 6th  
13 investigation.

14 Q. Okay. You had said when you  
15 spoke with Representative Jordan that there  
16 were things that he said that were much --  
17 that were either much different or provided a  
18 much different context than what appeared in  
19 the January 6th report.

20 Can you explain that in a  
21 little more detail?

22 A. Sure.

23 MR. NICOLAIS: Objection,  
24 Your Honor. This is hearsay.

25 THE COURT: Yeah.

1 MR. GESSLER: Your Honor, we're  
2 not introducing anything for the truth of the  
3 asserted -- for the truth of the matter  
4 asserted.

5 We're introducing information  
6 that shows the January 6th Committee had one  
7 perspective, and that the perspective that  
8 Representative Jordan provided was much  
9 different.

10 So we're using this to  
11 demonstrate the incompleteness and  
12 one-sidedness. Not one side is true versus  
13 the other.

14 I mean, we have other argument  
15 about that. But I'm not looking to get into  
16 the contents of either side. It's the  
17 difference between the two that matters.

18 MR. NICOLAIS: Your Honor, the  
19 congressman already testified to the  
20 difference. We don't need to get into what  
21 Jim Jordan said.

22 THE COURT: Well, he said  
23 that -- if I recall, he said that Jim Jordan  
24 had a different perspective on something, but  
25 I don't think we've heard the details of what

1           it is.

2                       So, Congressman Buck, you can  
3       tell -- if you wouldn't mind just telling the  
4       Court what type of disputes Mr. Jordan had  
5       rather than just repeating what Mr. Jordan  
6       said.

7                       THE WITNESS:   Sure.

8           A.       One example would be the report  
9       stated that Jim Jordan refused to testify.

10                      Jim's statement was that he  
11       was -- he received a subpoena, and they were  
12       in the process of negotiating a date for his  
13       testimony, and then the committee staff never  
14       got back to his staff.  So he says he was  
15       willing to testify.  The report says that he  
16       was unwilling to testify.

17                      It was -- there were a few  
18       issues like that.  He sent a Tweet -- no, I'm  
19       sorry -- he sent a text to Mark Meadows --  
20       I believe it was January 2nd.  And in the  
21       text, the allegation in the report is that  
22       Jim Jordan advocated for the decertification.

23                      And Jim's statement to me was  
24       that he attached a Law Review article or a  
25       legal analysis, I guess it was -- it wasn't a

1 Law Review article -- a legal analysis to  
2 Mark Meadows, Chief of Staff, to examine, in  
3 terms of whether they could.

4 So he says he wasn't advocating,  
5 but he was providing information to the White  
6 House on that subject.

7 MR. NICOLAIS: Your Honor, I'll  
8 renew my objection to hearsay and move to  
9 strike, because he said Jim Jordan says this,  
10 Jim Jordan says that.

11 THE COURT: I'm going to accept  
12 the testimony just for the limited purpose  
13 that there were things that maybe Mr. Jordan  
14 would have liked to have told the House  
15 Committee that he wasn't able to.

16 MR. GESSLER: Thank you,  
17 Your Honor.

18 BY MR. GESSLER:

19 Q. Representative Buck, let me ask  
20 you: Why do you know so much detail or why  
21 were you so interested in discrepancies  
22 between the committee report? And why did  
23 you spend so much time learning about that  
24 from Representative Jordan?

25 A. Jim Jordan was a candidate for

1 Speaker. He was actually the Speaker nominee  
2 for the Republican Party in the recent  
3 Speaker issue that was going on in the last  
4 few weeks.

5 Q. Okay. And so it's fair to say  
6 you spoke with him at length about these  
7 issues as part of that process?

8 A. He came to my office one  
9 evening in the middle of his time as Speaker  
10 nominee, and we sat down for about an hour,  
11 an hour ten minutes.

12 Q. Okay. To your knowledge, were  
13 any of the witnesses before the January 6th  
14 Committee cross-examined?

15 A. I don't know that the concept  
16 of cross-examination is really part of what  
17 the committee process is. There are  
18 questions from Republicans, questions from  
19 Democrats typically in a committee process.  
20 It is not as clear as in a courtroom that one  
21 side is cross-examining.

22 Q. Okay. To your knowledge -- in  
23 your view and based on your observations  
24 attending the committee meetings, were  
25 questions placed to witnesses that were an

1 effort or seeking to elicit testimony that  
2 was -- that ran contrary to the thesis that  
3 President Trump caused an insurrection?

4 MR. NICOLAIS: I'm going to  
5 object, Your Honor, because Mr. Gessler has  
6 characterized it as Congressman Buck  
7 attending the committee. I don't believe  
8 Congressman Buck was on the committee.

9 THE COURT: Congressman Buck,  
10 when you talked about attending hearings,  
11 were you referring to the public hearings?

12 THE WITNESS: I didn't attend.  
13 I saw some public hearings on television, but  
14 I was not in attendance personally.

15 THE COURT: So is that what you  
16 were questioning him about, when he --

17 MR. GESSLER: His observations,  
18 yes.

19 THE COURT: You can answer.

20 A. Could you restate the question?  
21 I'm sorry.

22 BY MR. GESSLER:

23 Q. I don't know if I can. I will  
24 try, though.

25 THE COURT: Maybe if you could

1 do it a little less leading, it would also be  
2 good.

3 MR. GESSLER: I'm sorry. A  
4 little less?

5 THE COURT: Leading.

6 MR. GESSLER: A little less  
7 leading. Yes, Your Honor.

8 BY MR. GESSLER:

9 Q. Congressman Buck, from your  
10 observations of the committee process, do you  
11 think there were -- can you describe the --  
12 whether in -- whether the questions that were  
13 asked, whether they were postured and how  
14 they were postured to arrive at a full  
15 investigation?

16 A. Sure.

17 I think that the questions were  
18 typically questions that would demonstrate  
19 President Trump's involvement and culpability  
20 in January 6th or elicit answers that would  
21 demonstrate his involvement and culpability  
22 in the events of January 6th.

23 As an old trial lawyer, I looked  
24 at -- listened to a lot of those questions and,  
25 probably as most trial lawyers, thought I was

1 Clarence Darrow and I could have asked a better  
2 question or I could have made -- you know,  
3 I would have made an objection on hearsay or  
4 something at the time.

5 So I tended not to watch a  
6 whole lot of what happened because it didn't  
7 seem to me that the process was set up in a  
8 way that would sort of elicit the whole truth  
9 in those hearings.

10 Q. Are you aware of any allegations  
11 that the committee altered evidence or altered  
12 exhibits that it received and then produced to  
13 the public?

14 A. I have heard of those allegations.  
15 I have not seen the documents and could not give  
16 you a judgment on whether I think those were  
17 accurate allegations or not.

18 Q. Okay.

19 A. Remember, this is the world of  
20 politics. And truth is not closely aligned  
21 with political views all the time.

22 Q. Okay. Well, let me ask you  
23 this then: When you say "this is a world of  
24 politics," do you think that the committee  
25 report was -- meets the description you

1           just -- meets the description you just  
2           described about the relationship of politics  
3           and truth?

4                   A.       Sure. The purpose of that  
5           report was -- there was a political purpose  
6           to that report, as there is with almost  
7           everything in Congress.

8                           And the political purpose was  
9           ultimately to win elections and to paint the  
10          one side in as bad a light as possible. And  
11          that's why, typically, there is a minority  
12          report in an investigation like this, so that  
13          both sides can say, "But this is really what  
14          happened. And here are the documents, and  
15          here are the phone calls, and here's the  
16          testimony that supports it."

17                  Q.       And it's your view that that  
18          did not happen in this case?

19                  A.       It's my view that the people  
20          who would have been most challenging to the  
21          evidence and testimony were not seated either  
22          by Speaker Pelosi or Leader McCarthy  
23          ultimately on the committee.

24                  Q.       Okay. With respect to the  
25          January 6th report, have you -- what's your

1 view on it, from a political standpoint in  
2 Congress?

3 A. Well, I voted to certify the  
4 election. I thought what happened on  
5 January 6th was obviously bad. It was a riot  
6 in the Capitol building. It was meant to  
7 disturb a proceeding.

8 And I felt that the parts of  
9 the report that I saw described those things.  
10 It went beyond that in other areas. And  
11 that's where I think the cross-examination,  
12 in terms of the President's culpability,  
13 would have been important.

14 Q. And with a deficiency -- and  
15 why do you think it would have been  
16 important?

17 A. Because I think that in order  
18 to be able to judge someone's -- it's like  
19 going into a courtroom as a prosecutor, not  
20 having a defense counsel or a defendant.  
21 I think in order to be able to judge  
22 someone's culpability, you've got to be able  
23 to hear both sides of the story.

24 And in this case, there was not  
25 another side. There were people who voted to

1       impeach the President because they made a  
2       judgment that he had been involved in the  
3       January 6th events. And the other side was  
4       not present, for one reason or another -- was  
5       not present to be able to portray the other  
6       side of the story.

7               Q.       Thank you very much,  
8       Congressman Buck. I appreciate your  
9       testimony today.

10               MR. GESSLER: I have no further  
11       questions.

12               MR. NICOLAIS: Your Honor, can  
13       we have a short break just to discuss some  
14       issues?

15               Obviously this went beyond the  
16       scope of what we originally prepared for.  
17       We're looking for five or ten minutes.

18               THE COURT: Sure. Given --  
19       I think we're ahead of schedule generally.  
20       Let's just take a 15-minute break before  
21       cross-examination.

22               Does that work for you,  
23       Congressman Buck?

24               THE WITNESS: The bells are  
25       going to go off soon for voting, but

1 I certainly would be available after votes.  
2 But hopefully votes are delayed. And I will  
3 do my very best to be here.

4 THE COURT: Why don't we make  
5 it 10 minutes then, so we can hope to get you  
6 done. But we'll work with your schedule.  
7 Okay?

8 THE WITNESS: Thank you very  
9 much.

10 THE COURT: So we'll reconvene  
11 at 5 after 2:00.

12 (Recess taken.)

13 THE COURT: Do we know if  
14 Congressman Buck is still good or has he gone  
15 to vote?

16 There he is.

17 Are you still able to testify?

18 THE WITNESS: I am. Yes.

19 THE COURT: Okay.

20 MR. NICOLAIS: Your Honor,  
21 before we begin, I want to get this right, to  
22 try to make sure we have a full, fair, and  
23 accurate process.

24 I would like to actually ask  
25 that we can split our cross-examination. We

1        had one attorney preparing to ask Congress  
2        Nehls specifically about questions. And he  
3        was here -- number 7 on the witness list --  
4        to testify about the selection process for  
5        January 6th and go through all of that.

6                    We would like that attorney to  
7        cross-examine Congressman Buck on that, and  
8        then I'll cross-examine him on what he was  
9        actually brought here to testify about and  
10       January 6th and what he went into there.

11                   Is that acceptable to  
12       Your Honor?

13                   MR. GESSLER: I'm not going to  
14       object to that, Your Honor.

15                   THE COURT: Yeah, I think that  
16       makes sense, since we -- there's been a lot  
17       of moving parts here with the witnesses. And  
18       it is an expedited proceeding, so  
19       I understand that it's been hard to get  
20       people to testify.

21                   MR. NICOLAIS: Thank you,  
22       Your Honor.

23                   THE COURT: So, Congressman Buck,  
24       we're going to do something a little bit  
25       unusual.

1                   As you know, as a lawyer, the  
2                   rule is usually that just one person can do  
3                   the cross-examination. But since the  
4                   Petitioners weren't aware until today that  
5                   you were going to testify about the  
6                   January 6th Committee, they're going to have  
7                   one person ask you questions about the  
8                   January 6th Committee and then another person  
9                   ask you about the -- what they knew to be the  
10                  subject of your testimony, which was the  
11                  events of January 6. Okay?

12                  THE WITNESS: Great. Thank  
13                  you, Your Honor.

14                  THE COURT: So we're starting  
15                  with Mr. Grimsley.

16                  CROSS-EXAMINATION

17                  BY MR. GRIMSLEY:

18                  Q.       Good afternoon,  
19                  Congressman Buck.

20                  How are you?

21                  A.       Good afternoon.

22                  I'm fine. Thank you.

23                  Q.       You're not familiar with what  
24                  the predicate requirements for satisfying  
25                  Colorado Rule of Evidence 803(3) are, are

1           you?

2                   A.       I would have to read it to be  
3           able to tell you that.

4                           No, I'm not, as I sit here  
5           right now.

6                   Q.       Yeah. It's an exception to the  
7           general rule prohibiting hearsay that applies  
8           to reports of government investigations.

9                           You're not familiar, as you sit  
10          here today, with what the requirements of  
11          that provision are?

12                   A.       I'm not.

13                   Q.       Now I want to ask you about the  
14          process for coming up with and appointing the  
15          members of the Select Committee.

16                           You know originally the  
17          Democrats had sought to create an  
18          independent, bipartisan commission to  
19          investigate the attack?

20                   A.       I believe Democrats and some  
21          Republicans sought that, yes.

22                   Q.       But the legislation failed in  
23          the Senate because of the filibuster. There  
24          weren't enough Republican votes in the Senate  
25          to overcome the filibuster, so they couldn't

1       establish that bipartisan commission;  
2       correct?

3               A.       I'm unaware of what happens in  
4       the Senate, but I am aware -- I believe it  
5       passed in the House.

6               Q.       It did pass in the House,  
7       because there is not a filibuster in the  
8       House.

9                       But you know that it got out of  
10      the House and never came back to the Senate;  
11      right?

12              A.       I do know that there was not an  
13      independent commission formed.  Yes.

14              Q.       And you had mentioned, you  
15      know, votes a little bit before.  I think you  
16      talked about the impeachment votes.

17                      After the bipartisan commission  
18      was struck down in the Senate, then there was  
19      House Resolution 503 passed to create the  
20      Select Committee.  Do you recall that?

21              A.       I remember a vote on the Select  
22      Committee, yes.

23              Q.       And, you're right, not a whole  
24      lot of Republicans voted for it.  I think it  
25      was just 2.  But there were 19 Republicans

1       who just didn't vote at all because I think  
2       they didn't want to have their vote on the  
3       record.

4                       Do you recall that?

5               A.       I don't recall the reason for  
6       them not voting. And I don't recall the  
7       specific numbers.

8               Q.       All the Democrats voted for  
9       HR 503, though.

10              A.       I take your word for it.

11              Q.       And the Select Committee that  
12       was established by HR 503 was originally  
13       designated so that Speaker Pelosi would  
14       appoint 13 members, 5 of whom would be  
15       nominated or appointed after consultation  
16       with then-Leader McCarthy.

17                       Is that your understanding?

18              A.       That is typically how it works.  
19       Yes.

20              Q.       And, in fact, before even  
21       Leader McCarthy nominated five individuals,  
22       Speaker Pelosi said she was going to appoint  
23       Republican Liz Cheney to the Select  
24       Committee; correct?

25              A.       I don't remember whether that

1           happened before or after, but I do remember  
2           Speaker Pelosi making that announcement.

3           Q.       So that would have meant that  
4           there would have -- instead of eight  
5           Democrats and five Republicans being on the  
6           committee, there would have actually been  
7           seven Democrats and six Republicans, given  
8           that Liz Cheney is a Republican. Correct?

9           A.       Well, there would have been  
10          eight appointed by the Democrat side and five  
11          appointed by the Republican side. One of  
12          them -- one of the Democrat appointees would  
13          have been a Republican.

14          Q.       But just doing nose counting,  
15          it would have been seven Democrats and six  
16          Republicans, unless, for some reason that  
17          I can't possibly fathom, the Republicans had  
18          appointed a Democrat. Correct?

19          A.       When Speaker -- Leader McCarthy  
20          made his appointments, there was not a  
21          Democrat in that group.

22          Q.       So after Speaker Pelosi said at  
23          least that she was going to appoint Liz  
24          Cheney, Leader McCarthy nominated five  
25          Republicans for the committee. And those

1 included Representative Rodney Davis,  
2 Representative Jim Jordan, Representative  
3 Kelly Armstrong, and Representative Troy  
4 Nehls, along with Representative Jim Banks.

5 Does that sound right?

6 A. That does sound right, yes.

7 Q. And Nancy Pelosi did not reject  
8 all five names, did she?

9 A. That's correct.

10 Q. She only rejected two of the  
11 names, and that was Representative Jim Jordan  
12 and Representative Jim Banks?

13 A. That's correct.

14 Q. Now you do understand -- then  
15 after she rejected those two, then as I think  
16 you said, Leader McCarthy pulled all the  
17 nominations down. Right?

18 A. He withdrew the nominations,  
19 yes.

20 Q. Speaker Pelosi said, "Three of  
21 your five are totally fine, and you just need  
22 to nominate two others besides  
23 Representatives Jordan and Banks." Isn't  
24 that right?

25 A. I don't know if she said that,

1 but that was certainly what occurred.

2 Q. Now you've been a prosecutor?

3 A. Yes.

4 Q. You would not appoint a  
5 material witness to a case to sit in judgment  
6 of that case, would you?

7 A. I believe that would be a  
8 conflict.

9 Q. And you do understand that  
10 while you may not agree, there were many who  
11 believe that Representative Jim Jordan was  
12 potentially a material witness to the events  
13 that happened on January 6th. Correct?

14 A. I believe many people would  
15 draw that conclusion, yes.

16 Q. And, in fact, he's admitted  
17 that he had conversations with  
18 President Trump on the day of the attack.

19 A. I believe there were two  
20 conversations with President Trump and two  
21 others with Rudy Giuliani on that day.

22 Q. And Rudy Giuliani and  
23 President Trump refused to testify before the  
24 January 6th Committee, didn't they?

25 A. I don't know. I wouldn't be

1 surprised if President Trump did. I don't  
2 know -- I know some witnesses that refused to  
3 testify were -- there were court proceedings  
4 to compel their testimony, but I'm not  
5 sure -- or to hold them in contempt of  
6 Congress. But I'm not sure about Rudy  
7 Giuliani.

8 Q. But at the end of the day, when  
9 some of the very most important evidence in  
10 the case is going to be what did  
11 President Trump say on the day of January 6th  
12 and the attack, especially while it was  
13 happening, you're not going to seat somebody  
14 who has that information to judge the case;  
15 correct?

16 A. Well, if you're asking me or  
17 are you asking -- obviously Speaker Pelosi  
18 felt that way.

19 Q. I'm asking you, as a former  
20 prosecutor, who spoke at length about how the  
21 system is supposed to work: Do you put a  
22 material witness who has material information  
23 in charge of deciding a case?

24 A. This is not a court proceeding.  
25 The January 6th investigation was not a court

1 proceeding. And so what you're asking me, as  
2 a prosecutor, would not apply to my  
3 experience here in Congress.

4 I do think that everybody that  
5 was seated had evidence because they were all  
6 sitting in the Chamber at the time -- I'm not  
7 sure all of them, but many of them were  
8 sitting in the Chamber at the time of the  
9 January 6th.

10 So I wouldn't have an eyewitness  
11 to a crime on a jury any more than I would have  
12 what you call a "material witness."

13 But this is not a jury situation.  
14 This is a Congressional investigation.

15 Q. Well, two questions there.  
16 First, you had brought up, I think on your  
17 direct, kind of your view of cross-  
18 examination and the adversarial process and  
19 how that's really the way to get at the  
20 truth.

21 But the fact is: This is a  
22 Congressional investigation, and they just  
23 work a little bit differently than court  
24 cases. Right?

25 A. Much differently.

1           Q.       And then as far as the  
2       witnesses and all members of the House being  
3       a witness, you're certainly right, that all  
4       members of the House were witnesses, at least  
5       those who were there that day to the attack  
6       on the Capitol. But not all of them had  
7       material information about conversations they  
8       had had with the President on that day.  
9       Correct?

10           A.       That's correct.

11           Q.       And then Representative Banks  
12       was the other person that Speaker Pelosi said  
13       could not serve.

14                   And do you recall that  
15       Representative Banks issued a press release  
16       shortly after he was nominated by Speaker --  
17       Leader McCarthy?

18           A.       I do not recall that.

19                   MR. GRIMSLEY: Can we put up  
20       Exhibit 184, please. P-184.

21       BY MR. GRIMSLEY:

22           Q.       And we're going to share the  
23       screen here, Congressman. Hopefully you can  
24       see it.

25                   (Pause.)

1 Q. Sorry. It just takes second.

2 MR. GRIMSLEY: And if you could  
3 blow up the document.

4 BY MR. GRIMSLEY:

5 Q. Can you read that? If not, I  
6 can blow it up further.

7 A. I don't see any document at  
8 this point.

9 (Pause.)

10 I've got it now.

11 Q. Okay. Great.

12 Do you see that? It's a press  
13 release from -- and this is, I'll represent  
14 to you, taken from Representative Banks's  
15 congressional website.

16 A. I'm reading it right now -- do  
17 you want me to read the document?

18 Q. You can read it if you'd like,  
19 or I can just ask you some questions about  
20 it.

21 I was going to go to the third  
22 paragraph starting, "If Democrats..."

23 A. I see that paragraph. Yes.

24 Q. He says, "If Democrats were  
25 serious about investigating political

1 violence, this committee would be studying  
2 not only the January 6th riot at the Capitol,  
3 but also the hundreds of violent political  
4 riots last summer, when many more innocent  
5 Americans and law enforcement officers were  
6 attacked. And, of course, the committee  
7 would not overlook the Good Friday murder of  
8 U.S. Capitol Police Officer Billy Evans that  
9 was perpetrated by a far-left extremist."

10 He then goes on to say in the  
11 last paragraph, "Even then, I will do  
12 everything possible to give the American  
13 people the facts about the lead-up to  
14 January 6th, the riot that day, and the  
15 responses from Capitol leadership and the  
16 Biden administration. I will not allow this  
17 committee to be turned into a forum for  
18 condemning millions of Americans because of  
19 their political beliefs."

20 What possible involvement could  
21 the Biden administration have had with the  
22 events of January 6th?

23 A. I think you're going to have to  
24 ask Mr. Banks.

25 Q. Do you see, yourself, that

1 President Biden's administration could have  
2 any involvement whatsoever with January 6th?

3 A. I'm unaware of any.

4 Obviously their administration  
5 was being formed and would be taking over on  
6 January 20th. There is a transition period  
7 at the Department of Justice, Department of  
8 Defense. But I am unaware of any activities  
9 that the Biden administration had regarding  
10 January 6th.

11 Q. And you agree that if a  
12 committee is constituted to investigate a  
13 specific event like January 6th, while a  
14 member may want other things investigated,  
15 it's not appropriate to bring those things  
16 into discussion.

17 A. No, I don't think that's the  
18 case at all.

19 In a political investigation,  
20 it is often brought in what is not happening,  
21 what this witness is not testifying about, or  
22 the witnesses that were not allowed to be  
23 called. Because, again, it isn't purely a  
24 search for the truth; it is a political  
25 exercise that is being engaged in to create

1 information for elections. That's what the  
2 political system is about.

3 Q. You didn't talk to Speaker Pelosi  
4 or any members of the Select Committee who told  
5 you that the purpose of their investigation was  
6 electioneering, did you?

7 A. Have I spoken to -- no, I have  
8 not spoken. But I have been present for  
9 nine years in this place. And it's one of  
10 the reasons I'm looking forward to not coming  
11 back.

12 Q. I wish that was breaking news  
13 here. We can announce it though, I think.

14 So I want to ask you a little  
15 bit about the actual process that the  
16 investigative team went through in coming to  
17 the conclusions in the January 6th report.

18 You don't dispute that the  
19 January 6th Committee's investigative staff  
20 was led by former U.S. attorney?

21 A. I'm unaware of who led that  
22 study.

23 Q. You don't dispute that the  
24 investigative staff included roughly 20  
25 lawyers?

1           A.       I don't -- again, I don't have  
2           any knowledge of the staff that was put  
3           together.

4           Q.       And the only reason I'm asking you  
5           this, sir, is I think that President Trump's  
6           lawyers have brought you in here to impugn the  
7           integrity and the reliability of this report.  
8           So I want to make sure I understand what you  
9           know about the process for creating it. Okay?

10          A.       (Nodded head up and down.)

11          Q.       You don't dispute that some of  
12          the lawyers on the investigative staff were  
13          Republicans.

14          A.       Again, I have no knowledge.

15          Q.       You don't dispute that as part  
16          of the investigation, the committee and  
17          investigative staff interviewed or deposed  
18          more than 1,000 witnesses?

19          A.       I know they deposed many. I'm  
20          not sure of the exact number.

21          Q.       You don't dispute that the  
22          January 6th Committee and investigative staff  
23          collected more than 1 million documents?

24          A.       Again, no knowledge. I wouldn't  
25          dispute it.

1           Q.       You don't dispute that the  
2       January 6th Committee and investigative staff  
3       reviewed hundreds of hours of video evidence?

4           A.       Again, no knowledge.

5           Q.       You don't dispute that the  
6       January 6th Committee and investigative staff  
7       reviewed more than 60 federal and state court  
8       rulings related to the 2020 election?

9           A.       I have no knowledge of how many  
10       court proceedings they reviewed.

11          Q.       You don't dispute that the  
12       January 6th Committee and investigative staff  
13       presented testimony from more than 70  
14       witnesses at 10 live public hearings, do you?

15          A.       Again, I have no knowledge of  
16       how many witnesses were called.

17          Q.       You don't dispute that during  
18       the investigation, more than 30 witnesses  
19       invoked their Fifth Amendment right against  
20       self-incrimination?

21          A.       I do not know that number.

22          Q.       You don't dispute that others,  
23       including President Trump, refused to  
24       testify, asserting executive privilege?

25          A.       I do know that -- I had read

1 stories about President Trump. I have no  
2 knowledge of others who have testified or  
3 refused to testify.

4 Q. And actually President Trump  
5 was asked to testify, and he simply refused;  
6 didn't he?

7 A. The stories that I read  
8 indicated that he asserted executive  
9 privilege. I'm not sure if there were any  
10 other reasons for him not to testify.

11 Q. He could have come in and  
12 cleared all this up. He could have testified  
13 before the committee; right?

14 There's nothing that prevented  
15 him from doing so.

16 A. Look, I don't know that he  
17 could have cleared all of this up, as you  
18 characterize it. I think that there were a  
19 lot of things that happened outside of his  
20 scope of knowledge.

21 There were certainly communications  
22 from trials that had occurred in the District  
23 of Columbia that a group of people from one  
24 of the three groups that was organizing this  
25 rally had every intention to move up to the

1 Capitol.

2 I'm not sure the President knew  
3 that or didn't know that. But certainly  
4 there was activities outside of his scope of  
5 knowledge that were occurring during this  
6 time frame.

7 Q. But he certainly -- if he  
8 wasn't involved with that or didn't know  
9 anything about it or hadn't coordinated with  
10 them could have come down to Congress and  
11 said, "I didn't do it."

12 A. Well, actually, the way  
13 Washington, D.C., is set up and the way the  
14 Constitution is set up, Congress is on a  
15 hill. And he would have to come up to  
16 Congress to testify, but -- because the  
17 legislative branch is the superior branch,  
18 and that's why we overlook the White House.  
19 But...

20 Q. I am very sorry. He could have  
21 come "up" to The Hill.

22 A. He certainly could have come up  
23 to The Hill to testify, yes.

24 Q. And back to the process.

25 You don't dispute that the

1 majority of people who were interviewed by  
2 the committee and who testified were Trump  
3 administration officials and other  
4 Republicans?

5 A. I don't know whether that -- it  
6 was a majority or not.

7 Q. You know that there were a lot  
8 of Republicans, though, that testified.

9 A. I do know that, yes.

10 Q. And there were a lot of people  
11 from within the Trump administration?

12 A. I'm aware that, yes. There  
13 were people from the Trump administration;  
14 from the Trump White House, in particular.

15 Q. And you don't dispute that a  
16 majority of the people who testified -- not  
17 just behind closed doors, because we've heard  
18 about these secret deposition transcripts --  
19 but at public hearings, the 70-or-so  
20 witnesses were mostly Republicans and  
21 individuals from the Trump administration.

22 A. I do not dispute that.

23 Q. Now, for the depositions and  
24 interviews behind closed doors before the  
25 public hearings -- first, as a prosecutor, if

1       you're doing an investigation and you're  
2       interviewing a lot of different people for  
3       that investigation, you're certainly not  
4       going to make the interviews public until  
5       your investigation is done, are you?

6               A.       I'm not sure what you're  
7       saying.

8                       If I'm a prosecutor in a grand  
9       jury, I'm not allowed to make it up public  
10      under Rule 6(e).

11              Q.       It's a bad question. I  
12      apologize.

13                     If you're a prosecutor and  
14      you're doing an investigation and you're out  
15      there with your law enforcement agents  
16      interviewing people and trying to come up  
17      with what happened and figuring it out, you  
18      don't release the transcripts of those  
19      interviews to the public until you've  
20      finished your investigation because doing so  
21      might compromise the investigation; right?

22              A.       Certainly it might taint other  
23      testimony of other witnesses.

24              Q.       So that's why it's not unusual,  
25      if there's an investigation -- in this case,

1 a Congressional investigation -- to wait  
2 until the very end of the investigation to  
3 release those types of transcripts.

4 A. You're talking about the  
5 private transcripts?

6 Q. Yes. Sorry.

7 A. Yeah, my only experience, in  
8 terms of Congressional investigations, other  
9 than watching the January 6th investigation  
10 from a distance, was the Iran-Contra  
11 investigation. I was a staffer on that.

12 We did not release the  
13 transcripts at the time that those  
14 transcripts were made. We put a report out,  
15 a minority report, and released the  
16 transcripts sometime later, if at all. Some  
17 of them were obviously classified and were  
18 not released.

19 Q. And that's typical; right?

20 If there are transcripts that  
21 have in them classified information, you have  
22 to weigh the balance between keeping  
23 classified information classified and letting  
24 the public see it. And you can err on the  
25 side of keeping it classified. Right?

1           A.       Well, actually we don't make  
2       that distinction. The Executive Branch makes  
3       that decision. And it is not based on the  
4       balance of interest; it's based on protecting  
5       humans and sources and methods.

6           Q.       Now, as far as the interviews  
7       and depositions that were behind the scenes  
8       during the investigation, you don't dispute  
9       that people who were deposed were sworn and  
10      deposed under oath; and that people who were  
11      interviewed were advised that under  
12      18 USC, Section 1001, they cannot provide  
13      materially false or misleading information or  
14      otherwise be subject to felony prosecution.

15                    You don't dispute that those  
16      things went on.

17           A.       My experience in Congressional  
18      hearings is that witnesses are put under  
19      oath.

20           Q.       And when they're not, if  
21      they're interviews, is it your experience as  
22      well that they're told that providing  
23      materially false or misleading information to  
24      Congress is a felony offense?

25           A.       Yes. And typically sign a

1 statement to that effect.

2 Q. And you don't dispute that  
3 except for a few documents implicating  
4 national security concerns -- the  
5 confidential ones we were talking about --  
6 the January 6th Committee posted every  
7 document, every recorded interview and  
8 deposition and every exhibit cited in the  
9 January 6th Committee's final report on its  
10 official public website?

11 A. Yeah.

12 What they didn't post were the  
13 questions that weren't asked. And they didn't  
14 post the documents that weren't subpoenaed.  
15 And they didn't post the interviews that  
16 didn't occur.

17 But in terms of posting  
18 everything that they had, yes.

19 Q. Can you think of any witness  
20 that somebody believed had material  
21 information for purposes of the investigation  
22 that was not permitted to come and give a  
23 deposition or interview?

24 A. I don't think typically people  
25 come and volunteer information. I can think

1 of, for example, Jim Jordan who the staff  
2 did -- according to Jim -- I have no personal  
3 knowledge of this, but according to Jim, did  
4 not -- the committee staff did not follow up  
5 and ask him the questions. And therefore  
6 his -- the section of the report on Jim, he  
7 alleges, is misleading.

8 Q. Well, to be fair, this  
9 proceeding is not about Jim Jordan. And Jim  
10 Jordan's involvement in the insurrection is  
11 not at issue here.

12 So can you think of any other  
13 witness besides Jim Jordan who you think had  
14 information they wanted to provide but wasn't  
15 able to?

16 A. I am not aware of how the  
17 committee went about choosing witnesses and  
18 other potential witnesses that did not give  
19 testimony.

20 Q. Are you aware of any witness  
21 that any Republican passed to the  
22 investigative staff saying that that  
23 individual had material information that the  
24 investigative staff did not reach out to?

25 A. I am aware that it was either

1 the Chief of the Capitol Police or the  
2 Sergeant at Arms testifying in  
3 Leader McCarthy's investigation. And I'm not  
4 aware of whether that -- those witnesses  
5 testified in the January 6th investigation in  
6 public or private.

7 Q. And the McCarthy investigation  
8 that you're talking about was the Shadow  
9 Committee that conducted an investigation,  
10 the committee consisting of the five members  
11 that Leader McCarthy had originally nominated  
12 for the January 6th Select Committee?

13 A. I don't know about your  
14 characterization of "shadow," but it was a  
15 group that Leader McCarthy tasked with  
16 looking into a group of members looking into  
17 the events of January 6th.

18 Q. And they actually issued a  
19 report. Do you recall that?

20 A. I do not recall ever seeing the  
21 report. I remember a press release about a  
22 report.

23 Q. You weren't interested in  
24 looking at the report?

25 A. I am not interested in looking

1 at the report, no.

2 Q. And are you aware of anything  
3 in that report from those five Congress  
4 people that contradicts anything in the  
5 January 6th report?

6 A. I have no basis to have  
7 compared the two.

8 Q. Now, you don't dispute that the  
9 final report of the committee and the  
10 findings contained therein were unanimously  
11 approved by all members of the Select  
12 Committee?

13 A. I have no reason to dispute  
14 that.

15 Q. And you don't dispute that if a  
16 member of the committee disagreed with any  
17 finding, that member could have objected?

18 A. Again, I don't know what their  
19 procedures were.

20 Q. And you mentioned a minority  
21 report earlier. Those are common, but  
22 they're not required; correct?

23 A. There is no -- typically in the  
24 legislation that creates a committee, there  
25 is a provision for a minority report.

1 I don't know if there was in this legislation  
2 or not. I don't recall.

3 Q. But just because there's a  
4 provision that allows for a minority report,  
5 a minority report is not required if, at the  
6 end of the day, everybody agrees on what the  
7 truth is.

8 A. Of course. Of course.

9 Q. Can you -- I've asked you about  
10 people that may have had relevant information  
11 that weren't allowed to provide it.

12 Can you identify any document  
13 that you believe was relevant to the  
14 January 6th investigation that the committee  
15 did not consider?

16 A. I'm not aware of that.

17 Q. And you were asked some  
18 questions about the public hearings and how  
19 witnesses were questioned in those hearings.

20 You don't have any idea how the  
21 witnesses were questioned during their  
22 depositions or interviews?

23 A. I know the procedure, because  
24 I've been involved in an investigation in the  
25 House during my time as a congressman.

1 I don't know if those procedures were  
2 followed by the January 6th Committee.

3 Q. Now you raised the impeachment  
4 -- the second impeachment and the vote in the  
5 House, I think, on your direct examination.

6 A. Yes, I did mention it.

7 Q. You do know that the second  
8 impeachment -- the vote for the article of  
9 impeachment was the most bipartisan vote for  
10 impeachment in the history of the  
11 United States, do you not?

12 A. I'm trying to think of how many  
13 impeachment votes we've had.

14 Q. Five.

15 A. Okay. It was certainly more --  
16 in my experience, it was more bipartisan than  
17 the first impeachment of President Trump.  
18 There was 1 Democrat who voted with the  
19 Republicans on the first impeachment; and  
20 this vote, there were 10 or 12 Republicans  
21 who voted with the Democrats on the  
22 impeachment.

23 Q. I'll represent to you that it  
24 was all of the Democrats and 10 Republicans  
25 in the House voted for impeachment. And that

1           was more people from the President's party  
2           than had ever voted on impeachment before.

3                       Does that sound about right?

4           A.       I accept that. Yes.

5           Q.       And then after the article of  
6           impeachment was sent over to the Senate, the  
7           Senate voted in the most bipartisan fashion  
8           for conviction of any of the, I think, three  
9           trials in the history of the United States.

10                   MR. GESSLER: Your Honor,  
11           I would object to this.

12                   We certainly talked about the  
13           January 6th report. This is about Congress's  
14           actions and historical bipartisanship. Well  
15           beyond the scope.

16                   MR. GRIMSLEY: Well, I think  
17           80 percent of his testimony was beyond the  
18           scope of his disclosure.

19                   MR. GESSLER: That comment  
20           notwithstanding -- and we certainly  
21           understand the perspective of the  
22           Petitioners -- it's still beyond the scope of  
23           the direct.

24                   THE COURT: I'll sustain the  
25           objection.

1 THE WITNESS: Judge, may  
2 I interrupt for one moment, please?

3 THE COURT: Yes.

4 Do you need to leave?

5 THE WITNESS: I don't.

6 Five minutes ago, we had a  
7 15-minute vote called. As is typical in  
8 Congress, that means I have 30 minutes left.

9 And I just wanted to ask the  
10 Court if I could, in about 10 or 15 minutes,  
11 leave to go walk over to the Capitol.

12 THE COURT: Yeah. Just tell us  
13 when you need to, and we will accommodate  
14 your schedule.

15 THE WITNESS: Thank you.

16 MR. GRIMSLEY: Well, I had  
17 about five more minutes on the Senate's trial  
18 of President Trump, so I will not be asking  
19 those, it seems.

20 So I'll turn it over to my  
21 colleague, Mario Nicolais.

22 CROSS EXAMINATION

23 BY MR. NICOLAIS:

24 Q. Congressman, let me start just  
25 by saying it's good to see you again. And

1           thank you for your eight years and ten months  
2           worth of service. And I'm sure you're  
3           counting days at this point.

4                   A.       I am. Hours.

5                   Q.       I do not blame you.

6                           Congressman, I want to focus  
7           mostly on January 6th and events of that and  
8           some of your comments about it.

9                           You had said that you were on  
10          the Floor of the House of Representatives  
11          maybe roughly around 2:00 p.m. that day.

12                   A.       I don't recall the time, but it  
13          was afternoon. I know that.

14                   Q.       Okay. And you said you were  
15          discussing an objection to the certification.  
16          Is that right?

17                   A.       I believe that the debate had  
18          started on the certification, and the Speaker  
19          was presiding. I remember she was in the  
20          chair and was removed. And that would  
21          indicate that she was presiding on the  
22          debate, because the Vice President oversees  
23          the counting. So he had withdrawn from the  
24          House Floor at that point.

25                   Q.       Okay. And the objection that

1 day there was being discussed involved  
2 concerns about voting irregularities or  
3 voting fraud in the 2020 election.

4 A. And, in particular, in Arizona.  
5 Yes.

6 Q. Okay. Now you said that it was  
7 unusual -- something unusual happened that  
8 day, and that you were interrupted. And  
9 there was -- an officer came up and spoke  
10 with you, and that you knew that there was  
11 danger at that point.

12 Was that your testimony?

13 A. Yeah, the officer didn't speak  
14 to me. The officer addressed the House Floor  
15 at that point.

16 But, yes, I believe what she  
17 said was that the House had been breached and  
18 that tear gas had been deployed and that we  
19 had tear gas masks underneath our seats.

20 Q. And then you later testified  
21 that officers had drawn guns while they were  
22 on the House Floor.

23 A. That's my memory. Yes.

24 Q. And later you testified that  
25 there were shots fired, but you didn't hear

1           it.

2                   A.       That's correct.

3                   Q.       And you testified that there  
4           was a mob outside.

5                   A.       I testified that when I got  
6           back to my office and looked at the TV, that  
7           there were many more people in the building  
8           and outside the building than I had believed  
9           when I was inside the House Chamber.

10                  Q.       But you used the term "mob  
11           outside."

12                  A.       Okay. I -- a large number of  
13           people, yes.

14                  Q.       Okay. You also testified  
15           about -- you know, that there was a disturbance  
16           in the summer of 2020. Was that right? You  
17           testified about that?

18                  A.       Yes.

19                  Q.       Were there ever guns drawn on  
20           the House Floor during those -- during that  
21           event?

22                  A.       The protesters in 2020 never  
23           breached the Capitol building. And I don't  
24           believe there were guns drawn on the House  
25           Floor.

1           Q.       Were there ever shots fired in  
2       the Capitol, to your knowledge, during that  
3       event?

4           A.       No, not to my knowledge.

5           Q.       What about in 2016?

6                    You said that Congress was shut  
7       down because of a mass shooting. I believe  
8       that's what you testified to; right? Not in  
9       Congress, but elsewhere that was going on.

10          A.       Yeah, I believe it was a school  
11       shooting.

12                   The Democrats were trying to  
13       bring gun control legislation, and they  
14       occupied the Floor, prevented work from being  
15       done in 2016. I think it was June of 2016.

16          Q.       Okay. Was there ever any  
17       physical danger at that point, do you  
18       believe, during that event?

19          A.       If you're asking if there was  
20       pushing and shoving, my memory is that there  
21       was some typical testosterone acts, but there  
22       was certainly no weapon drawn. There was no  
23       assault in that sense.

24          Q.       That was between members of  
25       Congress pushing and shoving?

1           A.       That was members of Congress  
2       sort of more intimidating than really  
3       actually pushing and shoving.

4           Q.       Okay. But there were no guns  
5       drawn on that day either.

6           A.       That's correct.

7           Q.       And there were no shots fired  
8       on that day either.

9           A.       That's correct.

10          Q.       So going back to January 6th.  
11                    After there were guns drawn and  
12       shots fired, you were evacuated from the  
13       House Floor by the USCP.

14          A.       That's correct.

15          Q.       And so you were not able to  
16       finish the objection process at that time.

17          A.       That's right. It was delayed.

18          Q.       And when did you finish that  
19       objection process?

20          A.       A few hours later. I don't  
21       recall exactly the time frame, but a  
22       few hours later, we came back to the House  
23       Floor and started -- finished hearing the  
24       Arizona debate and voted. And then the  
25       Senate returned, and we continued the

1 process.

2 Q. Would it -- does it sound right  
3 that it was about roughly 11:00 p.m. that you  
4 voted to certify the election? So you voted  
5 against the motion to object certification?

6 A. I'm sorry?

7 Q. Does 11:00 p.m. sound roughly  
8 right?

9 A. Yeah, 11:00 p.m. sounds right.  
10 And I voted to certify. So I'm  
11 not sure what the -- you're saying I voted  
12 against the motion to decertify. Yes.

13 Q. Let me see if I can clarify.  
14 You voted against the  
15 objections.

16 A. That's correct.

17 Q. Okay. And then was the  
18 electoral vote certified on that day, on  
19 January 6th?

20 A. I think it was in the morning  
21 of January 7th that the hearing was  
22 concluded.

23 Q. So does it sound roughly right  
24 that around 3:00 a.m. on January 7th it was  
25 certified?

1           A.       That does sound right, yes.

2           Q.       Okay.  Congressman, this  
3       August you appeared in an interview on MSNBC  
4       with Andrea Mitchell; right?

5           A.       I've appeared a number times.  
6       I'm not sure which one.

7           Q.       Well, I'll tell you what.  Why  
8       don't I play a clip, and maybe that might  
9       help you remember.

10          A.       Great.

11                   MR. NICOLAIS:  If you would  
12       pull up 206, starting at 1:04.

13                   I'm going to go ahead and ask  
14       Mr. Hehn to go ahead and play that.  And from  
15       1:04 to about 1:37.

16                   (Video played.)

17       BY MR. NICOLAIS:

18          Q.       And that was you -- correct? --  
19       Congressman?

20          A.       Yes, it is.

21          Q.       Do you remember that interview?

22          A.       I don't recall the specific  
23       interview, but it was me.

24          Q.       Okay.  Fair enough.  Fair  
25       enough.

1                   So you were saying that the  
2           President -- you agreed that, "Yeah, I think  
3           he does need to call on people to stop  
4           violence. To stand down."

5                   Do you believe former  
6           President Trump supporters act sometimes with  
7           violence based on his statements?

8                   MR. GESSLER: Objection,  
9           Your Honor. Well beyond the direct. Nor is  
10          this seeking bias evidence. He's asking  
11          Representative Buck's opinion on other  
12          people's actions.

13                  MR. NICOLAIS: Your Honor,  
14          these are consistent statements with the  
15          findings of the January 6th report.

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

18          BY MR. NICOLAIS:

19                  Q.       Do you want me to repeat the  
20          question, Congressman?

21                  A.       Yes, please.

22                  Q.       You believe -- based on what  
23          you were saying there, you believe former  
24          President Trump supporters listen to  
25          President Trump when he gives them a command.

1                   A.       That's a long answer.

2                               So I think -- I'm sorry.

3                   Q.       Feel free. Go ahead. Assume  
4       it's an open-ended question.

5                   A.       Yeah, I struggle with it.

6                               So I think that if President Trump  
7       says, "It's your duty to vote, it's your duty to  
8       vote," I think that his supporters will listen  
9       to that and follow those instructions.

10                              I think if President Trump  
11       says, you know, "I want you to go kill  
12       somebody," I don't think that his political  
13       supporters -- being political supporters and  
14       not otherwise engaged -- would go kill  
15       somebody.

16                              So I think it depends on what  
17       the order is. And I think it depends on the  
18       legality of the order. And I think it  
19       depends on the context of the order.

20                   Q.       If President Trump, say, asked  
21       violent attackers to go home, do you think  
22       they would listen to him?

23                              MR. GESSLER: Your Honor, I am,  
24       again, going to object.

25                              I mean, our direct exam was

1           pretty darn specific to events that happened in  
2           the Capitol on January 6th. And --

3                       THE COURT: I'm going to sustain  
4           the objection. He basically --  
5           Congressman Buck hasn't really said there's  
6           anything he disagrees with about the  
7           January 6th report. So I'm not sure the fact  
8           that he has consistent thoughts is really  
9           impeachment.

10                      MR. NICOLAIS: Okay. I'll move  
11           on, Your Honor. I can move on.

12           BY MR. NICOLAIS:

13                      Q.       Congressman Buck, yesterday you  
14           released a video announcing that you weren't  
15           going to seek reelection. Is that right?

16                      A.       That is correct.

17                      Q.       And in that video, you said,  
18           "Too many Republican leaders are lying to  
19           America claiming the 2020 election was  
20           stolen, describing January 6th as an unguided  
21           tour of the Capitol, and asserting that the  
22           ensuing prosecutions are a weaponization of  
23           our justice system."

24                      Did you say that in that video?

25                      A.       I did.

1           Q.       And did you also say, "These  
2       insidious narratives wreak widespread  
3       cynicism and erode America's confidence in  
4       the rule of law"?

5                   Did you say that as well?

6           A.       I did.

7           Q.       What are the lies and insidious  
8       narratives regarding the 2020 election and  
9       January 6th that you're talking about?

10                  MR. GESSLER: Your Honor, do  
11       I need -- may I object again?

12                  This is maybe salacious  
13       political material, but it's beyond the scope  
14       of the direct. It's not for bias. And if we  
15       want to avoid this becoming a circus, we  
16       should not go into this testimony.

17                  THE COURT: What's the  
18       relevance?

19                  MR. NICOLAIS: Your Honor, it's  
20       relevant because there are questions about  
21       January 6th in his statements about  
22       January 6th.

23                  Furthermore, he said that the  
24       objections were about voter fraud and voter  
25       irregularities that they discussed on

1 January 6th, all of which was brought up  
2 during direct examination.

3 We should have the ability to  
4 go ahead and cross him about his opinions  
5 about all of these.

6 And, I mean, I think, you know,  
7 it's -- if they didn't want to hear from the  
8 congressman about this, maybe they shouldn't  
9 have called him.

10 MR. GESSLER: Your Honor, if  
11 they wanted to listen to Representative  
12 Buck's opinions about what happened on  
13 January 6, if they wanted to listen to  
14 Representative Buck's opinions on election  
15 fraud, if they wanted to make this case about  
16 whether election fraud occurred or not, they  
17 could have brought a different complaint, and  
18 they could have endorsed Representative Buck  
19 as a witness.

20 The direct exam was on -- and  
21 we've worked very hard to prevent this from  
22 becoming a circus. The direct exam was on  
23 the events that happened in the Capitol on  
24 January 6th, on that one day, and  
25 Representative Buck's experience and -- with

1       respect to the process of the January 6th  
2       Committee.

3                       Now Mr. Nicolais's colleague  
4       has done the cross-exam with respect to the  
5       latter half of the testimony, which we didn't  
6       object to. And so this part of the cross, my  
7       guess, is supposed to be on the events that  
8       happened in the Capitol that Representative  
9       Buck saw on January 6.

10                      We did not turn this into a  
11       circus with respect to Representative  
12       Swalwell, his political activities, his  
13       opinions, his behaviors, which we easily  
14       could have.

15                      If this is for -- this is not  
16       bias testimony, and this is well beyond what  
17       we're here for today.

18                      THE COURT: I'm going to  
19       sustain the objection. I think that -- I'm  
20       not sure what -- I think it's outside the  
21       scope of the direct.

22                      So why don't you move on to  
23       your next topic, if you have one.

24                      MR. NICOLAIS: Sure,  
25       Your Honor.

1 BY MR. NICOLAIS:

2 Q. Congressman Buck --

3 THE COURT: Hold on.

4 Congressman Buck, do you need  
5 to go?

6 He's muted now.

7 We can't hear you anymore.

8 MR. NICOLAIS: Congressman  
9 Buck, we've had an issue before, where you  
10 hit "mute," then the clerk has to unmute you.

11 THE COURT: How are you for  
12 time, Congressman Buck?

13 THE WITNESS: I've got about  
14 five minutes left.

15 MR. NICOLAIS: Okay. Well,  
16 I'll try to see if we can go quickly.

17 BY MR. NICOLAIS:

18 Q. Congressman Buck, you testified  
19 about speaking with Jim Jordan about his  
20 speakership nomination. Right?

21 A. Correct.

22 Q. And two weeks ago, on  
23 October 17th, you appeared on the television  
24 show The Lead with Jake Tapper to discuss  
25 that issue as well; is that right?

1                   A.       Yes.

2                   Q.       And do you remember saying on  
3       that show, to Jake Tapper, that "And I think  
4       that if we have a presidential candidate who  
5       now is leading, who denies that he lost the  
6       election and was obviously behind what  
7       happened on January 6th..."

8                             Do you remember saying that to  
9       Jake Tapper in that interview?

10                  A.       I don't remember it, but  
11       I don't dispute that I said something like  
12       that.

13                  Q.       Well, I tell you what. Let me  
14       see if we can refresh your memory a little  
15       bit.

16                             MR. NICOLAIS: If you can pull  
17       up 269, and start from 0 to 042.

18                             MR. GESSLER: I would object to  
19       this on the same grounds as before. And I  
20       will continue to do so.

21                             If we want to litigate these  
22       issues through Representative Buck's opinion,  
23       I think we need additional time in this case.

24                             But that's not why we're here.  
25       That's not why we called him as a witness.

1       If Mr. Nicolais had wanted to go into this  
2       area, he could have interviewed  
3       Representative Buck and asked him questions  
4       along these lines.

5                   THE COURT: I'm going to  
6       sustain the objection.

7       BY MR. NICOLAIS:

8               Q.       Were you talking about  
9       Speaker -- the nomination of Speaker Jordan  
10      at that time with Jake Tapper?

11               MR. GESSLER: Objection,  
12      Your Honor. We'll renew it for the same  
13      reasons.

14               MR. NICOLAIS: They brought  
15      up -- Your Honor, they brought up the  
16      discussion of -- the congressman testified to  
17      this during direct, about -- speaking about  
18      the nomination of Jim Jordan. And, in fact,  
19      that's when he talked to him about all the  
20      information that he got about the January 6th  
21      report.

22               I think we can ask him about  
23      things that he said around that nomination  
24      period.

25               THE COURT: Just because he

1       said multiple things during a conversation  
2       doesn't make them, one, relevant to this  
3       case, or; B, not outside the scope of the  
4       direct.

5                       MR. NICOLAIS:   Okay.

6                       THE COURT:    So objection  
7       sustained.

8       BY MR. NICOLAIS:

9               Q.       Congressman, again, I just want  
10       to repeat that you had used the phrase "mob"  
11       to describe the people outside the building  
12       earlier during the direct.

13                      Do you remember saying that?

14               A.       Yes.

15               Q.       And do you remember me asking  
16       you about that?

17               A.       Yes.

18               Q.       Have you recently used that  
19       term to refer to the people outside on  
20       January 6th?

21                      THE COURT:    More recent than  
22       today?

23       BY MR. NICOLAIS:

24               Q.       Have you used it -- did you use  
25       it yesterday?

1 THE COURT: Sorry.

2 MR. NICOLAIS: I'm sorry,

3 Your Honor.

4 BY MR. NICOLAIS:

5 Q. Did you use the term "mob" to  
6 refer to the people outside the building  
7 yesterday?

8 A. Yeah, I did a number of  
9 interviews yesterday, and I may have used the  
10 term.

11 It is my feeling of what was  
12 going on at the time.

13 THE WITNESS: And, Judge, I  
14 apologize, but I've got to run, if that's  
15 okay at this point.

16 MR. NICOLAIS: I have one more  
17 question.

18 THE COURT: He's going to have  
19 a redirect, so hold on.

20 Is there any way, Congressman,  
21 that you can come back to finish your  
22 testimony?

23 THE WITNESS: I look forward to  
24 it. Yes.

25 THE COURT: Okay. So,

1           Congressman Buck, will you just correspond  
2           with Mr. Gessler about how that's all going  
3           to work?

4                       THE WITNESS:   Okay.   Great.  
5           Thank you very much, Judge.

6                       THE COURT:   Thank you so much  
7           for your testimony.   And we will -- it  
8           doesn't sound like they have much more, but  
9           I think we will need you to come back and  
10          finish it.

11                      THE WITNESS:   Okay.   Thank you.

12                      MR. NICOLAIS:   Thank you,  
13          Congressman.

14                      Thank you, Your Honor.

15                      MR. GESSLER:   Do I have time  
16          for one question or --

17                      THE COURT:   Oh, I think -- you  
18          are released.

19                      MR. GESSLER:   My redirect is  
20          one question.

21                      THE COURT:   I know.   But  
22          I don't think he was really done.

23                      MR. GESSLER:   That's fine,  
24          Your Honor.

25                      THE COURT:   Let Mr. Gessler

1 know when you're available again after the  
2 vote.

3 Thank you. So you can leave.

4 MR. GESSLER: Your Honor, we'll  
5 re-call Mr. Bjorklund to the stand.

6 THE COURT: Mr. Bjorklund,  
7 you're still under oath.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you for being  
10 so accommodating.

11 THE WITNESS: Sure.

12 TOM BJORKLUND,  
13 having been previously first duly sworn to state  
14 the whole truth, continued to testify as follows:

15 DIRECT EXAMINATION (Cont.)

16 BY MR. GESSLER:

17 Q. Hello again, Mr. Bjorklund.

18 A. Hello.

19 Q. We're going to pick up where --  
20 overlap -- one moment. We have a tech-break  
21 minute.

22 (Pause.)

23 Q. Okay. So you can see the  
24 screen there?

25 A. Yes.

1           Q.       Okay.  So we had just finished  
2       talking about Exhibit 1013.  And I'm going to  
3       ask that Exhibit 1013 be played again, just  
4       to refresh your memory, so we can get back  
5       into your testimony.

6           A.       Okay.  
7                    (Video played.)

8           Q.       So you remember that video?

9           A.       Yes, I do.

10          Q.       Okay.  And if I remember  
11       correctly, you said you were towards the side  
12       of the Capitol, working your way around the  
13       Capitol?

14          A.       Yeah.  Going back to our car.

15          Q.       Well, now --

16          A.       Yeah.  I believe.

17          Q.       I'm sorry.

18                   Were you headed back to your  
19       car or were you still headed around the  
20       Capitol at that point?

21          A.       I believe that one was on the  
22       way back to the car.  I think that's where we  
23       left it when we --

24          Q.       I will represent to you that  
25       your earlier testimony was that you were

1 still walking around the Capitol at that  
2 point.

3 A. Oh, okay. Oh. Yeah. I'm  
4 sorry. Yeah.

5 Q. Okay.

6 A. Yeah. I'm sorry. Yeah.

7 Q. Okay. Did you ever go around  
8 the entire Capitol towards the -- well,  
9 what's called the front of the Capitol but is  
10 actually sort of the side opposite the  
11 Washington Monument?

12 A. Yes.

13 Q. Okay.

14 A. Yeah. Sorry. That's when  
15 I was --

16 Q. Tell me sort of your -- what  
17 happened from basically -- roughly where that  
18 video was to around the Capitol.

19 A. Well, that right there, they  
20 were, you know, firing tear gas in and  
21 flash-bangs. And people were chanting "USA."  
22 And obviously I stayed on the side. I didn't  
23 go into the big crowd.

24 But, yeah, I was headed back to  
25 the -- going around the Capitol, the side of

1           it.

2                   Q.       Okay.  And what did you see as  
3       you walked around the Capitol, if anything  
4       notable?

5                   A.       Just a lot of, you know, people  
6       with flags.  There didn't seem to be a lot of  
7       movement.  There was a guy with a bullhorn  
8       chanting -- or telling people to "Go in" or  
9       "Move forward,"  and you know, telling  
10      people -- I noticed that -- there was him and  
11      there was another person on the other side of  
12      this crowd, too, doing the same thing.  They  
13      had bullhorns.  I noticed there was bullhorns  
14      on both sides.  And people were trying to  
15      herd the crowd into that -- into where they  
16      were firing flash-bangs and tear gas.

17                  Q.       And were people in the crowd  
18      moving in?

19                  A.       From where I saw -- I mean,  
20      people were dispersing when tear gas and  
21      flash-bangs were going off.  But I didn't  
22      get -- I didn't go into that -- into the  
23      middle of that, so I didn't -- I don't know  
24      from that point.

25                           From my vantage point, I don't

1 know. The people that I saw mostly were just  
2 standing there. And I just felt like the  
3 police just didn't want people standing there  
4 and hanging around where they were at.  
5 I didn't know why, but I just knew that they  
6 weren't very happy about it.

7 Q. Okay. Let's go to Exhibit 1014,  
8 please.

9 (Video played.)

10 Q. Okay. So that's another video.  
11 Where are you right now?  
12 Did you take this video?

13 A. I did. This is my video. And  
14 this is the U.S. House of Representatives on  
15 the front of the Capitol. So if you're  
16 facing the front of the Capitol, it would be  
17 on the left side of that.

18 Q. Okay. And if you're facing the  
19 Capitol, what's to your back?

20 A. Street car -- police cars.  
21 There was, like, a pull-through; you know,  
22 like a road.

23 Q. Okay. Where is the Washington  
24 Monument -- I'm just trying to orient  
25 ourselves. Where's the Washington Monument

1 in relation to this?

2 A. Sure. It would be on the  
3 opposite side of that building. So I had  
4 already come around where those trees are.  
5 Actually, I came right through those trees  
6 and around.

7 And there's a little parking  
8 lot there, and there was a whole bunch of  
9 police cars. And I walked right through  
10 them. And there was a whole bunch of police  
11 that were -- they were grabbing duffle bags  
12 and stuff.

13 And I said, "Hi, guys." And  
14 they didn't stop and chat. And they -- but  
15 they -- I walked right through the center of  
16 them and right through their cars.

17 I mean, they were grabbing  
18 stuff out of their cars and stuff. And  
19 I just went right through their cars, and  
20 they didn't say anything to me at all.

21 Q. When you said "hi" to them, did  
22 they say anything to you?

23 A. Nope. Didn't say hi back.

24 I just said, "Hi, guys." And  
25 they didn't say a word.

1                   Q.       I mean, did they hear you?  
2                               How close were you?

3                   A.       Oh, yeah. No. I was maybe  
4       from me to the recorder.

5                   Q.       I'm sorry. From you to?

6                   A.       From me to the madam here.  
7       15 feet -- I don't know. 10 feet.

8                   Q.       Thank you.

9                               When you say "From me to this  
10       other person" --

11                  A.       Yeah.

12                  Q.       -- it's sort of hard to see in  
13       the record.

14                  A.       Oh. My apologies.

15                               Yeah, I'd say I probably came  
16       within 5 feet of the guy. He just walked  
17       right by me with a duffle bag.

18                  Q.       Okay. And are there any police  
19       officers in that photo?

20                  A.       Yeah. There are -- this is --  
21       when I first rounded the corner, the police  
22       officers are in green. And you can see some  
23       with the orange -- the yellow on their vests.

24                               They were actually staggered --  
25       there was more of a formation than there is

1       in this view, but they were staggered, like,  
2       on one stair and then down the next stair and  
3       then up on the same level stair.

4                   And they were staggered in a,  
5       like, V formation across that -- all the way  
6       across. And you can see they're kind of  
7       still there, but they were starting to break  
8       formation.

9           Q.       Okay. When you say "across  
10       there," can you be --

11          A.       Uh-huh. So right where those  
12       balconies kind of jut out -- I think those  
13       are balconies. They might be staircases.  
14       I don't know.

15          Q.       Are you talking towards the  
16       left side of the photo or right side of the  
17       photo?

18          A.       All the way across.

19          Q.       Okay.

20          A.       They were from one side of that  
21       little -- where those fancy lamps are, they  
22       were, like, staggered, going all the way  
23       across that.

24          Q.       Okay. So were they sort of  
25       forming a line across?

1                   Would people have to cross that  
2           line to get up the stairs?

3           A.       Yeah. And there wasn't anybody  
4           going up there until -- there's one guy that  
5           kind of went up to one of the police officers  
6           and asked if he could go up and look in the  
7           window.

8           Q.       Did you hear that exchange?

9           A.       Oh, yeah. I was right there.  
10          I was really close by.

11                   MR. SUS: Objection. Hearsay.

12                   MR. GESSLER: The question,  
13          "Can I go up to the window?" is not  
14          introduced for the truth of the matter  
15          asserted. It doesn't assert anything as  
16          truthful. It's simply a witness to a  
17          question.

18                   THE COURT: The objection is  
19          overruled.

20          BY MR. GESSLER:

21           Q.       Okay. How did the police react  
22          to that question?

23           A.       One officer looked over his  
24          right shoulder at the other officer, and that  
25          officer shrugged. And he said, "Sure. Go

1 ahead."

2 Q. And then what happened after  
3 that?

4 A. Then they -- the police marched  
5 off. They walked off the line. And they  
6 just went to the left -- at this picture,  
7 they went to the left. That direction.

8 Q. And then what did people do?

9 A. They all just started going up  
10 the stairs.

11 Q. Okay. Did you walk up the  
12 stairs?

13 A. I did.

14 Q. And what did you see up there?

15 A. Well, the first thing that I  
16 did is I went between the columns, and I went  
17 to the left side of the building. And then  
18 I put my hand on the Capitol. And I prayed  
19 for our country.

20 Q. Okay. And then after that,  
21 what did you -- before I ask that next  
22 question...

23 MR. GESSLER: Your Honor, I'd  
24 like to introduce Exhibit 1014.

25 MR. SUS: No objection.

1 THE COURT: 1014 is admitted.  
2 (Exhibit 1014 was received  
3 into evidence.)

4 BY MR. GESSLER:

5 Q. So after you did -- so what  
6 happened -- what did you see that happened  
7 after that?

8 A. There were people beating on  
9 the windows on the right side over there, by  
10 the doors.

11 And so the doors are -- you can  
12 kind of see the black, like, void there next  
13 to that lamp. On that side is some windows.  
14 And they were just banging on the windows,  
15 and they were yelling, "Let us in."

16 Q. How many people were banging on  
17 the windows?

18 A. Maybe three.

19 Q. Okay.

20 A. Yeah, probably -- maybe four.

21 Q. Four people?

22 A. Yeah.

23 Q. Okay. And how many people --  
24 is that an accurate representation of the  
25 number of people that were up there at the

1           time, those four people were banging on the  
2           windows?

3           A.       Well, at this point, in this  
4           picture, there isn't anybody up there. It  
5           wasn't until the officer said that we could  
6           go up there, then people went up there.

7           Q.       Okay.

8           A.       And then they immediately  
9           started banging on the windows --

10          Q.       Okay.

11          A.       -- with their fists, like  
12          banging and making a lot of noise.

13          Q.       Okay. Did you bang on any of  
14          the windows?

15          A.       No.

16          Q.       Okay. What did you see happen  
17          after that then?

18          A.       I saw a guy -- kind of a  
19          scruffy-looking guy -- he had a beard and  
20          long hair -- and he had a metal baton, and he  
21          telescoped it out. It was a folding,  
22          telescopic, metal baton.

23                   And then he walked right up to  
24          the doors -- and these windows are, like,  
25          probably 2 1/2 inches thick -- and he just

1 whacked. And all it did was put a little  
2 tiny -- like a marble would hit it, and it  
3 just put a little divot in the window. And  
4 then he just kept whacking that window.

5 And --

6 Q. Let me interrupt you for just a  
7 second.

8 Which window exactly was he  
9 hitting?

10 A. On the doors. The doors. They  
11 were shut, and they have -- they were locked.  
12 I mean, he -- they tried that because they  
13 were trying to open them.

14 Q. Okay.

15 A. And he whacked the window.

16 And then I went -- I was over  
17 to the right. I was on that right balcony.  
18 And then two gentlemen, they had flags. And  
19 they took a flag, and they covered over the  
20 other guy. And then I heard them smashing  
21 the windows.

22 Q. Which windows did you hear them  
23 smash?

24 A. To the right of that door,  
25 there's probably two windows. And I think

1           one of those was a break room or something,  
2           because I looked -- I saw right through the  
3           window. It looked like some kind of -- like  
4           a break room or something that you would have  
5           at the office.

6           Q.       Okay. Did you say anything?

7           A.       Yeah. I said, "Dude, not  
8           cool."

9           Q.       Okay. Did anyone else in the  
10          crowd say anything?

11                   Or what was the crowd's  
12          reaction at that point?

13          A.       Well, right before that, a  
14          young man came up to me and said that -- he  
15          said, "Where's your mask?"

16                   And I said, "I'm not afraid of  
17          COVID."

18                   And he said, "No. To hide your  
19          identity."

20                   And I said, "I'm not doing  
21          anything that I need to worry about hiding."

22          Q.       Okay. How did the -- how did  
23          people in the crowd or the crowd react to  
24          those -- I guess you said one person breaking  
25          a window and another covering him with a

1 flag. How did the crowd respond to that?

2 A. Well, they looked at me,  
3 because I was clearly not happy. And then  
4 I started to leave and other people started  
5 to leave.

6 Q. Okay.

7 A. They started walking down. You  
8 could tell they were visibly not happy about  
9 the -- smashing the windows.

10 Q. Did you see anyone entering the  
11 Capitol?

12 A. Yes.

13 Q. Describe that situation.

14 A. At one point they broke through  
15 the window in the break room, and they went  
16 through that window. And then within,  
17 I don't know, maybe three minutes, the big  
18 doors opened.

19 And they were these big, metal,  
20 heavy doors with the 2-inch-thick glass on  
21 the doors -- or at least 2 inches. And  
22 they -- inside, I could see the metal  
23 detectors, and they were going off. And they  
24 were, like, beeping.

25 And so then I saw them going

1 in, and I saw other people coming out.

2 Q. Okay. Now where were -- so  
3 that group of police, where were the police  
4 at this time?

5 A. They had already left. They  
6 were nowhere around.

7 Q. Okay. Did you go in the  
8 Capitol?

9 A. No.

10 Q. And why not?

11 A. Well, it was tempting. But  
12 I saw the metal detectors going off, and  
13 I thought, "We're not supposed to go in  
14 there."

15 And so these guys were going  
16 through. A gentleman came out. He looked  
17 like a professional, maybe -- just nice  
18 haircut, and he had a young man with him.

19 And I said, "Did you take a  
20 nice tour?"

21 And he said, "It's really cool  
22 in there. You should go in."

23 And I said, "Dude, there are  
24 cameras in there. And I don't think they  
25 want us in that building."

1                   Q.       Okay. Let's go to the next  
2       exhibit, please.

3                                (Video played.)

4                   Q.       Now is that video after you  
5       came back down the stairs?

6                   A.       Yeah. And I'm standing by the  
7       police cars.

8                   Q.       Okay. Why did you stand by the  
9       police cars?

10                  A.       I just felt like that was  
11       probably a safe place to be, rather than near  
12       where they were, you know, breaking windows.  
13       I didn't want any part of that.

14                  Q.       Okay. What were the people  
15       like around you at that point?

16                  A.       Steve actually ended up finding  
17       me and meeting up with me through texts or  
18       something. We communicated somehow. And  
19       I told him where I was. And he came around,  
20       and he just stood by me.

21                               And we were standing there by  
22       the police cars and making commentary about  
23       the people and just, you know, talking about  
24       the general crowd and...

25                  Q.       Okay.

1 MR. GESSLER: I'd like to move  
2 to introduce Exhibit 1015, Your Honor.

3 MR. SUS: No objection.

4 THE COURT: 1015 is admitted.

5 (Exhibit 1015 was received  
6 into evidence.)

7 BY MR. GESSLER:

8 Q. Let's go to Exhibit 1016,  
9 please.

10 (Video played.)

11 Q. So what's going on there?

12 A. So this was very close to where  
13 a bunch of people had come running down the  
14 stairs. And they said that they were  
15 shooting people inside the Capitol.

16 Q. And what was your reaction to  
17 that?

18 A. I didn't believe them.  
19 I thought that was really stupid. And  
20 I just -- and then they said it was a little  
21 girl. And I was like, "Oh, yeah. Right.  
22 There's a little girl in the Capitol, and  
23 they shot her."

24 Q. And so why didn't you believe  
25 it?

1           A.       It just seemed absurd. I mean,  
2       people are -- they're milling about. They're  
3       nonviolent, you know, other than people  
4       breaking the windows. I didn't see any  
5       weapons. And the police told us that we  
6       could go up.

7                       Now, they didn't -- nobody  
8       asked if they could go in that I know of, but  
9       the police said that we could go up to the  
10      windows.

11                      And then I just had a hard time  
12      believing that, you know, Back the Blue Trump  
13      supporters are going to, you know, go in and  
14      do anything that they need to be shot. And  
15      I didn't believe that the police would shoot  
16      anybody. I thought that that was absurd.

17           Q.       Okay.

18                      MR. GESSLER: Your Honor, I'd  
19      like to --

20      BY MR. GESSLER:

21           Q.       And did you take this video  
22      here?

23           A.       Yes, I did.

24           Q.       And that was what was going on  
25      around you at the time?

1                   A.       Uh-huh.

2                   MR. GESSLER: I'd like to  
3       introduce Exhibit 1016 into evidence.

4                   MR. SUS: No objection.

5                   THE COURT: 1016 is admitted.

6                   (Exhibit 1016 was received  
7       into evidence.)

8                   MR. GESSLER: Your Honor, you  
9       have a look on your face like you want to ask  
10      a question.

11                  THE COURT: No.

12                  MR. GESSLER: Okay. I want to  
13      make sure we're giving you full information.

14      BY MR. GESSLER:

15                  Q.       Let's go to Exhibit 1017,  
16      please.

17                         Now what's this a photo of?

18                  A.       So this is a gentleman  
19      I saw that I really liked his outfit. We  
20      were actually leaving. Steve and I said,  
21      "Let's get out of here" because we got --  
22      I had gotten a text from Muriel Bowser, the  
23      mayor, and she said that -- it said that they  
24      requested that everybody leave the Capitol.

25                         And right before that, my

1 brother had radioed and said that the -- that  
2 Donald Trump said the BP has fallen and not  
3 to cause any trouble.

4 Q. Okay. So --

5 A. And then he was standing there.  
6 I saw him, and he just -- he was very happy.  
7 He was just a really super nice guy.

8 And I asked him -- I said,  
9 "I like your outfit. Can I take a picture?"  
10 And I had already taken this picture of him.  
11 He didn't know I took it. But he said,  
12 "Sure." And then he posed for my picture.

13 Q. Okay. Let's go to the next  
14 exhibit, please.

15 Okay. Is that the same person?

16 A. Yeah, that's the same guy.

17 Q. Now why did you want to take a  
18 picture of him?

19 A. I just -- I really liked his  
20 outfit. I thought it was really funny,  
21 actually, even down to the shoes. He's got  
22 red stripes on his left shoe and blue stripes  
23 on his other shoe. And then just the  
24 whole -- you know, his whole -- like the way  
25 he was put together. And I thought it was

1           funny, you know, the pitchfork and he had the  
2           1776 flag, or whatever.

3                       But a very young, you know,  
4           vibrant guy and very friendly. Just super  
5           nice guy. I could tell, I just liked him  
6           instantly.

7                       Q.       Okay. Did you chat with him at  
8           all?

9                       A.       Yeah. I just I said, "Hey,  
10          that's a pretty cool outfit."

11                      And, you know, he said,  
12          "Thanks."

13                      And I asked if I could take a  
14          picture. Other people were talking to him  
15          too. But he was just standing there. That's  
16          all he did, was he just stood there the whole  
17          time. He didn't -- I didn't see him leave or  
18          anything.

19                      Q.       Okay.

20                      A.       But we were on our way out. We  
21          were splitting.

22                      MR. GESSLER: Your Honor,  
23          I would like to introduce Exhibits -- which  
24          one is that? 1016 and 1017 -- I'm sorry, -17  
25          and -18, Your Honor.

1 MR. SUS: No objection.

2 THE COURT: 1017 and 1018 are  
3 admitted.

4 (Exhibits 1017 and 1018 was  
5 received into evidence.)

6 BY MR. GESSLER:

7 Q. Okay. So you said that you  
8 received a call from your brother.

9 A. Um-hmm.

10 Q. What exactly was that about?

11 A. Well, he said he wanted to --  
12 he wanted me to, like, text or, you know,  
13 tell him what was going on.

14 My phone was down to, like,  
15 5 percent at this point. It had very, very  
16 little battery life left. And so I was --  
17 that's probably -- partly why I was so  
18 sparing in the pictures and things, because  
19 even when we arrived, I think I started at  
20 50 percent, and my phone was rapidly going  
21 down.

22 But he had said that, yeah,  
23 Trump -- he said Trump said to be peaceful.  
24 And that's what he commented. And somebody  
25 else from not even there said, "Oh, that's a

1       really tall order." You know. And that guy  
2       was not even at the Capitol, as far as I  
3       could tell, because he kept asking for  
4       information on what was going on, that same  
5       guy, same voice.

6               Q.       When you say the "same voice,"  
7       what do you mean by that?

8               A.       We had this app called Zello.  
9       And it was like a walkie-talkie. And there  
10      was probably 60 people that were on it. And  
11      we were just talking back and forth, like  
12      what was -- it was part of our caravan. We  
13      used that to caravan over.

14              And it was part of that USEIP  
15      group that put that all together. And they  
16      invited me to join them since I was going to  
17      drive up there.

18              Q.       Okay. Now you said you got a  
19      text from Mayor -- the D.C. mayor. Is that  
20      correct?

21              A.       Yeah. It was, like, an  
22      emergency broadcast type of test. It just  
23      came across my phone, and it said, "Please  
24      leave the Capitol."

25              Q.       Okay. So what did you do then?

1           A.       Left the Capitol.

2           Q.       Let's go to Exhibit 1019.

3                    (Video played.)

4                   MR. GESSLER: I'm sorry.

5       That's sideways, Your Honor.

6                   Is there any way we can turn it  
7       around or -- okay.

8       BY MR. GESSLER:

9           Q.       Can you describe what's going  
10       on in here?

11          A.       So this is -- we were on our  
12       way out. And that was the same scene.  
13       That's why I got confused when I came in,  
14       because this is almost exactly like the other  
15       one, because I was actually leaving at that  
16       point. And so I just wanted to get a sense  
17       of the crowd and what was going on.

18          Q.       Okay. So in relation to the  
19       Capitol, is it fair to say you were retracing  
20       your steps?

21                   Where were you exactly?

22          A.       Yeah. We were retracing --  
23       actually, we had come -- I had, like, cut  
24       through the trees when I went through, but  
25       then we actually came back around on the

1 sidewalk. And then we were headed -- we  
2 wanted to get into the middle of The Mall so  
3 we could find out way back to the Washington  
4 Monument and find our car.

5 Q. Okay.

6 A. And I just took that quick --  
7 you know, and my videos get shorter. And  
8 obviously I'm not a very good photographer,  
9 but that was just a quick snap -- sense of  
10 what was going on.

11 Q. Okay. At this point here, did  
12 you see any violent behavior? Or how was the  
13 crowd behaving?

14 A. None, really. They were --  
15 everybody was just milling around. People  
16 were walking around the side that we had just  
17 come from, and other people were going and --  
18 you know, just coming and going, walking  
19 around, like, you know -- and I didn't hear  
20 any more flash-bangs or tear gas or anything,  
21 so -- but we were leaving because we got a  
22 text to say to leave.

23 Q. Did you see any police at that  
24 point?

25 A. No, I didn't see any police at

1 all from here on out.

2 Q. Okay. Let's go to Exhibit 1020.

3 MR. GESSLER: And while we're  
4 doing that, Your Honor, I'd move for  
5 admission of Exhibit 1019.

6 MR. SUS: No objection.

7 THE COURT: Exhibit 1019? Is  
8 that the right number?

9 MR. GESSLER: Yes, ma'am.

10 THE COURT: Exhibit 1019 is  
11 admitted.

12 (Exhibit 1019 was received  
13 into evidence.)

14 MR. GESSLER: Okay. Can you  
15 play that, please.

16 (Video played.)

17 BY MR. GESSLER:

18 Q. And what's happening in that  
19 video?

20 A. Well, this is the first time  
21 I got as close as I did to the bleachers in  
22 the big crowd. But we were -- that was us  
23 just leaving.

24 And I just took that video  
25 because I thought I saw those people up

1           there. And, you know -- and originally we  
2           actually thought that Trump was going to be  
3           speaking in that area when we heard  
4           fireworks. We thought Trump was going to be  
5           up on that -- there was, like, a platform up  
6           there.

7                       But, you know, when we saw the  
8           flash-bangs and stuff -- so, I mean, that's  
9           -- I just wanted to get a view of that. By  
10          this time, it was obvious that Trump was not  
11          going to show up and give a speech.

12                      MR. GESSLER: Your Honor, I'd  
13          move to introduce Exhibit 1020.

14                      MR. SUS: No objection.

15                      THE COURT: Exhibit 1020 is  
16          admitted.

17                      (Exhibit 1020 was received  
18                      into evidence.)

19          BY MR. GESSLER:

20                      Q.        So what did you do after that?

21                      A.        We just hoofed it back to the  
22          Monument. We listened to our -- you know,  
23          the comms. There was somebody talking  
24          about -- their father was elderly and needed  
25          a ride, and he was worried about him because

1 he couldn't walk, and he was worried about  
2 him walking back with the -- I remember that  
3 part.

4 But, yeah, it was right in  
5 there. And we were just on our way back to  
6 the -- back to the car.

7 Q. Okay. And then did you go  
8 directly to the car?

9 A. Yeah -- well, yeah, we went to  
10 the car and had a little rally with my  
11 brother, who was waiting for us at the car.  
12 And it was just Steve and I going back.

13 Q. I'm sorry. When you say "Steve  
14 and I going back," going back where?

15 A. Back to the car, to the  
16 Washington Monument. We went to the  
17 Monument; and from there, we went to our car,  
18 which was across from the Monument.

19 Q. Okay. I'd like to turn to  
20 Petitioners' Exhibit 207.

21 MR. GESSLER: Could you bring  
22 that up, please.

23 BY MR. GESSLER:

24 Q. Okay. So I'm showing you  
25 what's been marked as Exhibit -- Petitioners'

1 Exhibit 207. I want you to go to the second  
2 paragraph. And it says a newspaper reported  
3 that you were driving to Washington and that  
4 you announced that you were to "Go into the  
5 fray."

6 A. Um-hmm.

7 Q. And it says that you announced  
8 that in a Facebook post --

9 A. Yep.

10 Q. -- that you were driving to "Go  
11 into the fray."

12 Did you, in fact, write that on  
13 a Facebook post?

14 A. Yes, I did.

15 Q. And what did you mean by that?

16 A. I went -- we were concerned  
17 about Antifa and Black Lives Matter, you  
18 know, attacking people. And, you know, it's  
19 something that I consistently saw at Trump  
20 rallies or anything where there was Trump  
21 involved.

22 There were violent, left-wing  
23 radicals trying to hurt people. And I was  
24 concerned about that. But I decided to go  
25 anyway.

1 Q. So when you were referring to  
2 "the fray," what were you referring to there?

3 A. Just that I expected that we  
4 were going to encounter people that were  
5 violent towards the group.

6 Q. Okay. So I'd like you to --

7 MR. GESSLER: Let's go to this  
8 page. Third page of the exhibit there.  
9 Scroll down a little bit further. Okay.  
10 Right there.

11 BY MR. GESSLER:

12 Q. So if you look at that, it says  
13 that you said that you saw people in black  
14 bloc coming down The Mall path carrying Trump  
15 flags upside down. You knew something was  
16 up.

17 And then it goes on to say,  
18 "But still the people who blindly followed  
19 agent provocateurs' instructions should have  
20 known better. Everything about that moment  
21 screamed this is a setup."

22 Do you see that?

23 A. Yep.

24 Q. Did you write that?

25 A. I did.

1 Q. What did you mean by that?

2 A. Well, I saw people that were --  
3 like the guys with the bullhorns, and they  
4 were trying to push people into the Capitol  
5 and trying to make people -- herd them in.

6 And so that was my observation  
7 of that point, where they had the bullhorns.  
8 And there were people that had -- like that  
9 guy that asked me why I wasn't wearing a  
10 mask, he seemed out of place. He didn't seem  
11 like a Trump guy.

12 And then there were other  
13 people that I felt like that just -- there  
14 was actually -- I met a gentleman named -- he  
15 called himself Jaden X. And he had been --  
16 when I was standing in front of the police  
17 cars, he was on my right-hand side. And  
18 there was kind of a small crowd around him.  
19 And Steve asked me -- he goes, "What's that  
20 guy doing?"

21 I said, "That guy is Antifa."

22 And he goes, "How do you know?"

23 He goes, "What do you think they're saying?"

24 I said, "I don't know. I'm  
25 going to go find out."

1                   So I walked over there. And  
2           this guy was saying that he had video of a  
3           woman getting shot. And I asked him, "Can I  
4           see it?"

5                   And he said, "I just played it  
6           for these guys, and I have to go." And  
7           everybody else there was like -- they were  
8           shocked. They were all talking about what  
9           they had witnessed.

10                   And he said, "I have to go, but  
11          take a picture of my phone. And I will post  
12          this to Twitter." And he said, you know,  
13          "You can find the video on Twitter." He  
14          said, "It probably won't be up very long, but  
15          you can witness it on Twitter."

16                   So I took a picture of his  
17          phone. And it said Jaden X. And it had  
18          words like "revolutionary" and, you know, all  
19          of that.

20                   And so I went back to my  
21          friend, Steve, and I said, "Yep, he's  
22          Antifa."

23                   Q.        Okay.

24                   A.        And that's what I was talking  
25          about with the black bloc.

1                   And he didn't have any Trump  
2           gear. And he -- I had just a weird feeling  
3           about him.

4                   Q.       Okay. And then towards the  
5           bottom, it says, "But when it became apparent  
6           what was transpiring at the Capitol,  
7           including a large trail of blood that I had  
8           to step over, I decided to leave."

9                               Did you write those words?

10                  A.       I did.

11                  Q.       And is there anything you want  
12           to add to the fact -- to the statement that  
13           you said, "when it became transparent what  
14           was transpiring at the Capitol" -- we'll get  
15           to the trail of blood in a second --  
16           "I decided to leave"?

17                  A.       Well, vandalism.

18                  Q.       Okay.

19                  A.       You know, things that I didn't  
20           come there for and things that I didn't agree  
21           with.

22                               It was very clear to me that  
23           this wasn't what -- you know, what was  
24           planned. And I just felt like, you know,  
25           people were just acting stupidly. And

1 I really felt like -- I really felt like this  
2 actually was counterproductive to what Trump  
3 was trying to do.

4 Q. Okay. Now you say there that  
5 it included a large trail of blood that you  
6 had to step over.

7 What's that about?

8 A. So right where that gentleman  
9 was standing with the pitchfork and the flag  
10 and the stars and stripes, right down below  
11 him was a sidewalk. And it went up to the  
12 side of the Capitol.

13 And there were these pretty  
14 good-sized -- maybe silver-dollar size, maybe  
15 bigger -- splashes of blood. And it went  
16 from the -- it went from the curb all the way  
17 up to the side of that Capitol building.  
18 There was, like, a ramp for wheelchair  
19 access. And that had blood all the way up to  
20 that. And it was quite a lot of blood.

21 And then there was a man  
22 standing there, and he said he got video of a  
23 young girl being wheeled out on a stretcher.  
24 And it was at that point that I believed  
25 somebody did get shot.

1                   And he had video -- he showed  
2           me -- of the gurney coming out. And this  
3           girl -- and his comment was, "What? She was,  
4           like, 95 pounds, and they shot her. And this  
5           is in our United States Capitol."

6                   Q.       Okay. And was that one of the  
7           things that -- when you say it became  
8           apparent what was transpiring, is that one of  
9           the reasons you left?

10                  A.       Definitely.

11                         And right before that, that  
12           Jaden X -- and there was another man with a  
13           -- he had a blue hoodie on and his hat on  
14           backwards. And he was telling people to go  
15           in and take revenge because somebody had been  
16           shot. And he was trying to get people to go  
17           into the Capitol.

18                         And that's when I was like,  
19           these guys are just -- they're, like, agent  
20           provocateurs. They're not -- this is not  
21           intended. This is all wrong.

22                   Q.       Okay. So you've come here to  
23           testify today. Have you done it under  
24           subpoena?

25                  A.       No. I came on my own.

1 Q. And why did you come here?

2 A. I just felt like it was  
3 important that the truth get out of what  
4 I saw. I don't believe that there was any  
5 kind of insurrection. I think this is a  
6 ridiculous narrative. And --

7 MR. SUS: Objection,  
8 Your Honor. Move to strike this  
9 characterization. It's irrelevant.

10 THE COURT: The objection is  
11 overruled.

12 A. Yeah, I just felt like it's  
13 kind of an insult to insurrectionists around  
14 the world because, you know, Republicans just  
15 being mad about an election hardly rises to  
16 the level of an insurrection.

17 And I wanted to just make that  
18 clear, that that's a political narrative.  
19 And I recognize that I probably was in an  
20 area that I shouldn't be. And I felt like  
21 I didn't care.

22 BY MR. GESSLER:

23 Q. Didn't care about what?

24 A. That -- what the consequences  
25 are, because I think the truth is more

1           important.

2                   Q.       When you say "the consequences  
3           are," the consequences of what?

4                   A.       Well, you know, I guess there  
5           was grassy areas that I wasn't supposed to  
6           walk on that I did.

7                           And, you know, I didn't have  
8           any -- there were no signs or anything. But,  
9           you know, after the fact, they've arrested  
10          people that were in the area that I was. And  
11          I feel like I'm a little bit nervous about  
12          that.

13                  Q.       And why are you nervous about  
14          that?

15                  A.       Because I just feel like  
16          they're trying to take revenge on people who  
17          disagree.

18                          And, you know, the whole  
19          narrative that there's an insurrection is so  
20          absurd that -- but I know that people are  
21          married to that position, and they want to  
22          make an example of people like me just for  
23          walking on the grass.

24                          And --

25                  Q.       So what do you -- you earlier

1 testified you don't care about the  
2 consequences.

3 When you say -- what  
4 consequences are you concerned about?

5 A. Well, I've seen a lot of video  
6 of people, like, getting their doors kicked  
7 in and FBI showing up and, you know, pulling  
8 people out of the their houses and putting  
9 handcuffs on them.

10 And, you know, I don't want  
11 that for me or my family. But the truth  
12 needs to come out because, in polite words,  
13 it's BS.

14 Q. Okay.

15 MR. GESSLER: I have no more  
16 questions, Your Honor.

17 THE COURT: Cross-examination?

18 CROSS-EXAMINATION

19 BY MR. SUS:

20 Q. Good afternoon, Mr. Bjorklund.

21 A. Good afternoon.

22 Q. You're the treasurer of the  
23 Colorado Republican Party; is that right?

24 A. Yes, I am.

25 Q. And you understand that the

1 Colorado Republican Party is a party to this  
2 lawsuit?

3 A. Yes, I do. I understand that.

4 Q. And you understand that  
5 President Trump is a party to this lawsuit?

6 A. Yes, I do.

7 Q. And you're here today testifying  
8 as a witness on behalf of President Trump; is  
9 that right?

10 A. I'm testifying as a witness to  
11 the truth. That's why I'm here.

12 Q. But you appeared on  
13 President Trump's witness list. You  
14 understand that; right?

15 A. I've never -- I'm not a party  
16 to seeing the witness list. I don't know  
17 what -- who is on the witness list.

18 Q. You're a supporter of  
19 President Trump, aren't you?

20 A. I am mildly a supporter.

21 Q. You went to his rally at the  
22 Ellipse, didn't you?

23 A. Yeah. I went to see my  
24 brother.

25 Q. Do you think the 2020 election

1 was stolen from President Trump?

2 A. I don't have any proof of that.

3 I don't know.

4 Q. You're aware that President Trump  
5 has stated that the 2020 election was stolen  
6 from him.

7 A. Yeah, I'm aware that he stated  
8 that.

9 Q. So do you think he's wrong?

10 A. It's a possibility that he's  
11 right and it's a possibility that he's wrong.

12 Q. So you can't say one way or the  
13 other whether President Trump is right about  
14 the 2020 election being stolen?

15 A. For sure, no, I can't say that.

16 Q. Are you a member of a group  
17 called the U.S. Election Integrity Plan  
18 founded in Colorado in November 2020?

19 A. No, I am not.

20 Q. Were you ever a member of that  
21 group?

22 A. No, I was not.

23 Q. You were never affiliated with  
24 that group?

25 A. They put me on their chat room

1           because we were all traveling to the Capitol.  
2           And I wanted to go on a caravan, and I asked  
3           if they knew somebody that -- you know, just  
4           to share a ride.

5           Q.       So you don't share that group's  
6           views that the 2020 election was stolen?

7           A.       I don't know what all their  
8           views are. I don't know.

9           Q.       You were just part of their  
10          chat because they added you?

11          A.       They added me because  
12          I testified to the Colorado House of  
13          Representatives. And they had asked me to  
14          join their chat, especially when I told them  
15          that I was going to see my brother at the  
16          Capitol, and I kind of just wanted some  
17          company.

18                   MR. GESSLER: Your Honor, I  
19          don't mean to interrupt the cross-exam --  
20          although I guess it's good because there's  
21          noise in the background -- Representative  
22          Buck said he would be available at 4 o'clock  
23          my time, but it has to be quick.

24                   I wanted to give everyone  
25          notice.

1 THE COURT: Okay. Thank you.

2 BY MR. SUS:

3 Q. Let's talk about your experience  
4 on January 6th.

5 A. Okay.

6 Q. So you traveled from Colorado  
7 to D.C. for the rally on the Ellipse on the  
8 6th; is that right?

9 A. Yes, I did.

10 Q. And you drove from Colorado to  
11 D.C.; is that right?

12 A. I drove a big pickup truck  
13 hauling a gigantic trailer. Right.

14 Q. That's about an 1800-mile  
15 drive, isn't it?

16 A. It's a long drive. Yep.

17 Q. Twenty-four, twenty-five hours.  
18 Is that what you testified?

19 A. Yeah. That's about right.  
20 Twenty-five -- probably twenty-five. Maybe  
21 even twenty-six hours. It was a long drive.

22 Q. And you'd never been to D.C.  
23 before?

24 A. Never.

25 Q. So let's talk about the Ellipse

1 rally.

2 It's fair to say there were  
3 thousands of people there.

4 A. Hundreds of thousands.

5 Q. So you actually testified there  
6 were 350,000 people there.

7 A. It's just a guess, but, yeah,  
8 very --

9 Q. That's just a guess, though.

10 A. Sure.

11 Q. Okay. You had no way of  
12 knowing why each one of those thousands of  
13 people were at the Ellipse rally, did you?

14 A. No, I wouldn't have any way of  
15 knowing. I mean, I assume he asked people to  
16 show up to his last speech, and that's why  
17 they were there. That's why I was there.

18 Q. Okay. And you had no way of  
19 knowing what each one of those thousands of  
20 people were doing throughout the day, did  
21 you?

22 A. Of course not.

23 Q. And by the same token, you have  
24 no way of knowing what each person at the  
25 Capitol building was doing throughout the day

1           on January 6th? Did you?

2           A.       No, I wouldn't know -- yeah,  
3           I certainly didn't have an insight into  
4           everybody.

5           Q.       And you didn't know why each  
6           person was at the Capitol building that day.

7           A.       Right. I imagine they're on a  
8           spectrum.

9           Q.       Now you testified that the  
10          crowd you saw at the Ellipse rally was joyful  
11          and happy. Is that right?

12          A.       Yep. For sure.

13          Q.       Did you know that the Secret  
14          Service confiscated hundreds of weapons from  
15          rally attendees who passed through security  
16          at the Ellipse rally?

17          A.       I didn't know that, no.

18          Q.       Let me show you some findings  
19          from the January 6th Select Committee on this  
20          point.

21                   MR. SUS: If you could pull up  
22          P-78, Finding 107.

23          BY MR. SUS:

24          Q.       Do you see that on your screen?

25          A.       Um-hmm.

1                   Q.       And so this shows that the  
2       confiscated weapons includes 242 canisters of  
3       pepper spray. Do you see that?

4                   A.       Oh. I see. Uh-huh.

5                   Q.       269 knives or blades. Do you  
6       see that?

7                   A.       Yeah.

8                   Q.       18 brass knuckles?

9                   A.       Um-hmm.

10                  Q.       18 Tasers. Do you see that?

11                  A.       Yeah. Yeah.

12                  Q.       30 batons or blunt instruments.  
13       Do you see that?

14                  A.       Um-hmm.

15                  Q.       17 miscellaneous items like  
16       scissors, needle, or screwdrivers. Do you  
17       see that?

18                  A.       Sure. Um-hmm.

19                  Q.       Do you know members of the  
20       crowd were wearing tactical gear, like  
21       ballistics helmets, body armor,  
22       military-grade backpacks?

23                  A.       I saw that. Sure. Um-hmm.

24                  Q.       So you saw that. That's  
25       consistent with your memory of the events.

1           A.       Yes. Uh-huh.

2           Q.       Okay. Do you have any reason  
3 to dispute these -- do you have any knowledge  
4 to dispute these figures here?

5           A.       I don't have any knowledge of  
6 what they confiscated. I wasn't a part of  
7 their confiscation effort.

8           Q.       Does that seem like -- do these  
9 seems like items that people bring to a rally  
10 that's joyful and happy?

11          A.       Yes.

12          Q.       Okay.

13          A.       Especially when -- in light of  
14 the other rallies that I've seen in Seattle  
15 and other rallies that they went to to  
16 support Donald Trump, and they were  
17 attacked -- violently attacked and some  
18 people were murdered.

19                   And so, yeah, I think that most  
20 people were concerned about the violence that  
21 were perpetrated on people just because they  
22 supported Donald J. Trump.

23          Q.       All right. I want to show you  
24 some of the crowd's reactions to  
25 President Trump's rally at the Ellipse.

1 MR. SUS: Let's pull up  
2 Exhibit 166.

3 (Video played.)

4 BY MR. SUS:

5 Q. Mr. Bjorklund, did you hear the  
6 members of the crowd yell, "Storm the  
7 Capitol," "Invade the Capitol building,"  
8 "Take the Capitol"?

9 A. I didn't hear anybody say,  
10 "Take the Capitol."

11 Q. I'm sorry, Mr. Bjorklund. My  
12 question was: In the video I just played for  
13 you --

14 A. Oh.  
15 Yes, sir. I heard that in the  
16 video. Uh-huh.

17 Q. But your testimony is you  
18 didn't hear that when you were at the Ellipse  
19 rally?

20 A. No. I was by the Washington  
21 Monument. I wasn't probably near that far  
22 down. Definitely not that close.

23 Q. But you agree that the image  
24 here is -- appears to be from the Ellipse  
25 rally on the 6th?

1                   A.       Yeah, it appears to be.

2                   Um-hmm.

3                   Q.       Okay. So does this look like  
4                   a -- does a joyful crowd talk about storming  
5                   the Capitol, taking the Capitol, invading the  
6                   Capitol building?

7                             Is that joyful and happy?

8                   A.       I don't know. I have no idea.

9                   Q.       Okay. So let's take a look at  
10                   some of the videos and photos that you have  
11                   provided in this case and that we went over.

12                             MR. SUS: If we could pull up  
13                   Exhibit 1007, which has already been  
14                   admitted. And go ahead and play.

15                             (Video played.)

16                             MR. SUS: You can stop the  
17                   video right there.

18                   BY MR. SUS:

19                   Q.       So, Mr. Bjorklund, this is  
20                   after Trump's speech; is that right?

21                   A.       Yes, it is.

22                   Q.       And you watched President Trump's  
23                   whole speech? You stayed to the end?

24                   A.       No, not quite.

25                   Q.       Okay. So would you say this is

1 after 1 o'clock?

2 A. Yeah.

3 Q. Okay.

4 A. Yeah.

5 Q. And the video shows folks  
6 walking away from the Ellipse, away from the  
7 Washington Monument towards the Capitol  
8 building.

9 A. Right down The Mall. Um-hmm.

10 Q. And that's what you did, too;  
11 right?

12 A. Yes.

13 Q. You were at the Ellipse and  
14 walked toward the Capitol building.

15 A. That is correct.

16 Q. Okay.

17 MR. SUS: Let's pull up  
18 Exhibit 1010, which has been previously  
19 admitted.

20 (Video played.)

21 MR. SUS: All right. Let's  
22 stop the video.

23 BY MR. SUS:

24 Q. So, Mr. Bjorklund, did you hear  
25 the man say, "Pence defies Trump" in the

1 video?

2 A. Actually I -- no, I didn't hear  
3 that part. I heard the other part.

4 MR. SUS: Can we pull it back  
5 to 25-second mark?

6 A. Sorry.

7 MR. SUS: All right. Stop.

8 (Video played.)

9 BY MR. SUS:

10 Q. Did you hear that?

11 A. Yeah.

12 Q. Okay. And this is -- so this  
13 is after 1 o'clock. Like this is probably  
14 1:10, 1:15 -- right? -- because this is after  
15 the previous video that we had seen.

16 A. Yeah. That's probably about  
17 right.

18 Q. All right. So the man says,  
19 "Pence defies Trump."

20 MR. SUS: Can you continue  
21 playing the video.

22 (Video played.)

23 MR. SUS: All right. Stop.

24 BY MR. SUS:

25 Q. So the man said, "Pence defies

1 Trump. I hate Pence." Is that right?

2 A. Yeah.

3 Q. And are you aware that  
4 Vice President Pence had announced by this  
5 point that he would not delay or overturn the  
6 election results, as the President had urged  
7 him to do at that point?

8 A. Yeah, it's possible. There  
9 were people that had radios -- like, AM  
10 radios and stuff. And they were playing just  
11 what was going on. People were commenting  
12 about -- like, Lauren Boebert speaking or  
13 different people. But we didn't -- I didn't  
14 have any direct -- I didn't have any direct  
15 knowledge of that.

16 Q. Understood.

17 MR. SUS: So let's pull up  
18 Exhibit 1018, which was previously admitted.

19 BY MR. SUS:

20 Q. And I just want to quickly  
21 confirm: That man is holding a pitchfork in  
22 the picture; is that right?

23 A. Yeah.

24 Q. Okay.

25 MR. SUS: Let's pull up

1 Exhibit 1015. And let's just pause it right  
2 there.

3 BY MR. SUS:

4 Q. So this is another video that  
5 you recorded on the Capitol ground; is that  
6 right?

7 A. Yes.

8 Q. And this is the east side of  
9 the Capitol building? Is that what you  
10 previously testified?

11 A. I'm not -- I'm sorry. I don't  
12 -- let me think about the map for a second.

13 It's on the front side of the  
14 Capitol. I don't know if that's east or west  
15 or -- I don't really know.

16 Q. Let me ask you: Is it the same  
17 side that faces the Washington Monument or is  
18 it the other side?

19 A. It's the other side.

20 Q. Other side.

21 A. I thought it was the back,  
22 because I came -- clearly I went through the  
23 front because it was the most prominent  
24 pictures I know. I thought that was the  
25 front. And this turns out to be the front of

1 the Capitol.

2 Q. And so I will represent to you  
3 that the video files you produced, some of  
4 them had digital timestamps on them. And  
5 this video said it was from 12:23 Mountain  
6 Time, 2:23 Eastern Time.

7 Does that sound right to you?

8 A. Yeah, that is. Yeah, it does.  
9 Um-hmm.

10 Q. So you had said that you had  
11 been exposed to tear gas, and you had seen  
12 flash-bangs when you were at the Capitol. Is  
13 that right?

14 A. Yes, I saw tear gas -- or  
15 I coughed a little bit, so I assume the --  
16 tear gas. And there were flash-bangs. And  
17 that was on the other side of the Capitol  
18 with all the bleachers.

19 Q. How much earlier did that occur  
20 in relation to this video?

21 How much longer before this  
22 video were you exposed to the tear gas?

23 A. I'm going to guess, like,  
24 30 minutes maybe.

25 Q. Okay. So after there were

1 flash-bangs and tear gas deployed, you  
2 continued to stay at the Capitol grounds.  
3 You didn't leave.

4 A. I didn't go where the police  
5 didn't want us.

6 Q. Okay. And so looking at the  
7 video, do you see the crowd bunching up on  
8 the stairs there in front of the Capitol  
9 building?

10 A. Yeah. It looks like they're  
11 getting ready to take a big picture.

12 Q. Are you aware that the doors at  
13 the top of those stairs were breached by the  
14 mob just one minute after this video was  
15 shot, at 2:24 p.m.?

16 A. No knowledge of that  
17 whatsoever.

18 MR. SUS: Let's pull up  
19 Exhibit 23, page 682.

20 BY MR. SUS:

21 Q. This is a finding from the  
22 January 6th report. Do you see that?

23 A. Uh-huh.

24 Q. Okay. And you have no reason  
25 to dispute that finding?

1           A.       I don't know. I don't have  
2           any -- I don't have enough knowledge to  
3           dispute it if I wanted to.

4           Q.       Understood.

5                   MR. SUS: Okay. And let's go  
6           back to the video, 10:15, and let's play the  
7           video.

8                   (Video played.)

9                   MR. SUS: Let's pause the  
10          video.

11         BY MR. SUS:

12           Q.       Did you hear the people  
13          chanting "Our House"?

14           A.       Yes, I did.

15           Q.       Did you hear people chant that  
16          throughout the day?

17           A.       Down there at the Capitol,  
18          I heard people chanting that, yes.

19           Q.       Okay. And you had testified  
20          earlier that you didn't go inside because you  
21          understood the police didn't want you to go  
22          inside. Is that correct?

23           A.       Yeah. When I saw those metal  
24          detectors and the people smashing windows,  
25          obviously I didn't want to be a part of that.

1                   Q.       And so, again, this was from  
2       2:23 p.m.

3                             Are you aware that at 2:28 p.m.,  
4       about five minutes later, the mob breached the  
5       police line on the west side of the Capitol?

6                   A.       Describe the "west side of the  
7       Capitol."

8                   Q.       On the opposite side of the  
9       building from where you were.

10                  A.       Oh. That's the west?  
11                             I didn't have any clue. I  
12       wasn't anywhere near what that -- I don't  
13       have any knowledge of that.

14                  Q.       And, Mr. Bjorklund, you  
15       testified that the crowd that day, at least  
16       the ones you observed, respect law  
17       enforcement. Is that what you said?

18                  A.       Yes.

19                  Q.       So I'm going to show you some  
20       body camera video from a police officer  
21       that's already in evidence.

22                             MR. SUS: If we could please  
23       pull up Exhibit 15.

24                             MR. GESSLER: Your Honor, I  
25       apologize for interrupting. It's about

1 three minutes to 4:00.

2 Could we pause this just a  
3 second so Representative Buck can finish?

4 Again, I apologize. I'm not  
5 trying to break up your cross.

6 THE COURT: We kind of told  
7 Congressman Buck that we would work with his  
8 schedule.

9 MR. SUS: Understood.

10 THE COURT: And I apologize to  
11 you, Mr. Bjorklund. Would you mind just  
12 waiting out in the hall until we finish up  
13 with Congressman Buck?

14 I think -- what are we looking  
15 at? Ten minutes, probably?

16 MR. SUS: For me? For Buck?

17 MR. GESSLER: Three or  
18 four minutes from us on redirect, Your Honor.

19 THE COURT: Mr. Nicolais, how  
20 long do you think we have with Mr. Buck?

21 MR. NICOLAIS: Your Honor, I  
22 don't see foresee more than five minutes.

23 THE COURT: Okay.

24 So, Mr. Bjorklund, we'll  
25 probably call you back in maybe 10,

1           15 minutes. Thank you for your cooperation.

2                               (Pause.)

3                       THE COURT: Mr. Sus, do you  
4           have an estimate of how much longer you have  
5           with Mr. Bjorklund?

6                       MR. SUS: I'd say five to ten  
7           minutes, at the absolute most.

8                       THE COURT: Okay. Great.

9                               (Pause.)

10                      THE COURT: Welcome back,  
11           Congressman Buck. You're still under oath.

12                      THE WITNESS: Thank you.

13                      THE COURT: You sounded a  
14           little bit soft, so speak up.

15                      THE WITNESS: Will do.

16                      THE COURT: Perfect.

17                      CONGRESSMAN KEN BUCK,  
18           having been previously first duly sworn to state  
19           the whole truth, continued to testify as follows:

20                      CROSS-EXAMINATION (Cont.)

21           BY MR. NICOLAIS:

22                      Q.       That's one more hour down,  
23           Congressman.

24                      I'll be very brief. Before,  
25           when you were testifying during your direct

1 examination, you said the mob meant to  
2 disturb a proceeding.

3 Do you remember saying that?

4 A. Yes.

5 Q. And what proceeding was that?

6 A. It was the electoral vote count  
7 on the House -- on the Floor in the Capitol  
8 building.

9 Q. And you repeated that again  
10 yesterday. In fact, you said, "I think going  
11 to the courts is one thing. Trying to move  
12 the mob from The Mall up to the House Floor  
13 and interrupting the Congressional  
14 proceedings, whole different issue."

15 Do you remember saying that  
16 yesterday?

17 A. Yeah, I said that in relation  
18 to some of the members of Congress sending  
19 out social media messages to that regard.

20 Q. I'm sorry. I'm referring to an  
21 interview you gave yesterday with Andrea  
22 Mitchell.

23 You said that you were  
24 referring to that as a -- talking about  
25 members of Congress?

1                   A.       Yes.

2                   Q.       I'll tell you what. I don't  
3       remember you actually saying that. So  
4       I would like to --

5                   MR. NICOLAIS: If you don't  
6       mind, Your Honor, if we could bring up P-311  
7       and start from 1:15 to 2:50 -- actually, you  
8       can start with 2:34 -- well, maybe -- start  
9       with 1:15 to 2:50.

10                  MR. GESSLER: Your Honor, I'll  
11       object to this. This is a different video  
12       than the one we saw earlier. Again, well  
13       outside the bounds of the direct, well  
14       outside the bounds of what Representative  
15       Buck has discussed. And I'll incorporate my  
16       earlier objections, Your Honor.

17                  THE COURT: Response?

18                  MR. NICOLAIS: This is being  
19       offered for impeachment purposes, Your Honor.  
20       He just testified he was saying it about  
21       Congressional members, and I think that this  
22       video will show that it was not.

23                  THE COURT: Well -- but I know.  
24       But I think the objection is really that the  
25       question is about -- the premise is outside

1 the scope.

2 MR. NICOLAIS: Oh. Sure.

3 But I think, very clearly, he  
4 just said that he remembered saying during  
5 his direct it was meant to disturb a  
6 proceeding. And the quote is regarding  
7 interrupting the Congressional proceedings.

8 I think that it goes directly  
9 to what he said during his direct  
10 examination. And it goes to directly what he  
11 was brought here to talk about originally,  
12 which was what happened on January 6th.

13 MR. GESSLER: Your Honor, if I  
14 may --

15 THE COURT: Let me just -- can  
16 I -- let me read the -- what his testimony --  
17 the questions in his testimony was.

18 (Pause.)

19 THE COURT: So he's already  
20 testified that the mob he was referring to  
21 was the mob that tried to disturb the  
22 electoral count vote on the -- on the Floor  
23 in the Capitol building.

24 And then you said, "And you've  
25 said this whole thing about the mob before."

1           So I'm missing the connection here.

2                       MR. NICOLAIS: Well, I think  
3           the important part here is they're  
4           interrupting the Congressional proceedings.  
5           Now he just said, in answer to that, when  
6           I was asking him about the content -- the  
7           context, he said -- well, he was talking  
8           about -- and maybe I can clarify with him.  
9           I thought he said he was talking about, Well,  
10          Congressional members or --

11                      MR. GESSLER: If I may,  
12          Your Honor.

13                      The fact that Representative  
14          Buck has testified to is that members from  
15          the outside referred to as "a mob"  
16          interrupted the proceedings.

17                      If Mr. Nicolais wants to try to  
18          impeach that point to prove that members of  
19          the mob did not -- which I don't think he  
20          wants to do.

21                      THE COURT: You're trying to  
22          get him now to say that he blames  
23          President Trump for that, or he said that in  
24          the Andrea Mitchell report. And I already  
25          said that was beyond the scope.

1 MR. NICOLAIS: Oh. I'm sorry,  
2 Your Honor. That was a different interview  
3 that he gave. That was with Jake Tapper.  
4 I'm not trying to introduce that.

5 This is another interview. But  
6 my understanding was he was talking about  
7 Congressional members.

8 If he is testifying that it  
9 was -- the members of the mob were from  
10 outside and they were trying to interrupt the  
11 Congressional proceedings, that's accurate,  
12 then.

13 THE COURT: That's certainly  
14 what I understand.

15 Is that your testimony,  
16 Congressman Buck? That the mob or members of  
17 the outside that were trying to disturb the  
18 electoral count?

19 THE WITNESS: Yes, Your Honor.  
20 It was nonmembers that were trying to come  
21 into the Capitol building to disturb the  
22 electoral count.

23 MR. NICOLAIS: Okay. If that's  
24 what he testified to, I have no further  
25 questions, Your Honor.

1 THE COURT: Okay.

2 Wow. We short-circuited

3 something. Huh?

4 THE WITNESS: That's great.

5 REDIRECT EXAMINATION

6 BY MR. GESSLER:

7 Q. Congressman Buck, I will try to  
8 be mercifully brief.

9 You were asked, and answered,  
10 about trust in the process. And you said you  
11 trusted judges. You trusted juries. You  
12 trusted the judicial process.

13 Do you remember testifying to  
14 that?

15 A. That may have been one of the  
16 videos that was played. But, yes, I do trust  
17 those institutions to search for the truth.

18 Q. And why do you trust them?

19 A. Because I think that's the  
20 system of justice that I participated in for  
21 25 years, as a prosecutor, and before that,  
22 as a lawyer, and after that, as a lawyer.

23 I am -- I believe we have an  
24 adversarial system set up in the courts that  
25 does, in fact, search for the truth. There

1           wasn't -- there were times when I didn't  
2           necessarily agree with some of the motions to  
3           suppress and the rulings on those motions,  
4           but I certainly felt like the defendant's  
5           rights were protected, and we were on a  
6           search for truth.

7                   Q.       Does that trust also apply to  
8           Congress?

9                   A.       No. No. There -- the  
10          Congressional proceedings are political, and  
11          they are not a search for the truth. They  
12          are a search to promote different political  
13          views.

14                         The members who are chosen for  
15          the committees are chosen because they raised  
16          a certain amount of money, because they have  
17          engaged in political activities that have  
18          been beneficial to the Speaker or to the  
19          Leader. And the process is not in any way  
20          similar to what happens in courts.

21                   Q.       And does your trust apply to  
22          the January 6th Committee?

23                   A.       I think in the case of the  
24          January 6th Committee, it is not only a  
25          political committee, but it also is a

1 political committee that is lacking the  
2 viewpoint of those that did not believe that  
3 President Trump committed an impeachable  
4 offense on January 6th.

5 Q. Thank you, Representative Buck.  
6 Thank you very much for your time today. And  
7 we appreciate you interrupting your schedule.

8 MR. GESSLER: I have no further  
9 questions, Your Honor.

10 THE COURT: Any questions from  
11 the Colorado Republican Party?

12 MS. RASKIN: No questions,  
13 Your Honor.

14 MR. KOTLARCZYK: No questions  
15 for the Secretary, Your Honor.

16 THE COURT: Okay.

17 Thank you so much for your  
18 testimony, Congressman Buck. You are  
19 released.

20 THE WITNESS: Thanks very much,  
21 Judge.

22 THE COURT: Let's start back up  
23 at 4:20. And hopefully we'll still be done  
24 well in advance of 5:00.

25 (Recess taken.)

1 THE COURT: Mr. Bjorklund,  
2 you're still under oath.

3 THE WITNESS: Thank you.

4 MR. SUS: Ready to proceed,  
5 Your Honor?

6 THE COURT: Yes. Please.

7 TOM BJORKLUND,  
8 having been previously first duly sworn to state  
9 the whole truth, continued to testify as follows:

10 CROSS-EXAMINATION (Cont.)

11 BY MR. SUS:

12 Q. Mr. Bjorklund, we watched a  
13 video of you outside the Capitol at 2:23 p.m.

14 Do you recall watching that  
15 video?

16 A. Yeah.

17 Q. And then I told you that  
18 five minutes later, the police line on the  
19 other side of the Capitol building was  
20 breached by violent rioters.

21 Did you hear me say that?

22 A. Yes.

23 Q. So you also said January 6th  
24 wasn't an insurrection. Is that right?

25 A. Exactly.

1 Q. And you think Antifa did it.

2 A. There was no insurrection.

3 Q. So you think Antifa is  
4 responsible for attacking more than 140 law  
5 enforcement officers at the Capitol on  
6 January 6th.

7 A. When I was in high school --

8 Q. It's yes or no question,  
9 Mr. Bjorklund.

10 A. -- I read a lot of Louis  
11 L'Amour. Louis L'Amour. And he talked about  
12 crowds, and that it's very easy to turn a  
13 crowd who has some anger issues and turn  
14 them. And...

15 Q. So, Mr. Bjorklund --

16 A. So I believe it was like  
17 somebody with a bridle.

18 Q. Mr. Bjorklund, you testified  
19 earlier that the crowd around you respected  
20 law enforcement. Is that right?

21 A. The ones around me did. Yep.

22 Q. All right.

23 MR. SUS: Let's play the video.

24 (Video played.)

25 ///

1 BY MR. SUS:

2 Q. Is that man Antifa?

3 A. I have no idea who that man is.

4 Q. All right.

5 MR. SUS: Keep playing the  
6 video.

7 (Video played.)

8 BY MR. SUS:

9 Q. That man who just attacked a  
10 police officer, is that Antifa?

11 A. I have no idea who that is.

12 Q. Is that respect for law  
13 enforcement?

14 A. He seems angry.

15 Q. I'm going to show you another  
16 video.

17 MR. SUS: Could we pull up  
18 admitted Exhibit 20.

19 (Video played.)

20 MR. SUS: Let's pause the  
21 video.

22 BY MR. SUS:

23 Q. Is that respect for law  
24 enforcement?

25 A. Obviously they weren't -- they

1           weren't respecting their line. No.

2           Q.       Can you point me out Antifa in  
3           that crowd?

4           A.       I have no idea which ones are  
5           and which ones aren't.

6                   MR. SUS: Keep playing the  
7           video, please.

8                   (Video played.)

9                   MR. SUS: Let's pause the  
10          video.

11         BY MR. SUS:

12           Q.       Mr. Bjorklund, do you see the  
13          man attacking the police officers in the  
14          video?

15           A.       Yeah. I saw him hitting the  
16          shield.

17           Q.       Is that respect for law  
18          enforcement?

19           A.       No.

20           Q.       Do you see any Antifa in that  
21          video?

22           A.       Possibly.

23                   MR. SUS: Please play the  
24          video.

25                   (Video played.)

1 BY MR. SUS:

2 Q. Mr. Bjorklund, the truth is  
3 that none of those people are Antifa. They  
4 were a mob sent by Trump to attack the  
5 Capitol building. Isn't that true?

6 A. Not the instructions I got.

7 Q. Not the instructions you got?  
8 Is that what you said?

9 A. Yeah.

10 Donald Trump said to go down  
11 and peacefully make your voices heard.  
12 That's what I heard.

13 Q. You see those people with --

14 A. They clearly are not doing  
15 that.

16 Q. You see those people with MAGA  
17 hats and Trump flags chanting "Stop the  
18 steal," attacking police officers, trying to  
19 break into the Capitol building to stop the  
20 certification of an election?

21 Why would Antifa do that?

22 Why would Antifa stop the  
23 certification of an election?

24 MR. GESSLER: Objection,  
25 Your Honor. Argumentative.

1 THE COURT: Please respond to  
2 -- the objection overruled.

3 BY MR. SUS:

4 Q. Why would Antifa break into the  
5 Capitol building to stop the certification of  
6 the election for Joe Biden?

7 Aren't they on Joe Biden's  
8 side?

9 Why would they do that?

10 A. Because it actually derailed a  
11 more intelligent plan. This is obviously not  
12 an intelligent plan. And the plan that  
13 I understood it was, that they were going to  
14 challenge electors. They were going to have  
15 a legal process.

16 Q. And then it turned into this,  
17 didn't it?

18 Didn't it turn into this?

19 A. Yes, as mobs can be turned  
20 into -- people who are angry can be turned  
21 into a mob, just like they did at the  
22 Denver -- you know, Aurora Police Station  
23 where they chained up and threatened to burn  
24 the building down.

25 MR. SUS: Your Honor --

1           A.       And they were not charged with  
2       insurrection.

3                   MR. SUS:   Your Honor, I have no  
4       further questions for the witness.   But I  
5       will move to admit 166, which is a video of  
6       the crowd's reaction to President Trump's  
7       speech.

8                   MR. GESSLER:   Your Honor, I've  
9       lost track of the various objections and  
10      whatnot with respect to this particular one,  
11      but we would certainly object.   This has not  
12      been authenticated or validated by this  
13      witness.   It's not appropriate, based on this  
14      testimony, to introduce this as an exhibit.

15                  MR. SUS:   So two things,  
16      Your Honor.   Two witnesses have verified that  
17      the scene in that video accurately depicts  
18      the Ellipse as those folks -- as those  
19      witnesses recall them.   Mr. Bjorklund and  
20      Mr. Van Flein both confirmed that.

21                  And Your Honor also allowed in  
22      other video of the crowd's reaction to  
23      speeches at the Ellipse.   And so this video  
24      shows the crowd's reaction from a different  
25      time period.

1 THE COURT: Is this --

2 MR. SUS: No. No, Your Honor.

3 Could you pull up 166, please?

4 MR. GESSLER: And while they're  
5 looking for that, I believe certainly all the  
6 stuff we sought to introduce, the videos were  
7 made by eyewitnesses or an eyewitness  
8 validated it.

9 THE COURT: Is your objection  
10 on authentication?

11 MR. GESSLER: Yes, Your Honor.

12 THE COURT: Overruled. The  
13 exhibit is admitted.

14 (Exhibit 166 was received into  
15 evidence.)

16 MR. SUS: All right. Thank  
17 you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. GESSLER:

20 Q. Mr. Bjorklund, I just have a  
21 very brief question. So one of the videos --

22 MR. GESSLER: If we could clear  
23 that video, please.

24 THE COURT: I think it's --

25 MR. GESSLER: Thank you.

1 BY MR. GESSLER:

2 Q. So one of the videos -- if you  
3 need me to replay it, I will, but one of the  
4 videos, there's someone that said, "I hate  
5 Pence."

6 Do you remember?

7 A. Yeah.

8 Q. And do you know who said that?

9 A. Yeah. I believe it was Steve.

10 Q. And Steve was?

11 A. He was the gentleman that  
12 traveled with my brother to see Donald Trump  
13 speak.

14 Q. About how much time did you  
15 spend with Steve on January 6th?

16 A. Just at the campground, we had  
17 dinner. We went to the barbecue. Yeah,  
18 just -- probably, I don't know, 24 hours  
19 maybe.

20 Q. Okay. During that time, both  
21 before and on January 6th, did Steve engage  
22 in any violent behavior?

23 A. Not at all.

24 Q. Did he express any violent  
25 sentiments to you?

1                   A.       No.

2                   Q.       Okay. Did he have any violent  
3 viewpoints or -- that you were aware of at  
4 all?

5                   A.       No. He never -- he never  
6 mentioned anything about doing violence or  
7 doing any harm to anyone.

8                   Q.       Okay.

9                   MR. GESSLER: I have no further  
10 questions, Your Honor.

11                  THE COURT: Any questions from  
12 the Colorado Republican Party?

13                  MS. RASKIN: No questions.

14                  MR. KOTLARCZYK: No questions  
15 from the Secretary.

16                  THE COURT: Okay. Let's just --  
17 you're released, Mr. Bjorklund. Thank you so  
18 much for your testimony.

19                  Let's just talk schedule for a  
20 moment. I know that you have Mr. Delahunty.  
21 Is that correct?

22                  MR. GESSLER: Yes, Your Honor.  
23 One more witness. We've prepared to put him  
24 on at the start of tomorrow's proceedings.

25                  THE COURT: I'm just trying to

1 figure out when that should be.

2 MR. GESSLER: And we don't  
3 anticipate him -- I hope it's not two hours,  
4 but I certainly don't think it would be more  
5 than two hours.

6 THE COURT: Okay.

7 MR. GESSLER: Certainly from  
8 our direct testimony.

9 MR. GRIMSLEY: And then,  
10 Your Honor, we have Mr. Heaphy, who we're  
11 planning for 1 o'clock remotely tomorrow  
12 afternoon.

13 You asked about rebuttal  
14 witnesses earlier. We may direct  
15 Mr. Heaphy, in part rebuttal, given the  
16 recent attacks on the January 6th Committee  
17 report.

18 THE COURT: Okay.

19 And then what about the  
20 Colorado Republican Party? At one point you  
21 were planning on calling witnesses.

22 MS. RASKIN: Your Honor, we  
23 don't plan to call any witnesses.

24 THE COURT: Okay. So if we're  
25 going to start at 1:00 with Mr. Heaphy, who

1       it sounds like will be the last witness, when  
2       should we start tomorrow to make sure we get  
3       through Mr. Delahunty and have an opportunity  
4       for a break?

5               MR. GRIMSLEY: I think it's  
6       probably going to be 8:00, given your  
7       estimate of a direct, given our estimate of a  
8       cross.

9               MR. GESSLER: I'm fine starting  
10      at 8:00, Your Honor. I hope it's not that  
11      long, but --

12              THE COURT: How about 8:30?

13              MR. GESSLER: 8:30 works for us  
14      too, Your Honor.

15              MR. GRIMSLEY: 8:30 works for  
16      us, too.

17              THE COURT: Be a little more  
18      civilized.

19              Okay. So we will resume at  
20      8:30 with Professor Delahunty, and then we  
21      will do Mr. Heaphy at 1:00. And that sounds  
22      like it will conclude the proceedings until  
23      closing arguments, which everybody wants to  
24      do on the 15th.

25              MR. GRIMSLEY: Your Honor, as

1 Ms. Tierney had said earlier, we will be  
2 submitting revised versions of the  
3 January 6th findings.

4 So we will take out ones that  
5 you have already said are not admitted. We  
6 may take out ones that you ruled are  
7 admissible but we don't need.

8 So we'll submit that. And  
9 there may be a few minutes -- maybe five to  
10 six minutes -- of video that we would submit  
11 as well. And I think  
12 Ms. Tierney referenced that as well.

13 THE COURT: Okay. I see.

14 So you're going to offer to  
15 admit revised January 6th findings. And then  
16 you may want to play some video that hadn't  
17 already been played?

18 MR. GRIMSLEY: Correct.

19 THE COURT: Okay. And the  
20 parties should also -- at some time before  
21 the findings of facts, conclusions of law are  
22 due, should work together to make sure  
23 everybody agrees on what exhibits have been  
24 admitted.

25 And actually -- probably it

1 would be good if you do that before we end on  
2 Friday, so that if other exhibits need to be  
3 offered, you can get that taken care of.

4 MR. GESSLER: Okay. Yeah.

5 Your Honor, just as a heads-up.  
6 I've not spoken with Petitioners about it,  
7 but there was an exchange between  
8 President Trump and now-President Biden and a  
9 moderator during a debate.

10 There was a snippet that we're  
11 going to ask to introduce more of that, a  
12 fuller amount of that same video, and perhaps  
13 the transcript as well.

14 So I know we're going to be  
15 asking to introduce that. We'll chat with  
16 Petitioners about it.

17 THE COURT: The Proud Boys  
18 question?

19 MR. GESSLER: Yes, ma'am.

20 THE COURT: Okay. That's it.  
21 We can kind of take care of all of that  
22 housekeeping after Mr. Heaphy, since my  
23 docket is clear for the day. And we can also  
24 talk about how you're going to make an actual  
25 record in this case, so that if it goes to

1       the Colorado Supreme Court, that it exists,  
2       which is going to -- you're going to have to  
3       do things with all these exhibits other than  
4       just ask me to admit them. Especially the  
5       videos.

6                       MR. GESSLER: Fair enough,  
7       Your Honor.

8                       THE COURT: Okay. The Court's  
9       in recess.

10                      (Time noted: 4:36 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, LISA A. KNIGHT, Registered Diplomat  
Reporter, Certified Realtime Reporter, and  
Realtime Systems Administrator, do hereby certify  
that the foregoing transcript is a true and  
correct record of the testimony given; that the  
proceedings were taken by me stenographically and  
thereafter reduced to typewriting under my  
direction; and that I am neither counsel for,  
related to, nor employed by any of the parties to  
this case and have no interest, financial or  
otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 6th day of November, 2023.



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LISA A. KNIGHT

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-	<b>1003</b> 158:1 159:22, 24, 25	304:24 305:2, 4	<b>12:20</b> 168:9
<b>-17</b> 304:24	<b>1004</b> 161:23, 25 162:13, 15, 16	<b>1018</b> 305:2, 4 334:18	<b>12:23</b> 336:5
<b>-18</b> 304:25	<b>1005</b> 163:13 164:2, 3	<b>1019</b> 307:2 309:5, 7, 10, 12	<b>12th</b> 24:13, 16 25:21, 25 32:8 37:23 38:14, 23 39:12, 20 40:5, 10, 11 41:1, 20, 25
0	<b>1006</b> 164:6 165:12, 14, 15	<b>1020</b> 309:2 310:13, 15, 17	<b>13</b> 237:14
0 278:17	<b>1007</b> 165:18 167:2, 4, 6, 7 331:13	<b>1022</b> 52:12 54:5 55:20 60:17 90:5, 9, 10	<b>140</b> 351:4
<b>042</b> 278:17	<b>1008</b> 169:6, 8, 9	<b>1023</b> 51:3 52:4, 6, 7	<b>148</b> 85:19 88:11
1	<b>1009</b> 169:12 170:8, 10, 11	<b>1025</b> 23:22 25:13, 17, 18 40:8	<b>14th</b> 18:7, 11 20:23 23:20 26:14 28:1 30:13, 19 31:21, 23 32:15 38:5, 12 39:18 41:15, 19, 23
1 10:25 106:6 135:20 180:2 183:20 184:4 248:23 261:18 332:1 333:13 360:11	<b>1010</b> 170:14 171:25 172:2, 3 332:18	<b>107</b> 103:16 104:21 128:15, 16, 18, 20 327:22	<b>15</b> 160:22 186:5 263:10 289:7 339:23 341:1
<b>1,000</b> 248:18	<b>1011</b> 171:23 175:9, 11, 12	<b>1082</b> 97:11 101:8, 10, 20, 22	<b>15,000-vote</b> 127:14
<b>1/2</b> 294:25	<b>1012</b> 175:15 178:11, 13, 15	<b>10:15</b> 338:6	<b>15-minute</b> 231:20 263:7
<b>10</b> 194:18 210:1 232:5 249:14 261:20, 24 263:10 289:7 340:25	<b>1013</b> 178:18 179:13, 15, 16 284:2, 3	<b>10:30</b> 102:23	<b>15th</b> 11:14 361:24
<b>10-day</b> 87:22	<b>1014</b> 287:7 292:24 293:1, 2	<b>10:40</b> 96:11	<b>16</b> 189:23 190:3
<b>1000</b> 144:25 146:17, 19, 20	<b>1015</b> 300:2, 4, 5 335:1	<b>10:45</b> 99:15 102:23	<b>164</b> 73:24 74:6 75:8 76:20
<b>1001</b> 152:16 153:12, 15, 16 255:12	<b>1016</b> 300:8 302:3, 5, 6 304:24	<b>10:55</b> 91:4	<b>165</b> 56:1 106:12
<b>1002</b> 154:13 157:10, 12, 13	<b>1017</b> 302:15	<b>11:00</b> 269:3, 7, 9	<b>166</b> 330:2 356:5 357:3, 14
		<b>11:30</b> 180:14	
		<b>12</b> 83:3, 6, 12 168:9 186:6 210:1 261:20	

<p><b>167</b> 113:7</p> <p><b>17</b> 104:9 190:3 328:15</p> <p><b>1776</b> 61:1,10 304:2</p> <p><b>17th</b> 277:23</p> <p><b>18</b> 104:3,5 255:12 328:8,10</p> <p><b>1800-mile</b> 325:14</p> <p><b>184</b> 243:20</p> <p><b>1887</b> 105:25</p> <p><b>19</b> 236:25</p> <p><b>1986</b> 208:24</p> <p><b>19th</b> 185:17</p> <p><b>1:00</b> 180:15 183:14 360:25 361:21</p> <p><b>1:04</b> 270:12,15</p> <p><b>1:10</b> 168:14 333:14</p> <p><b>1:15</b> 333:14 343:7,9</p> <p><b>1:37</b> 270:15</p> <p><b>1:43</b> 56:1 106:12</p> <p><b>1st</b> 71:8</p>	<hr/> <p><b>2</b></p> <hr/> <p><b>2</b> 10:8 127:15 168:19 169:1 210:5 236:25 294:25 297:21</p> <p><b>2-inch-thick</b> 297:20</p> <p><b>20</b> 60:21 127:17 133:8,22 144:21 160:22 194:18 247:24 352:18</p> <p><b>20-some</b> 127:4</p> <p><b>200</b> 209:25</p> <p><b>2009</b> 13:19</p> <p><b>2012</b> 94:15 187:7</p> <p><b>2014</b> 185:13</p> <p><b>2014-2015</b> 14:3</p> <p><b>2016</b> 14:14,19 127:21,25 187:6,7 200:5 267:5, 15</p> <p><b>2017</b> 189:2</p> <p><b>2018</b> 78:5</p> <p><b>2019</b> 14:23 15:21</p> <p><b>2020</b> 16:19,21,22 71:20,25 72:11 75:15</p>	<p>85:22 89:1 108:2,6 109:3 110:1, 8 111:8 124:14 125:19 126:13 187:1,8 199:21 201:9 249:8 265:3 266:16,22 273:19 274:8 322:25 323:5,14,18 324:6</p> <p><b>2021</b> 75:15 79:20 80:25 87:19 108:4 109:3, 15 110:15,23 111:9,16 133:8,22 137:15 182:22 183:3 190:25 202:10</p> <p><b>2022</b> 71:8</p> <p><b>2023-CV-32577</b> 8:3</p> <p><b>206</b> 270:12</p> <p><b>207</b> 311:20 312:1</p> <p><b>20th</b> 209:17,20 246:6</p> <p><b>23</b> 337:19</p> <p><b>2303</b> 91:15</p> <p><b>24</b> 144:16 358:18</p> <p><b>241</b> 82:24</p> <p><b>242</b></p>	<p>103:22 328:2</p> <p><b>25</b> 83:6,12 127:5 144:16 347:21</p> <p><b>25-car</b> 150:20</p> <p><b>25-second</b> 333:5</p> <p><b>252</b> 79:8,18 80:24 82:8</p> <p><b>254</b> 87:15</p> <p><b>26</b> 85:22</p> <p><b>269</b> 103:25 278:17 328:5</p> <p><b>27</b> 82:24</p> <p><b>271</b> 77:12</p> <p><b>2:00</b> 232:11 264:11</p> <p><b>2:23</b> 336:6 339:2 350:13</p> <p><b>2:24</b> 65:22 66:23 67:4 68:15 337:15</p> <p><b>2:28</b> 339:3</p> <p><b>2:34</b> 343:8</p> <p><b>2:50</b> 343:7,9</p> <p><b>2nd</b> 87:19 223:20</p> <hr/> <p><b>3</b></p> <hr/> <p><b>3</b> 10:9 127:15 180:5 186:6</p>
--	---	--	---

<b>30</b> 75:22 104:7 118:4 160:23 197:24 249:18 263:8 328:12 336:24 <b>30th</b> 183:2 <b>34</b> 114:21 115:5 <b>35</b> 118:1,9 119:25 <b>350,000</b> 154:11 326:6 <b>3:00</b> 269:24 <b>3:13</b> 111:16 <hr/> <b>4</b> <hr/> <b>4</b> 75:14 180:5 324:22 <b>40</b> 197:24 <b>48</b> 11:17 <b>48-hour</b> 12:2,15 <b>49</b> 85:20 88:11 <b>49-B</b> 68:5 <b>4:00</b> 340:1 <b>4:20</b> 349:23 <b>4th</b> 71:20,25 72:11 185:4	<hr/> <b>5</b> <hr/> <b>5</b> 80:25 110:22 210:3 232:11 237:14 289:16 305:15 <b>50</b> 305:20 <b>503</b> 236:19 237:9,12 <b>5:00</b> 349:24 <b>5:36</b> 115:6 <b>5:37</b> 118:2 <b>5:46</b> 118:9 <b>5:48</b> 120:1 <b>5th</b> 79:20 110:15 148:5 <hr/> <b>6</b> <hr/> <b>6</b> 54:10 75:15 107:1 109:15 111:8,16 112:7 120:14 141:18 148:7 190:3 209:15,17,19 217:20 234:11 275:13 276:9 <b>6(e)</b> 253:10 <b>60</b> 249:7 306:10 <b>60-plus</b> 146:6	<b>62</b> 75:14,17 76:19,24 <b>682</b> 337:19 <b>6:24</b> 69:12 <b>6th</b> 26:23 27:21 35:6,8,11 41:12 42:1,9 43:14 47:19 52:20 53:1 58:7 69:12 71:2,14,24 72:3,4 75:9 76:25 78:14 82:11 87:9, 10 89:5,6 94:25 97:15 101:15 103:13 109:3 112:20 113:12,24 115:6 116:8 119:1,6 120:1 128:13,22 129:8 130:12,24 131:2 132:25 137:15,19,24 139:16 143:2 186:17,20 189:2 190:24 201:25 202:2,4,10, 16,19 203:25 204:3,5,14, 17,18 206:23 207:2,4 208:17 209:11,13 211:2,10 212:3,10,15, 24 214:1 215:9 216:6, 22 217:22	218:16,21 219:5 220:2 221:1,3,12, 19 222:6 225:13 227:20,22 229:25 230:5 231:3 233:5, 10 234:6,8 240:13,24 241:11,25 242:9 245:2, 14,22 246:2, 10,13 247:17,19 248:22 249:2,6,12 254:9 256:6, 9 258:5,12, 17 259:5 260:14 261:2 262:13 264:7 268:10 269:19 271:15 273:2,7,20 274:9,21,22 275:1,24 276:1 278:7 279:20 280:20 325:4,8 327:1,19 330:25 337:22 344:12 348:22,24 349:4 350:23 351:6 358:15,21 360:16 <hr/> <b>7</b> <hr/> <b>7</b> 233:3 <b>70</b> 249:13
---	--	--	---

<b>70-or-so</b> 252:19		<b>accommodate</b> 263:13	<b>activist</b> 14:18 142:12
<b>78</b> 73:24 103:16 128:18,19	<b>A</b>	<b>accommodating</b> 283:10	<b>activities</b> 119:6,8 246:8 251:4 276:12 348:17
<b>78.51</b> 73:25	<b>a.m.</b> 111:16 115:6 118:2,9 120:1 269:24	<b>accomplished</b> 199:16	
<b>7th</b> 269:21,24	<b>ability</b> 11:23 81:7, 25 82:2 122:9 194:2 219:20 275:3	<b>accounts</b> 15:9	<b>acts</b> 85:24 267:21
<b>8</b>	<b>able</b> 28:15 56:4 64:16 92:23 102:14 119:2 152:9 177:7 182:5 198:16 201:3 203:24 216:10 218:9 224:15 230:18,21,22 231:5 232:17 235:3 257:15 268:15	<b>accurate</b> 25:9 51:24 99:18 103:3, 4 116:14 212:4 213:24 228:17 232:23 293:24 346:11	<b>actual</b> 91:24 118:18 247:15
<b>80</b> 262:17		<b>accurately</b> 356:17	<b>Adam</b> 208:6 209:4, 23 210:20 211:20
<b>803(3)</b> 234:25		<b>acknowledge</b> 105:7	<b>adamant</b> 161:12
<b>87</b> 208:25		<b>acknowledged</b> 66:2	<b>add</b> 149:16 316:12
<b>8:00</b> 361:6,10		<b>acquaintances</b> 210:14	<b>added</b> 66:7 324:10, 11
<b>8:30</b> 95:6 96:8 102:23 115:8 361:12,13, 15,20	<b>above</b> 109:10 195:7	<b>across</b> 14:10 17:7 33:10 101:3 150:22,23 155:12 157:23 290:5,6,9, 18,23,25 306:23 311:18	<b>addition</b> 127:3 159:12
<b>9</b>	<b>absolute</b> 10:14 341:7		<b>additional</b> 123:1 203:20 278:23
<b>94-B</b> 62:4	<b>absolutely</b> 43:17 44:17		<b>address</b> 119:14 122:12 195:2
<b>94-C</b> 62:19	49:18 52:2 66:21 70:7 73:17 93:25 102:17 107:2 182:13		<b>addressed</b> 265:14
<b>95</b> 211:6 318:4	<b>absurd</b> 301:1,16 320:20	<b>act</b> 86:1 105:25 271:6	<b>adjunct</b> 186:11
<b>9:00</b> 96:7	<b>accept</b> 204:24 224:11 262:4	<b>acting</b> 193:5 316:25	<b>administratio n</b> 14:7 245:16, 21 246:1,4,9 252:3,11,13, 21
<b>9:55</b> 91:5	<b>acceptable</b> 233:11	<b>action</b> 143:15 155:9	<b>admission</b> 25:13 101:8 170:8 309:5
<b>@</b>	<b>access</b> 15:14 317:19	<b>actions</b> 143:1 212:10 218:9 262:14 271:12	<b>admit</b> 52:3 90:5
<b>@ted</b> 88:5			
<b>@VP</b> 79:25			

101:20	<b>advocating</b>	57:24	107:17,20,25
146:17	224:4	<b>ago</b>	108:6 109:2,
153:12 157:9	<b>advocation</b>	9:11 77:18	14 110:1,8,
159:21	136:23	263:6 277:22	13,23 111:4,
162:13	<b>Affairs</b>	<b>agree</b>	12,17 112:2,
163:24	209:5,6	63:20 67:2,	15,20 113:11
165:12 167:1	<b>affected</b>	15 68:14	115:7,14
169:6 171:25	75:19	86:19,20	117:1 118:3,
175:8 179:12	<b>affiliated</b>	112:10	10 120:2,14
203:2 356:5	323:23	189:19	121:11
<b>admitted</b>	<b>afield</b>	204:16 215:7	<b>Alexanders</b>
25:17 52:6	112:11	240:10	45:13
90:9 146:19	<b>afraid</b>	246:11	<b>Ali</b>
153:15	296:16	316:20	21:2 32:20
157:12	<b>afternoon</b>	330:23 348:2	38:17 45:13
159:24	10:8 11:1	<b>agreed</b>	46:21 57:17,
162:15 164:2	95:13,16	43:3,10 44:4	22 58:20
165:14 167:6	102:3,4	45:8 190:4	82:16 83:22
169:8 170:10	184:18,20	191:10,11	107:17,18
172:2 175:11	186:19,20	271:2	108:18
178:14	234:18,21	<b>agreeing</b>	120:13,16
179:15	264:13	50:12	<b>aligned</b>
240:16 293:1	321:20,21	<b>agreement</b>	214:9 228:20
300:4 302:5	360:12	182:3	<b>allegation</b>
305:3 309:11	<b>afterwards</b>	<b>agrees</b>	223:21
310:16	196:17	190:12 260:6	<b>allegations</b>
331:14	<b>age</b>	<b>ahead</b>	76:4 87:24
332:19	146:6	29:24 46:14	217:19
334:18	<b>agency</b>	59:7 79:15	228:10,14,17
352:18	133:16	157:5 231:19	<b>alleged</b>
357:13	<b>agenda</b>	270:13,14	124:6 126:17
<b>advance</b>	14:25 15:1	272:3 275:4	216:3 217:14
105:15	<b>agent</b>	292:1 331:14	<b>alleges</b>
349:24	313:19	<b>aisle</b>	257:7
<b>advanced</b>	318:19	194:24,25	<b>alleging</b>
104:25	<b>agents</b>	195:5 197:9	221:10
<b>adversarial</b>	253:15	<b>Alabama</b>	<b>allies</b>
213:23	<b>aggravated</b>	189:13	75:13,19
214:6,14	100:20	<b>Alex</b>	<b>allow</b>
215:4 216:25	<b>aghost</b>	38:18 45:13	101:14
242:18	65:15	46:20 57:16	111:24 112:9
347:24	<b>agitate</b>	58:20	141:14 203:5
<b>advised</b>	39:16	<b>Alexander</b>	215:14
193:10	<b>agitated</b>	21:3 32:20	245:16
255:11	100:25	38:18 57:17	<b>allowed</b>
<b>advocated</b>	<b>agitators</b>	58:20 82:16	116:22
223:22	29:16 38:17	83:23	214:17

215:22	<b>Angel</b>	312:17	<b>appearance</b>
246:22 253:9	15:18 16:3,	314:21	8:6
260:11	4,7	315:22	<b>appeared</b>
356:21	<b>anger</b>	351:1,3	197:21
<b>allows</b>	49:10 99:9,	352:2,10	221:18
260:4	12 351:13	353:2,20	270:3,5
<b>alphabetical</b>	<b>angry</b>	354:3,21,22	277:23
187:20	352:14	355:4	322:12
<b>alphabetically</b>	355:20	<b>anybody</b>	<b>appears</b>
<b>y</b>	<b>announce</b>	29:4 90:12	115:21
106:4	247:13	100:10	330:24 331:1
<b>altered</b>	<b>announced</b>	133:11	<b>application</b>
228:11	187:20	140:11 194:7	123:12
<b>amazing</b>	209:20	207:24	<b>applied</b>
40:12	312:4,7	213:12 291:3	18:6 43:25
<b>Amelia</b>	334:4	294:4 301:16	<b>applies</b>
70:11	<b>announcement</b>	330:9	235:7
<b>Amendment</b>	238:2	<b>anymore</b>	<b>apply</b>
249:19	<b>announces</b>	277:7	123:13 242:2
<b>America</b>	207:3 208:2	<b>anyone</b>	348:7,21
14:24 15:1,	<b>announcing</b>	71:1 104:23	<b>appoint</b>
2,8 18:12	273:14	140:16	237:14,22
21:4 24:20	<b>answer</b>	149:24	238:23 240:4
32:12 87:18	29:9 64:16	176:24 198:4	<b>appointed</b>
273:19	79:11 80:8	296:9 297:10	209:10
<b>America's</b>	84:5,15	359:7	214:16
274:3	109:21 112:4	<b>apologies</b>	237:15
<b>American</b>	129:7 131:19	289:14	238:10,11,18
57:2 71:18	141:9 226:19	<b>apologize</b>	<b>appointees</b>
245:12	272:1 345:5	51:10 71:11	238:12
<b>Americans</b>	<b>answered</b>	79:13 111:20	<b>appointing</b>
39:4 245:5,	347:9	136:19	235:14
18	<b>answering</b>	151:17	<b>appointments</b>
<b>amount</b>	212:7	253:12	215:15
348:16	<b>answers</b>	281:14	238:20
<b>Amy</b>	227:20	339:25	<b>appreciate</b>
12:21 13:4	<b>anthem</b>	340:4,10	231:8 349:7
122:21	24:21	<b>apostrophes</b>	<b>appropriate</b>
<b>analysis</b>	<b>anticipate</b>	114:13	246:15
81:16,18	360:3	<b>app</b>	356:13
223:25 224:1	<b>anticipation</b>	306:8	<b>approved</b>
<b>Anderson</b>	95:14	<b>apparent</b>	259:11
8:3	<b>Antifa</b>	316:5 318:8	<b>approximately</b>
<b>Andrea</b>	28:14 31:8	<b>apparently</b>	94:15 96:11
270:4 342:21	39:14	9:8 20:2	101:2 102:20
345:24	142:13,18	92:10 105:14	<b>area</b>
	143:21	116:25	102:15

144:14,21 148:19 151:19,24 177:17 193:22 279:2 310:3 319:20 320:10 <b>areas</b> 74:14 215:6 218:7 230:10 320:5 <b>arguing</b> 46:10 <b>argument</b> 222:14 <b>Argumentative</b> 67:8 354:25 <b>arguments</b> 181:3,8,14, 16 361:23 <b>Arizona</b> 94:12 106:4 108:10,24 124:22 127:2,21 191:6,7 265:4 268:24 <b>Arizona's</b> 119:22 <b>Arlington</b> 39:25 <b>armed</b> 57:13 58:16 60:13 <b>armor</b> 104:17 143:18 144:4 149:8,20 328:21 <b>Arms</b> 258:2 <b>Arms'</b> 218:6 <b>Armstrong</b> 207:18 214:12 220:23 239:3	<b>around</b> 43:22 56:11 60:21 98:12 99:15 147:5 150:10 152:24 159:8 161:17 168:8,13,25 170:24 176:3,13 178:5 186:17 188:19 194:10 197:2,25 200:20 201:12 212:20 264:11 269:24 279:23 284:12,19 285:1,7,18, 25 286:3 287:4 288:4, 6 298:6 299:15,19 301:25 307:7,25 308:15,16,19 314:18 319:13 351:19,21 <b>arrested</b> 36:16,17,22 320:9 <b>arrive</b> 227:14 <b>arrived</b> 96:1 149:3 305:19 <b>article</b> 134:10 182:24 183:2 223:24 224:1 261:8 262:5 <b>articles</b> 134:11	<b>articulate</b> 19:21 <b>Asians</b> 153:24 <b>asked</b> 45:6 63:25 68:4 83:17 120:18 126:12 128:12 138:2 139:11 140:10 189:19 191:8,9 202:18 213:5 227:13 228:1 250:5 256:13 260:9,17 272:20 279:3 291:6 301:8 303:8 304:13 314:9,19 315:3 324:2, 13 326:15 347:9 360:13 <b>asking</b> 27:9 56:7 78:19 80:11, 20 112:3 121:24 141:12 203:16 204:6 241:16,17,19 242:1 248:4 263:18 267:19 271:10 280:15 306:3 345:6 <b>assault</b> 267:23 <b>assembled</b> 218:4 <b>assert</b> 291:15 <b>asserted</b> 28:24 183:10 222:3,4	250:8 291:15 <b>asserting</b> 249:24 273:21 <b>assign</b> 216:10 <b>assigned</b> 211:18 <b>assigning</b> 218:20 <b>assignments</b> 216:12 218:22 <b>assume</b> 58:8 188:7 272:3 326:15 336:15 <b>assuming</b> 148:7 203:19 <b>assumption</b> 19:9 35:9 <b>assurance</b> 188:11 <b>atmosphere</b> 23:3,8,9,16 24:15 33:23 39:8 47:24 146:25 166:20 171:8 <b>attached</b> 223:24 <b>attack</b> 40:2 65:18 67:5,18 68:15 69:4 70:19,23 122:6,24 133:10,25 235:19 240:18 241:12 243:5 354:4 <b>attacked</b> 31:8 34:11 39:18,23 40:20 142:18 245:6 329:17
--	--	--	---

352:9	<b>August</b>	18 201:7	191:13
<b>attackers</b>	133:8,22	202:1 218:18	192:5,8
82:5 272:21	182:22 270:3	228:10 234:4	194:18 197:6
<b>attacking</b>	<b>Aurora</b>	236:4 252:12	206:1,5,13
33:6 40:21	355:22	257:16,20,25	208:24 210:7
61:23 62:9	<b>authentic</b>	258:4 259:2	220:25
312:18 351:4	116:2,17	260:16	223:14
353:13	<b>authenticate</b>	323:4,7	236:10
354:18	116:13	334:3 337:12	247:11
<b>attacks</b>	<b>authenticated</b>	339:3 359:3	251:24 266:6
34:17 36:2	113:16	<b>awful</b>	268:10,22
360:16	116:7,12	65:18	281:21 282:9
<b>attempt</b>	356:12	<b>ay</b>	284:4,14,18,
112:1	<b>authenticatin</b>	18:25	22 285:24
<b>attempted</b>	<b>g</b>		287:19
60:19 199:23	116:2	<b>B</b>	288:23 299:5
<b>attend</b>	<b>authentication</b>		301:12
95:10,19	<b>n</b>	<b>B-J-O-R-K-L-</b>	306:11
100:7 226:12	357:10	<b>U-N-D</b>	307:25 308:3
<b>attendance</b>	<b>authority</b>	136:13	310:21
226:14	79:1 80:22	<b>back</b>	311:2,5,6,
<b>attendant</b>	81:13	13:19 25:24	12,14,15
13:21	<b>autopen</b>	29:21 30:3,	315:20 333:4
<b>attended</b>	118:12	6,19 36:12	335:21 338:6
31:20	<b>available</b>	37:8 42:16	340:25
<b>attendees</b>	232:1 283:1	43:1 50:3	341:10
103:7 327:15	324:22	52:11 55:14	349:22
<b>attending</b>	<b>Avenue</b>	61:4,5,7	<b>background</b>
34:22 35:1	100:16	64:19 78:5	153:6 155:1
107:14	<b>Average</b>	88:10 99:19,	172:10
115:19 117:6	146:6	21 100:2,3,	184:25 213:4
225:24	<b>avoid</b>	15 106:2	324:21
226:7,10	274:15	115:10 117:3	<b>backpacks</b>
<b>attention</b>	<b>avoided</b>	119:10	104:17
186:17	177:24	121:16	328:22
201:24	<b>aware</b>	123:18	<b>backseat</b>
<b>attorney</b>	31:18 34:5	137:15	144:10
8:24 185:17,	103:5,9	142:14,17	<b>backstage</b>
21,24 213:19	104:13,14	144:9	96:3
233:1,6	107:23 108:3	148:14,20	<b>backwards</b>
247:20	109:13,16	157:18,20,23	318:14
<b>Attorney's</b>	110:4,11	160:17,20	<b>bad</b>
186:7	111:11,14	161:25 162:7	65:3 70:17
<b>attributed</b>	112:16	163:4 169:20	229:10 230:5
82:15	117:24	173:5,9	253:11
<b>audit</b>	125:1,4	174:1,6	<b>bag</b>
87:23	131:7 199:2,	184:4 189:1	289:17
		190:16,21	

<b>bags</b> 288:11	<b>based</b> 124:6 143:13 188:19 190:13 197:23 198:17,19 210:21 217:23 225:23 255:3,4 271:7,22 356:13	<b>begin</b> 232:21	264:17 265:16 266:24 267:7,10,18 271:5,22,23 284:16,21 300:18,24 301:15 319:4 347:23 349:2 351:16 357:5 358:9
<b>balance</b> 219:13 254:22 255:4	<b>basically</b> 53:22 55:11 69:18 74:9 95:11 273:4 285:17	<b>beginning</b> 74:17	<b>believed</b> 34:3 48:2 68:24 256:20 266:8 317:24
<b>balanced</b> 219:11		<b>behalf</b> 8:12,17,24 137:5,7 322:8	<b>believing</b> 80:2 301:12
<b>balconies</b> 290:12,13		<b>behaving</b> 308:13	<b>bells</b> 231:24
<b>balcony</b> 193:22 295:17		<b>behavior</b> 166:20 198:18 308:12 358:22	<b>below</b> 317:10
<b>ballistic</b> 104:16		<b>behaviors</b> 276:13	<b>beneficial</b> 348:18
<b>ballistics</b> 328:21	<b>basis</b> 76:8 80:2 126:16 259:6	<b>behind</b> 18:11 145:16 148:1 167:13,16 176:7,14 182:9 196:25 252:17,24 255:7 278:6	<b>beside</b> 175:23
<b>ballot</b> 125:18	<b>bathroom</b> 160:12,20 162:8 167:22		<b>besides</b> 212:25 239:22 257:13
<b>ballpark</b> 109:6	<b>bathrooms</b> 176:2,15 179:1		<b>best</b> 114:13 214:8,22 215:1 232:3
<b>bandwidth</b> 19:10	<b>baton</b> 294:20,22	<b>belief</b> 80:21	<b>better</b> 19:5 53:11 88:13 228:1 313:20
<b>bang</b> 176:17 294:13	<b>batons</b> 104:7 328:12	<b>beliefs</b> 68:25 69:1 245:19	<b>Betty</b> 142:11
<b>banging</b> 293:14,16 294:1,9,12	<b>battery</b> 305:16	<b>believe</b> 39:25 69:4 70:25 78:2 79:3 81:6,12 97:8 101:16 119:3 126:12 154:23 162:21 163:5 164:24 173:12 177:11 181:13 191:10 200:5 221:11 223:20 226:7 235:20 236:4 240:7,11,14, 19 260:13	<b>Beverly</b> 142:11
<b>Banks</b> 207:18,20 214:11 218:23 220:22 239:4,12,23 243:11,15 245:24	<b>Beall</b> 9:3		<b>bias</b> 73:14 74:24 271:10 274:14 276:16
<b>Banks's</b> 244:14	<b>beard</b> 294:19		
<b>barbecue</b> 146:3,11,24 358:17	<b>beating</b> 293:8		
<b>Barret</b> 88:5	<b>beautiful</b> 42:14		
<b>barricades</b> 199:23,25 201:13,14,18 205:15	<b>bed</b> 17:1		
	<b>beeping</b> 297:24		
	<b>began</b> 200:16		

<b>bicycle</b> 201:16	<b>bit</b> 13:15 30:9 43:1 45:20, 22 83:2 91:4 96:7 112:11 138:13 184:24 217:3 220:14 233:24 236:15 242:23 247:15 278:15 313:9 320:11 336:15 341:14	<b>blames</b> 345:22	68:3,7 73:11 74:7 75:1
<b>Biden</b> 127:9,10 245:16,21 246:9 355:6		<b>bleachers</b> 309:21 336:18	80:6 88:9,15 89:14 90:2, 8,23 91:6 92:5,9,15, 18,22 93:1, 5,7,22 94:20 95:24 97:10, 16 98:1,5 99:10 101:6, 11,24 111:19 113:20 114:6,22 115:1 118:16 119:16 121:12 122:11 125:9,20 128:1,9,11, 19,21 129:2 130:6,16 132:4,10 134:2,18 135:7,15,19 173:6,9 184:1 301:12 303:22 318:13
<b>Biden's</b> 246:1 355:7		<b>blindly</b> 313:18	
<b>big</b> 16:25 39:21 40:18 70:10 81:20 138:1 139:4 146:11,24 147:2 150:21,24 151:9,20 152:1,10 153:23 154:8 167:13 168:2 175:1 176:17 177:24 183:6 195:6 285:23 297:17,19 309:22 325:12 337:11	<b>Bjorklund</b> 10:4 135:8, 23 136:1,3, 8,12 138:12 145:3 155:3 156:18 179:22 180:2,16,18 283:5,6,12, 17 321:20 330:5,11 331:19 332:24 339:14 340:11,24 341:5 350:1, 7,12 351:9, 15,18 353:12 354:2 356:19 357:20 359:17	<b>BLM</b> 100:11,17,19	
<b>bigger</b> 44:21 317:15		<b>bloc</b> 313:14 315:25	
<b>biggest</b> 85:13		<b>block</b> 195:22	
<b>Bila</b> 135:9		<b>blood</b> 316:7,15 317:5,15,19, 20	
<b>bill</b> 81:20		<b>blow</b> 74:6 83:15 88:11 244:3, 6	
<b>bills</b> 200:10		<b>blue</b> 8:11,12 9:6, 7,16,19 10:2,7,17 11:8,12,19 12:9,20 13:8 19:2,9 20:2, 11 23:20 24:1 25:12, 23 26:3 27:8,22,24 29:1 30:12, 15,25 31:2 34:19 35:21 37:18,21 46:1 47:15, 16 48:16 51:2,5 52:3, 11,14 53:2, 7,14,19,25 54:5,6,17 59:5,14 63:23 64:5 66:16 67:7	
<b>Billy</b> 245:8	<b>black</b> 31:8 142:18 293:12 312:17 313:13 315:25		<b>Blue's</b> 183:23
<b>bipartisan</b> 235:18 236:1,17 261:9,16 262:7			<b>blunt</b> 104:7 328:12
<b>bipartisanshi</b>	<b>blades</b> 104:1 328:5		<b>board</b> 15:4 44:16
<b>p</b> 262:14	<b>blame</b> 264:5		<b>body</b> 104:17 143:17 144:4 149:8,20 328:21 339:20
			<b>Boebert</b> 28:7 334:12
			<b>bomb</b> 57:23
			<b>bombastic</b> 57:23

<b>book</b> 156:18	91:3 135:17 179:25	149:25 150:1 151:13	343:15 345:14
<b>border</b> 15:23 16:10	180:14 183:19	154:24 159:7 161:3,9,15	346:16 347:7 349:5,18
<b>boring</b> 145:9 155:11	199:23 231:13,20	303:1 305:8 311:11	<b>Buck's</b> 271:11
<b>boss</b> 126:3	290:7 296:1, 4 297:15	322:24 324:15	275:12,14,25 278:22
<b>bother</b> 129:19	340:5 354:19 355:4 361:4	358:12	<b>building</b> 31:13 67:19
<b>bottom</b> 85:20 88:12 113:14 316:5	<b>breaking</b> 73:4 180:14 247:12	<b>brother's</b> 148:19,23 149:23	99:23,24 106:20
<b>bought</b> 158:11	296:24 299:12 301:4	<b>brought</b> 21:16 35:12 46:10 76:1	121:10 166:2,22
<b>bounced</b> 150:10	<b>bridle</b> 351:17	149:9 150:1 206:2 233:9	170:23 196:20,21,23
<b>bounds</b> 343:13,14	<b>brief</b> 341:24 347:8 357:21	242:16 246:20 248:6	206:16 230:6 266:7,8,23
<b>Bowser</b> 302:22	<b>briefings</b> 117:20	275:1,17 279:14,15	280:11 281:6 288:3 292:17
<b>Boys</b> 60:2 111:6	<b>Briefly</b> 54:21 130:19	344:11	298:25 317:17
<b>BP</b> 303:2	<b>bring</b> 17:13 104:24 200:11	<b>BS</b> 321:13	326:25 327:6 330:7 331:6
<b>branch</b> 251:17 255:2	246:15 267:13	<b>Buck</b> 10:5 135:18 180:1,15	332:8,14 335:9 337:9
<b>Brandon</b> 21:2	311:21 329:9 343:6	183:14 184:6,13,19	339:9 342:8 344:23
<b>brass</b> 104:3,22 328:8	<b>bringing</b> 28:6	203:5,14 204:14	346:21 350:19
<b>breach</b> 63:11 198:11 200:2	<b>broadcast</b> 306:22	205:2,6,12 206:12	354:5,19 355:5,24
<b>breached</b> 63:3,9 193:16 201:11,20 265:17 266:23 337:13 339:4 350:20	<b>broadcasting</b> 96:25	220:5,9 223:2 224:19	<b>buildings</b> 43:22 117:22
<b>breaches</b> 199:19	<b>broke</b> 99:6 297:14	226:6,8,9 227:9 231:8, 23 232:14	<b>bullet</b> 196:9
<b>break</b> 19:23 41:4	<b>broken</b> 199:24	233:7,23 234:19	<b>bullhorn</b> 66:4,6,11 85:13 173:3 286:7
	<b>brother</b> 137:21,23 138:23 139:2,21 145:25 148:25	273:5,13 275:18 276:9 277:2,4,9, 12,18 279:3 282:1 324:22 340:3,7,13, 16,20 341:11,17	<b>bullhorns</b> 286:13 314:3,7 <b>bunch</b> 89:5 145:16 166:16 175:2 288:8,10 300:13

<b>bunching</b> 337:7	305:8 340:25 360:23	<b>candidate</b> 85:23 224:25 278:4	188:25 193:16 194:14 197:18 199:20 200:2 201:9,11,13, 22 202:10 206:13,16 230:6 243:6 245:2,8,15 251:1 258:1 263:11 266:23 267:2 273:2,21 275:23 276:8 284:12,13,20 285:1,8,9, 18,25 286:3 287:15,16,19 292:18 297:11 298:8 300:15,22 302:24 306:2,24 307:1,19 314:4 316:6, 14 317:12,17 318:5,17 324:1,16 326:25 327:6 330:7,8,10 331:5,6 332:7,14 335:5,9,14 336:1,12,17 337:2,8 338:17 339:5,7 342:7 344:23 346:21 350:13,19 351:5 354:5, 19 355:5
<b>burgers</b> 147:3,4	<b>called</b> 15:18 60:2 106:5 107:20 122:14 133:23 137:2 143:17 144:3 150:17,18 213:3 246:23 249:16 263:7 275:9 278:25 285:9 306:8 314:15 323:17	<b>canisters</b> 103:22 328:2	
<b>burn</b> 355:23		<b>cap</b> 158:7	
<b>burritos</b> 40:21		<b>capabilities</b> 197:15	
<b>bus</b> 31:25 32:3, 16 33:12 34:8 39:17 40:19,21 41:2,3 147:19		<b>capacity</b> 9:1	
<b>buses</b> 30:2 39:12, 20,21,22,24 145:13 146:1,2,9 147:5,11	<b>calling</b> 10:12 75:15 87:21 147:13 151:21 360:21	<b>capitol</b> 49:17 55:19, 20,24 60:14 61:4 62:9 63:3,9,13 64:23 65:16 67:5,17,19 68:15,17,22 69:5,18,22 70:19,23 72:7 82:5 99:20,25 100:2,14 101:4 106:19,20 110:1,2,15 115:11 117:21 121:10,16, 20,25 122:24 123:22 133:10,25 150:16 160:6,8 161:1,12,21 163:11 164:16,20 165:5 166:2, 22,24 167:16,23 169:20 170:5,23 172:17 173:5 175:20,23 176:4,8,9,13 177:1,18,24 179:3,6	
<b>Bush</b> 14:7	<b>calls</b> 12:21 63:24 66:16 109:8 229:15		
<b>business</b> 147:6	<b>calm</b> 100:4		
<b>bystanders</b> 188:1	<b>camera</b> 56:9,10 93:2 154:20 339:20		
<hr/>			
<b>C</b>			
<hr/>			
<b>C-SPAN</b> 200:15	<b>cameras</b> 298:24		
<b>Cafe</b> 31:10	<b>campaign</b> 17:10 43:12 45:5 75:13 78:9 138:20		
<b>cafe/ restaurant</b> 31:10	<b>camper</b> 145:16 148:15		
<b>calendar</b> 76:17	<b>campground</b> 144:20 145:14,20,23 149:2 358:16		
<b>California</b> 189:17			
<b>call</b> 57:19 122:13 123:11 135:8 157:17 220:17 242:12 271:3	<b>camping</b> 139:23,25 140:1,6 148:2		<b>capitols</b> 18:1 <b>Caporale</b> 45:5

<b>car</b> 36:21 37:7 148:19,23 149:23 150:9,13 160:17,20,24 161:3,10,16 163:4 165:2 167:24 284:14,19,22 287:20 308:4 311:6,8,10, 11,15,17	168:12 182:6 188:23 204:24 213:22 218:10 229:18 230:24 240:5,6 241:10,14,23 246:18 253:25 275:15 278:23 280:3 331:11 348:23	217:25 232:1 240:1 243:3 250:21 251:3,7,22 253:3,22 261:15 262:12,20 267:22 327:3 346:13 348:4 356:11 357:5 360:4,7	191:14 197:1 198:11 205:13
<b>caravan</b> 147:19 306:12,13 324:2	<b>cases</b> 75:17,22 76:13,19,24 77:4,7 199:24 242:24	<b>certification</b> 42:2 78:23 80:13 81:14 118:18 264:15,18 269:5 354:20,23 355:5	<b>chance</b> 12:7 115:25 203:4 205:3
<b>card</b> 40:18	<b>cast</b> 53:15 127:15	<b>certified</b> 80:16 188:24 269:18,25	<b>change</b> 44:3
<b>care</b> 92:7 116:14 319:21,23 321:1	<b>casually</b> 166:21	<b>certify</b> 41:24 187:1 230:3 269:4, 10	<b>changed</b> 75:21 81:21, 23
<b>Carlton</b> 70:12	<b>caucus</b> 120:4,23 210:24	<b>cetera</b> 205:16	<b>chant</b> 338:15
<b>Caroline</b> 45:4,7,11,16 46:5,6 59:22,24	<b>caught</b> 105:22	<b>chained</b> 355:23	<b>chanting</b> 62:9 82:6 99:6 100:24 285:21 286:8 338:13,18 354:17
<b>carried</b> 127:20 214:6	<b>caused</b> 218:17 226:3	<b>chair</b> 137:12 264:20	<b>characterizat ion</b> 258:14 319:9
<b>carrier</b> 143:17 144:4	<b>center</b> 37:1 194:24 195:5 288:15	<b>challenge</b> 355:14	<b>characterize</b> 250:18
<b>carrying</b> 61:11 313:14	<b>Central</b> 8:5,18	<b>challenged</b> 213:9,17	<b>characterized</b> 226:6
<b>cars</b> 287:20 288:9,16,18, 19 299:7,9, 22 314:17	<b>century</b> 190:1	<b>challenging</b> 214:14 229:20	<b>charge</b> 42:8 241:23
<b>case</b> 10:22 30:21 35:15,17 75:17 77:2, 10 122:13 127:9 133:6 134:12 143:21	<b>certain</b> 215:14 348:16	<b>Chamber</b> 200:22 242:6,8 266:9	<b>charged</b> 356:1
	<b>certainly</b> 183:7 200:19 204:15,20 210:18 215:1 216:19	<b>chambers</b> 187:17 190:17	<b>chat</b> 111:5,10 288:14 304:7 323:25 324:10,14
			<b>cheering</b> 49:3 50:11 99:5
			<b>chemical</b> 105:1
			<b>Cheney</b> 208:2,3,12, 23 209:23 210:8 211:14,20,24 212:1,25 214:3 215:3

237:23 238:8,24 <b>chief</b> 68:16 91:14 94:11 224:2 258:1 <b>children</b> 39:7 <b>choosing</b> 257:17 <b>chose</b> 58:23 78:23 <b>chosen</b> 79:23 80:4 81:2,8 206:25 348:14,15 <b>Christmas</b> 36:24 41:7 <b>Christopher</b> 9:3 <b>church</b> 28:14 <b>cigarettes</b> 161:16 <b>circulating</b> 87:20 <b>circus</b> 274:15 275:22 276:11 <b>cited</b> 256:8 <b>cities</b> 33:15 <b>citizen</b> 66:3 <b>citizens</b> 22:8 61:16, 25 62:11,25 63:6,21 <b>Civil</b> 188:20 <b>civilized</b> 361:18 <b>claimed</b> 125:2	<b>claiming</b> 273:19 <b>claims</b> 75:21,25 76:6 <b>Clarence</b> 228:1 <b>clarify</b> 269:13 345:8 <b>classified</b> 254:17,21, 23,25 <b>clear</b> 25:21 64:9 81:24 189:14 193:17 196:23 197:6,12 220:8,13 225:20 316:22 319:18 357:22 <b>cleared</b> 250:12,17 <b>clearing</b> 194:20 <b>clearly</b> 27:18 178:1 197:2 200:1 212:8,15 297:3 335:22 344:3 354:14 <b>clerk</b> 187:15 277:10 <b>clip</b> 61:19 270:8 <b>close</b> 94:2 127:6 155:19 170:22 195:4 209:9 289:2 291:10 300:12 309:21 330:22	<b>closed</b> 252:17,24 <b>closely</b> 228:20 <b>closer</b> 98:24 127:12 129:5 138:13 157:2 168:18 172:16 173:2,4 174:14 <b>closing</b> 181:2,14,15 361:23 <b>closings</b> 11:5,10,16 12:6,10 <b>clothes</b> 194:22 <b>clue</b> 339:11 <b>CNN</b> 78:11 <b>co-chair</b> 208:2,4 <b>coalition</b> 17:16 18:19 20:21 21:1, 7,9,15 32:14 38:12 <b>Coast</b> 41:5,8,9 <b>coat</b> 195:20 <b>cocktail</b> 36:14,15 <b>cocktails</b> 31:9 <b>cold</b> 47:23 55:8,9 96:22 149:17 154:5,6 158:12 161:8 <b>collar</b> 48:16 <b>colleague</b> 209:9 263:21	276:3 <b>colleagues</b> 51:16 <b>collected</b> 248:23 <b>college</b> 42:2 87:22 119:22 124:4 <b>collusion</b> 78:7 <b>Colorado</b> 8:4 10:11 91:15 92:3 135:1 136:17 185:5 234:25 321:23 322:1 323:18 324:12 325:6,10 349:11 359:12 360:20 <b>Columbia</b> 250:23 <b>columns</b> 292:16 <b>combined</b> 46:24,25 <b>come</b> 15:17 22:10 33:25 41:21 43:3,21 44:9 45:4 47:25 52:22 57:8 58:6 70:6 101:17 122:17 146:9 163:4 183:1, 4 204:22 250:11 251:10,15, 21,22 253:16 256:22,25 281:21 282:9 288:4 300:13 307:23 308:17 316:20
--	---	--	--

318:22 319:1 321:12 346:20 <b>comes</b> 24:22 37:1 101:16 190:21 <b>comfort</b> 156:20 <b>command</b> 271:25 <b>Commander</b> 68:16 <b>commas</b> 114:12 <b>comment</b> 262:19 318:3 <b>commentary</b> 299:22 <b>commented</b> 305:24 <b>commenting</b> 334:11 <b>comments</b> 264:8 <b>commission</b> 235:18 236:1,13,17 <b>commit</b> 139:14 <b>committed</b> 44:5 216:4 349:3 <b>committee</b> 8:5,18 75:9 82:12 103:14 113:13 116:8 128:14 129:8 130:3,12,24 131:3,6,10, 12 133:14 202:2,16,19 204:15 206:2,6,23 207:4,6,8, 12,19,21,25 208:3,4,7,10	209:5,6,7, 11,14 211:16,18,19 212:3,25 213:7,11,13, 14 214:18,21 216:5,11,22, 24 217:24 218:13,21 219:16,17 220:2,16,18 221:1,3 222:6 223:13 224:15,22 225:14,17, 19,24 226:7, 8 227:10 228:11,24 229:23 234:6,8 235:15 236:20,22 237:11,24 238:6,25 240:24 245:1,6,17 246:12 247:4 248:16,22 249:2,6,12 250:13 252:2 256:6 257:4, 17 258:9,10, 12 259:9,12, 16,24 260:14 261:2 276:2 327:19 348:22,24,25 349:1 360:16 <b>Committee's</b> 128:23 247:19 256:9 <b>committees</b> 206:24 215:21,22 216:1 348:15 <b>common</b> 43:19 259:21	<b>commonly</b> 105:3 <b>comms</b> 310:23 <b>communicated</b> 111:6 299:18 <b>communicating</b> 115:17 117:5 <b>communication</b> 33:5 58:19 112:19 120:15 <b>communication</b> <b>s</b> 109:1,9 113:24 116:12 250:21 <b>company</b> 137:1,2 186:2 324:17 <b>compared</b> 259:7 <b>compel</b> 219:21 241:4 <b>compilation</b> 113:10 <b>complaining</b> 161:3 <b>complaint</b> 275:17 <b>complete</b> 213:25 219:6,9 <b>completely</b> 132:25 <b>compromise</b> 253:21 <b>computer</b> 9:9 20:3 53:12,15,16 183:23 <b>computers</b> 52:16 <b>concept</b> 225:15	<b>concern</b> 39:19,22 84:2 86:6 127:2 149:17 <b>concerned</b> 39:14 48:1 84:18 85:12, 16 142:4,6 145:14 206:5 312:16,24 321:4 329:20 <b>concerns</b> 34:25 85:10 124:6 126:19,25 143:13 256:4 265:2 <b>conclude</b> 361:22 <b>concluded</b> 269:22 <b>conclusion</b> 129:10,25 130:2 240:15 <b>conclusions</b> 11:20 181:6 247:17 <b>condemning</b> 245:18 <b>conducted</b> 87:23 202:3 258:9 <b>conference</b> 210:4 211:5, 6,7 214:17 <b>confidence</b> 274:3 <b>confident</b> 180:3 <b>confidential</b> 256:5 <b>confirm</b> 112:22 334:21 <b>confirmed</b> 356:20
--	--	--	--

<b>confiscated</b> 103:6,22 327:14 328:2 329:6	126:13 127:3 135:17 180:1,15 183:14 184:6,13 185:4,7 187:4 189:11 191:6 202:7 203:14,23 204:25 205:2,12 206:12 222:19 223:2 226:6,8,9 227:9 231:8, 23 232:14 233:7,23 234:19 243:23 260:25 263:24 264:6 270:2,19 271:20 273:5,13 275:8 277:2, 4,8,12,18 279:16 280:9 281:20 282:1,13 340:7,13 341:11,17,23 346:16 347:7 349:18	321:2,4 <b>Conservative</b> 138:21 <b>consider</b> 86:1 129:18 134:8 210:9 260:15 <b>considered</b> 214:25 <b>consistent</b> 271:14 273:8 328:25 <b>consistently</b> 209:2 312:19 <b>consisting</b> 258:10 <b>constituted</b> 246:12 <b>Constitution</b> 81:12 188:8 251:14 <b>constitutiona</b> <b>l</b> 79:1 81:15, 17 <b>construction</b> 150:12 186:2 <b>consultation</b> 237:15 <b>Cont</b> 283:15 341:20 350:10 <b>contact</b> 108:5 111:13 113:5 209:1 210:8 <b>contacted</b> 120:22 140:7,9 <b>contained</b> 259:10 <b>contaminated</b> 126:19 <b>contempt</b> 241:5	<b>content</b> 345:6 <b>contents</b> 222:16 <b>context</b> 193:25 194:25 221:9,18 272:19 345:7 <b>continue</b> 19:6,20 35:23 41:3 50:3 73:18 201:3 278:20 333:20 <b>continued</b> 41:2 190:23 193:13 268:25 283:14 337:2 341:19 350:9 <b>continues</b> 91:10 <b>continuous</b> 156:23 <b>contraband</b> 104:23 <b>contradicts</b> 259:4 <b>contrary</b> 226:2 <b>control</b> 43:24 44:14 197:23 200:10,21 267:13 <b>convenes</b> 190:21 <b>conversation</b> 12:11 87:5 209:8 280:1 <b>conversations</b> 137:10 140:23 141:1,22 142:2 166:18 240:17,20
<b>confiscation</b> 329:7			
<b>conflict</b> 240:8			
<b>confused</b> 30:9 307:13			
<b>Congress</b> 28:6 95:16 101:3 105:13 115:8,18 117:5,9,16, 18 126:3 185:11 187:10,25 188:2 202:10 206:18 208:25 209:3 215:16,19,24 216:14 229:7 230:2 233:1 241:6 242:3 251:10,14,16 255:24 259:3 263:8 267:6, 9,25 268:1 342:18,25 348:8			
<b>Congress's</b> 262:13			
<b>congressional</b> 185:4 202:15 242:14,22 244:15 254:1,8 255:17 342:13 343:21 344:7 345:4,10 346:7,11 348:10	<b>congressmen</b> 202:13 <b>connect</b> 112:7 151:6 206:16 <b>connected</b> 92:11 206:18 <b>connection</b> 113:21 114:5 119:7 345:1 <b>consensus</b> 12:1 <b>consequences</b> 319:24 320:2,3		
<b>congressman</b> 10:5 28:5 94:11,17,18 95:22 105:16			

243:7	243:9,10	238:14	9,24 53:9,23
<b>conviction</b>	259:22 266:2	264:3,23	54:19 64:4,
262:8	268:6,9,14	<b>country</b>	15 66:18
<b>cool</b>	269:16	14:10 17:8	67:11 73:15,
154:19 296:8	270:18	22:14 23:7	18 74:16
298:21	273:16	33:10 34:1	79:9,16 80:8
304:10	277:21	37:6 48:1	88:8 89:13
<b>cooperate</b>	306:20	292:19	90:9,12,18
182:6	332:15	<b>county</b>	91:1,9,13,
<b>cooperation</b>	338:22	124:22	16,17,20
341:1	359:21	126:22,23	92:1,8,17,
<b>coordinated</b>	<b>correctly</b>	127:1 185:18	20,24 93:3,
122:21	284:11	<b>coup</b>	6,8,12,16
133:11,20	<b>correspond</b>	71:19,25	94:2,16
134:1 251:9	282:1	72:10 77:23	95:17 97:23
<b>coordinating</b>	<b>coughed</b>	<b>couple</b>	98:3,23
120:13	336:15	41:7 100:17	101:9,18
<b>coordination</b>	<b>counsel</b>	156:2,3	112:5,9
132:18 183:4	9:2 60:18	171:12	114:2,16,19,
<b>core</b>	94:10 128:12	200:23,24	24 116:21
32:20	129:1 143:7	208:5	119:9 121:23
<b>corner</b>	182:5 230:20	<b>course</b>	123:6,10
113:15	<b>count</b>	39:2 43:16	125:13,25
289:21	95:13 105:25	193:1 203:21	128:3,8,17
<b>correct</b>	123:16	245:6 260:8	129:1 130:9,
20:23,24	186:18	326:22	17 131:17,22
21:24 22:2,3	187:11 189:6	<b>court</b>	132:2,6
23:11 24:8	191:8 342:6	8:2,21 9:4,	133:3,18
25:5,10	344:22	14,18,25	134:4,13,21,
31:25 37:24,	346:18,22	10:6,10,16,	25 135:3,12,
25 43:11	<b>counted</b>	20 11:2,9,	16,21,24
46:18 52:20	188:12	18,24 12:12,	138:12,16
56:16 57:10	<b>counter</b>	23 13:2	141:5,11,13
59:18,21	129:20	18:23 19:7,	142:22
63:9 81:3	<b>counter-</b>	12,15,16	143:3,9
99:16,20	<b>protesters</b>	20:6,16	146:19
119:24	35:2	21:23 22:22,	147:15
132:13,14	<b>counterproduc</b>	24 23:3,8,	153:15
135:13	<b>tive</b>	11,18 25:14,	155:3,23
140:13 165:2	317:2	17,20 26:2,	156:4,7,11,
169:20 170:1	<b>counties</b>	14 27:5,15	15,22 157:5,
216:15	126:21,24	28:4,11,25	12 159:24
220:16 221:4	<b>counting</b>	29:8 30:8,	162:15,18,23
236:2 237:24	17:4,6 106:3	14,22 35:3,9	164:2 165:14
238:8,18	119:21	37:20 38:7,8	167:4,6,18
239:9,13	121:16 124:4	42:17,18	169:8 170:10
240:13	188:13	45:21,23	172:2 175:11
241:15		47:14 52:6,	178:13
			179:15

180:6,13,20, 25 181:23 182:3,11,15, 18 183:11,22 184:3,6,11 194:25 202:13,25 203:11,13,18 204:2,8,21 205:1,7,12 206:10 217:5,9 220:1 221:25 222:22 223:4 224:11 226:9,15,19, 25 227:5 231:18 232:4,10,13, 19 233:15,23 234:14 241:3,24,25 242:23 249:7,10 262:24 263:3,10,12 271:16 273:3 274:17 276:18 277:3,11 279:5,25 280:6,21 281:1,18,25 282:6,17,21, 25 283:6,9 291:18 293:1 300:4 302:5, 11 305:2 309:7,10 310:15 319:10 321:17 325:1 340:6,10,19, 23 341:3,8, 10,13,16 343:17,23 344:15,19 345:21 346:13 347:1	349:10,16,22 350:1,6 355:1 357:1, 9,12,24 359:11,16,25 360:6,18,24 361:12,17 <b>courtroom</b> 55:21 225:20 230:19 <b>courts</b> 73:21 342:11 347:24 348:20 <b>coverage</b> 200:15 <b>covered</b> 295:19 <b>covering</b> 64:25 296:25 <b>COVID</b> 16:23 191:21 296:17 <b>cracking</b> 158:24 <b>crammed</b> 148:17 <b>crazies</b> 38:17 <b>crazy</b> 16:22 <b>create</b> 235:17 236:19 246:25 <b>created</b> 220:6 <b>creates</b> 259:24 <b>creating</b> 248:9 <b>credibility</b> 73:16 74:15, 25 <b>credible</b> 128:23	<b>crime</b> 242:11 <b>criminal</b> 186:14 <b>cross</b> 203:4 263:22 275:4 276:6 291:1 340:5 361:8 <b>cross-</b> 232:25 242:17 <b>cross-exam</b> 90:7 276:4 324:19 <b>cross-</b> <b>examination</b> 54:19,22 102:1 204:16 225:16 230:11 231:21 234:3,16 321:17,18 341:20 350:10 <b>cross-examine</b> 203:7 205:3 233:7,8 <b>cross-</b> <b>examined</b> 213:8,16 225:14 <b>cross-</b> <b>examining</b> 225:21 <b>crowd</b> 22:23,25 24:24 27:10, 11,17 36:12, 19 39:10 40:10 48:25 49:5,11 50:9,16 51:25 54:9 56:9,11 63:2 64:1 66:4,22 69:18 96:18,	20 97:18,20 98:12,13,19, 21 99:2,12 101:21 103:1 104:15 106:19 107:11,13 110:2,8,14 153:20 154:8,11 156:22 157:2,4 158:21 162:3,6 163:19 167:13,14,15 169:17 170:22 171:4 173:2,12 174:8,11,15 175:1 176:21 177:8,18,24 285:23 286:12,15,17 296:10,23 297:1 299:24 307:17 308:13 309:22 314:18 327:10 328:20 330:6 331:4 337:7 339:15 351:13,19 353:3 <b>crowd's</b> 106:9 158:21 296:11 329:24 356:6,22,24 <b>crowds</b> 33:20 34:21 152:1 174:18 351:12 <b>Cruz</b> 87:20 88:5 191:11
---	---	--	--

<b>culpability</b> 227:19,21 230:12,22	81:20	268:5,8	17:21 41:11
<b>curb</b> 317:16	<b>darn</b> 273:1	269:18	138:6 139:8
<b>current</b> 184:25 185:2	<b>Darrow</b> 228:1	275:24	<b>decided</b> 42:3,7 76:24
<b>cut</b> 33:5 38:13, 18 45:13 307:23	<b>data</b> 136:25 137:1	326:20,25	138:5
<b>cynicism</b> 274:3	<b>date</b> 181:5 223:12	327:6 338:16	139:10,13
	<b>dates</b> 41:16,17 42:6	339:15	140:9 149:21
	<b>Dave</b> 137:11	<b>days</b> 11:13 41:8 42:14 78:20 80:11 82:2 89:20 137:16 207:11 264:3	155:12
<b>D</b>	<b>David</b> 8:19	<b>deal</b> 123:19 143:8	160:11
	<b>Davis</b> 239:1	<b>dealing</b> 117:23	312:24
<b>D.C.</b> 16:8 17:22, 25 18:2,3 22:11 32:7 37:24 40:15 41:12,17 50:21 95:1 105:5 110:17,24 137:18 141:23 144:12,19,21 148:19,25 150:25 151:2 186:6 210:12 251:13 306:19 325:7,11,22	<b>day</b> 21:13 26:22 40:12 41:18, 23 42:1 45:18 58:5, 24 59:11 60:10 69:5 70:1,9,10, 18,25 72:8 82:4 90:22 95:8 96:23 97:4 98:15 102:11 103:8 105:10,15,21 107:4 109:3 111:8,17 114:1 115:19 117:6,11,14 119:7,8,22 121:5 122:6, 24 124:3 148:3 168:7 192:11 194:23 201:4 240:18,21 241:8,11 243:5,8 245:14 260:6 264:11 265:1,8	<b>death</b> 82:14 83:19 84:10 86:2, 8,14 87:11 88:4	316:8,16
		<b>debate</b> 190:18 191:14,17 193:14 264:17,22 268:24	<b>deciding</b> 241:23
		<b>debating</b> 191:15 194:5	<b>decision</b> 10:14 59:2, 12 160:25 255:3
		<b>debunked</b> 103:10	<b>declaration</b> 203:2 204:25
		<b>December</b> 24:13,16 25:21,25 32:8 37:23 38:14,23 39:12,20 40:5,10,11 41:1,20,23, 25 85:22 139:17	<b>declare</b> 15:22
		<b>decertificati on</b> 223:22	<b>Deep</b> 71:18
		<b>decertify</b> 269:12	<b>defend</b> 35:13
		<b>decide</b>	<b>defendant</b> 213:20 230:20
			<b>defendant's</b> 348:4
			<b>defending</b> 78:8,10
			<b>defense</b> 213:19 230:20 246:8
			<b>deficiency</b> 230:14
			<b>defies</b> 332:25 333:19,25
			<b>definitely</b> 142:8 152:6 159:15,18 318:10 330:22
			<b>definition</b> 63:10

<b>Delahunty</b> 10:18 359:20 361:3,20	<b>Denver</b> 144:14 148:24 186:7,9 355:22	189:7 191:3 192:15 195:12 210:10 227:11 280:11 297:13 307:9 339:6	164:8 166:11 179:19 189:5 211:13 221:17,18 222:9,24 253:2 275:17 334:13 342:14 343:11 346:2 348:12 356:24
<b>delay</b> 78:20,23 80:11 81:13, 14 82:2 334:5	<b>deny</b> 116:20	<b>described</b> 229:2 230:9	<b>differently</b> 242:23,25
<b>delayed</b> 232:2 268:17	<b>department</b> 99:23 144:1 186:5 201:17 246:7	<b>describing</b> 174:4 273:20	<b>difficulties</b> 24:3
<b>demanding</b> 17:18	<b>depends</b> 188:4 272:16,17,19	<b>description</b> 212:4 217:3 228:25 229:1	<b>digital</b> 336:4
<b>democracy</b> 65:19	<b>depicts</b> 356:17	<b>designated</b> 237:13	<b>dinner</b> 358:17
<b>Democrat</b> 26:9 85:22, 25 193:4,21 212:18 238:10,12, 18,21 261:18	<b>deploy</b> 193:12	<b>despicable</b> 67:6,16 68:18	<b>direct</b> 13:7 45:20 60:19 73:13 74:8,21 93:21 113:22 119:5 121:14 122:7 123:2, 15 136:6 156:16 180:7 184:16 186:16 204:19 242:17 261:5 262:23 271:9 272:25 274:14 275:2,20,22 276:21 279:17 280:4,12 283:15 334:14 341:25 343:13 344:5,9 360:8,14 361:7
<b>Democratic</b> 88:19	<b>deployed</b> 105:10 265:18 337:1	<b>detail</b> 36:14 37:3,7 46:4 47:9 166:5 174:5 192:24 221:21 224:20	
<b>Democrats</b> 200:8,10,12, 16,20 207:5, 6,10,12 208:8 212:14 214:10 220:18,21 225:19 235:17,20 237:8 238:5, 7,15 244:22, 24 261:21,24 267:12	<b>deposed</b> 248:17,19 255:9,10	<b>details</b> 222:25	
	<b>deposition</b> 252:18 256:8,23	<b>detectors</b> 44:25 45:1 297:23 298:12 338:24	
	<b>depositions</b> 252:23 255:7 260:22	<b>determinative</b> 127:8	
	<b>deprive</b> 203:3	<b>determine</b> 133:17	
	<b>Deputy</b> 9:2	<b>Dick</b> 208:23 215:3	
	<b>derailed</b> 355:10	<b>difference</b> 222:17,20	
	<b>describe</b> 22:4,23 33:20 38:3 47:21 48:24 54:8 96:17 98:18 146:4, 23,25 153:19 158:21 164:12 166:8,19 171:7 187:9	<b>different</b> 15:14 44:20 45:3 46:9 70:21 73:5, 6,7 110:6	
<b>demonstrate</b> 222:11 227:18,21			<b>direction</b> 100:6,8
<b>Dems</b> 201:1			
<b>denied</b> 207:20 218:22			
<b>denies</b> 278:5			

164:18 292:7	<b>dismissal</b>	<b>doc</b>	157:3,21,24
<b>directions</b>	76:2	118:12	158:16
175:22	<b>dismissed</b>	<b>doctored</b>	166:23
<b>directive</b>	75:23	66:12	167:23 303:2
91:15,18	<b>dispersed</b>	<b>document</b>	329:16,22
<b>directly</b>	30:1 193:9	116:23	354:10
150:15,22	<b>dispersing</b>	244:3,7,17	358:12
167:16	286:20	256:7 260:12	<b>donors</b>
178:25 311:8	<b>dispute</b>	<b>document[s]</b>	48:18
344:8,10	46:5 188:24	83:9	<b>door</b>
<b>director</b>	247:18,23	<b>documents</b>	27:6 123:17
120:22	248:11,15,	213:9,16	195:5,8,22
<b>disagree</b>	21,25 249:1,	214:24	196:3,11
125:6 184:1	5,11,17,22	219:3,21	197:20
320:17	251:25	228:15	198:13
<b>disagreed</b>	252:15,22	229:14	295:24
259:16	255:8,15	248:23	<b>doors</b>
<b>disagreement</b>	256:2 259:8,	256:3,14	63:13 195:6,
130:2	13,15 278:11	<b>dog</b>	7 252:17,24
<b>disagrees</b>	329:3,4	210:12	293:10,11
273:6	337:25 338:3	<b>doing</b>	294:24
<b>disbelief</b>	<b>disputes</b>	11:10,13,16,	295:10
177:10	223:4	19 12:10	297:18,20,21
<b>discard</b>	<b>disputing</b>	13:10,13	321:6 337:12
129:19	76:8	14:16 17:10,	<b>dozen</b>
<b>disclosed</b>	<b>distance</b>	11 27:1	109:11,12
203:6	254:10	36:10,25	<b>dozens</b>
<b>disclosure</b>	<b>distinction</b>	44:5 58:12	109:6
115:25	255:2	62:2,14	<b>draw</b>
262:18	<b>distract</b>	78:14 92:1	240:15
<b>discrepancies</b>	71:19	96:5 102:11,	<b>drawn</b>
224:21	<b>district</b>	15 177:8,20	195:23
<b>discuss</b>	185:5,17,18,	181:2 198:21	196:10
231:13	21,24 250:22	238:14	265:21
277:24	<b>disturb</b>	250:15	266:19,24
<b>discussed</b>	230:7 342:2	253:1,14,20	267:22
81:18 133:2	344:5,21	286:12	268:5,11
265:1 274:25	346:17,21	296:20 309:4	<b>drew</b>
343:15	<b>disturbance</b>	314:20	196:5
<b>discussing</b>	266:15	326:20,25	<b>drive</b>
264:15	<b>diverse</b>	354:14	36:25 161:13
<b>discussion</b>	153:22	359:6,7	306:17
19:13 20:9	<b>divides</b>	<b>Donald</b>	325:15,16,21
53:17 92:13	195:2	8:5,13 12:21	<b>driving</b>
246:16	<b>divot</b>	79:21 80:5,	140:15
279:16	295:3	25 138:1	312:3,10
		145:13 146:9	<b>dropped</b>
		147:20 153:7	

20:12 22:9 77:21 <b>dropping</b> 54:2 <b>drove</b> 140:12,14 144:13,15 150:15 325:10,12 <b>du</b> 31:10 <b>Dude</b> 296:7 298:23 <b>duffle</b> 288:11 289:17 <b>duly</b> 13:5 93:19 136:4 184:14 283:13 341:18 350:8 <b>duties</b> 201:4 <b>duty</b> 272:7	351:19 360:14 <b>earliest</b> 14:15 <b>early</b> 10:8 91:4 <b>earpieces</b> 199:1 <b>easier</b> 127:16 <b>easily</b> 276:13 <b>east</b> 335:8,14 <b>Eastern</b> 169:3 336:6 <b>Eastman</b> 26:24 27:13 <b>Eastman/ giuliani</b> 97:25 <b>easy</b> 351:12 <b>eat</b> 210:16 <b>echo</b> 52:17 <b>effect</b> 15:24 160:10 256:1 <b>effectively</b> 181:15 <b>effort</b> 220:19,22 226:1 329:7 <b>efforts</b> 58:10 <b>eight</b> 70:3 185:8 207:6 208:8 238:4,10 264:1 <b>either</b> 63:6 203:1 221:17 222:16 229:21	257:25 268:5,8 <b>elderly</b> 48:16 310:24 <b>elected</b> 14:8,21 72:1 108:17 117:14,24 124:21 126:3,13 127:1 185:11,12, 16,24 <b>election</b> 16:14,19,21, 25 17:19 18:5 22:12 34:3 48:2 70:8 72:14, 17,20 73:1,3 74:19 75:16 76:5 78:15 85:23 89:1 108:2,7 109:2 111:8 124:8,14,17, 25 125:2 126:4,7,14, 19,20,24 127:5,7,12, 13 187:2,6,7 230:4 249:8 265:3 269:4 273:19 274:8 275:14,16 278:6 319:15 322:25 323:5,14,17 324:6 334:6 354:20,23 355:6 <b>electioneerin g</b> 247:6 <b>elections</b> 229:9 247:1 <b>electoral</b> 42:2 81:14	87:21 95:12 105:25 106:3 119:22 121:17 122:2 123:16 124:4 125:11 186:18 187:11,19 189:6 191:7 269:18 342:6 344:22 346:18,22 <b>electors</b> 41:25 79:23 80:4 81:2,8 188:24 355:14 <b>elicit</b> 226:1 227:20 228:8 <b>Ellipse</b> 26:22 43:14, 23 44:1,8 45:9 51:22 54:9 55:3 56:15 58:7, 21 60:10 95:4 102:6, 19 103:1,8 106:10 107:1,4 115:19 117:6 120:4 121:21 122:20 151:24 154:9 162:5,19,21 163:21 322:22 325:7,25 326:13 327:10,16 329:25 330:18,24 332:6,13 356:18,23 <b>emergency</b> 15:22 87:22 306:22
<hr/>			
<b>E</b>			
<hr/>			
<b>e-mail</b> 120:3,21 <b>Eagle</b> 21:10 <b>ear</b> 204:11 <b>earlier</b> 40:7 46:3 107:7 176:6 180:24 205:23 211:23 259:21 280:12 284:25 320:25 336:19 338:20 343:12,16			

<b>emotion</b> 50:15	<b>enter</b> 53:19	<b>established</b> 220:16 237:12	<b>everybody</b> 12:16 15:24 18:1,19
<b>emotional</b> 171:9	<b>entering</b> 297:10	<b>estimate</b> 168:4 341:4 361:7	29:16 44:10 46:12 57:25 62:14 63:8 154:1 159:9 193:2 242:4 260:6 302:24 308:15 315:7 327:4 361:23
<b>encounter</b> 313:4	<b>entertaining</b> 158:22 159:19	<b>et</b> 205:16	
<b>encouraged</b> 58:6	<b>entire</b> 65:11 70:2 120:3 160:4 285:8	<b>evacuated</b> 268:12	
<b>encouraging</b> 50:13		<b>evaluated</b> 76:3	<b>everyone</b> 63:1 324:24
<b>end</b> 18:25 19:10 45:18 69:15, 25 70:15 160:5 200:15 241:8 254:2 260:6 331:23	<b>entirely</b> 76:6	<b>Evans</b> 245:8	<b>evidence</b> 25:19 52:8 76:14 78:17 80:14,15 90:11 101:23 129:12,15, 18,20 130:1 133:6,10,24 134:7,17 146:21 153:17 157:14 160:1 162:17 164:4 165:16 167:8 169:10 170:12 172:4 175:13 178:16 179:17 202:18 203:3 214:15,25 216:23 218:14 228:11 229:21 234:25 241:9 242:5 249:3 271:10 293:3 300:6 302:3, 7 305:5 309:13 310:18 339:21 357:15
<b>ended</b> 32:7 37:23 168:13 200:24 299:16	<b>entities</b> 91:12	<b>evening</b> 225:9	
<b>endorsed</b> 275:18	<b>entity</b> 91:23,24	<b>evenings</b> 186:10 201:12	
<b>enforcement</b> 133:16 173:13,16 198:20 245:5 253:15 339:17 351:5,20 352:13,24 353:18	<b>entrances</b> 197:3	<b>event</b> 35:5 42:17 45:11,16,17 48:13 50:23, 24 54:12 69:6 199:20 202:17 215:17 246:13 266:21 267:3,18	
<b>engage</b> 37:13 201:2 358:21	<b>entries</b> 8:6	<b>events</b> 32:19 41:7 42:15 58:10 118:25 137:15 186:17 201:25 202:4 203:25 204:3,17 209:13 211:1 216:7 227:22 231:3 234:11 240:12 245:22 258:17 264:7 273:1 275:23 276:7 328:25	
<b>engaged</b> 13:21 18:20 246:25 272:14 348:17	<b>envelope</b> 190:22		
<b>Enrique</b> 111:6	<b>envelopes</b> 187:14,16,18 188:6,14		
<b>ensuing</b> 273:22	<b>environment</b> 43:24		
<b>ensuring</b> 214:5	<b>Epps</b> 106:23		
	<b>equipment</b> 148:13		
	<b>Eric</b> 8:9		
	<b>erode</b> 274:3		
	<b>err</b> 254:24		
	<b>escorted</b> 192:25 193:1 206:20		
	<b>escorts</b> 115:10 117:10		
	<b>establish</b> 236:1		

<b>exact</b> 32:10 42:13 126:4 248:20	113:20 114:22	293:2 299:2 300:2,5,8 302:3,6,15 303:14 307:2 309:2,5,7, 10,12 310:13,15,17 311:20,25 312:1 313:8 330:2 331:13 332:18 334:18 335:1 337:19 339:23 352:18 356:14 357:13,14	76:2 <b>explains</b> 183:7 <b>expletives</b> 173:6 174:4 <b>explosions</b> 172:19 175:1 <b>exposed</b> 336:11,22 <b>express</b> 14:2 33:12 91:17,22 137:23 139:3 358:24 <b>extent</b> 58:14 60:9 91:25 <b>extremely</b> 23:6 <b>extremist</b> 245:9 <b>eyewitness</b> 242:10 357:7 <b>eyewitnesses</b> 357:7
<b>exactly</b> 38:25 72:18 106:23 119:11 153:3 196:7 268:21 295:8 305:10 307:14,21 350:25	<b>executive</b> 120:22 249:24 250:8 255:2 <b>exercise</b> 246:25 <b>exhibit</b> 23:22 25:13, 18 40:8 52:4,7 53:20 54:2,4 55:20 56:1 60:17, 18 61:18 73:24 77:12 80:7 82:24 88:11 90:5, 10 97:11 101:22 103:16 106:12 113:7 128:15,16, 18,19 146:17,20 152:16 153:12,16 154:13 157:10,13 158:1 159:22,25 161:23,25 162:13,16 163:13 164:3,6 165:12,15,18 167:2,7 169:6,9,12 170:8,11,14 171:23,25 172:3 175:9, 12,15 178:11,13, 15,18 179:13,16 243:20 256:8 284:2,3 287:7 292:24	<b>exhibits</b> 54:1 135:9 228:12 304:23 305:4 <b>expect</b> 10:7 <b>expectation</b> 34:22 <b>expected</b> 42:23 313:3 <b>expecting</b> 132:21 <b>expedited</b> 233:18 <b>expensive</b> 39:21 <b>experience</b> 198:20 202:9 213:18 215:16 242:3 254:7 255:17,21 261:16 275:25 325:3 <b>expert</b> 10:17 11:7 73:10,20 <b>explain</b> 221:20 <b>explained</b>	<b>face</b> 302:9 <b>Facebook</b> 141:19 312:8,13 <b>faces</b> 54:15 57:4 335:17 <b>facing</b> 169:22 287:16,18 <b>fact</b> 11:10,20 77:17 79:1 112:24 144:3 160:25 168:12 181:5,12 198:5 216:23
<b>exam</b> 113:22 272:25 275:20,22			<b>F</b>
<b>examination</b> 13:7 73:13 88:14 93:21 128:10 132:9 136:6 180:8 184:16 232:25 242:18 261:5 263:22 275:2 283:15 342:1 344:10 347:5 357:18			
<b>examine</b> 87:23 224:2			
<b>examples</b> 34:13 109:20,24			
<b>exception</b> 235:6			
<b>exchange</b> 291:8			
<b>exchanged</b> 112:24			
<b>excluded</b> 134:11			
<b>exclusive</b> 132:22 133:24			
<b>Excuse</b> 68:3 72:6 73:11 77:6 111:19			

237:20	16:5 140:24	<b>feeling</b>	<b>files</b>
240:16	141:16	49:16 281:11	336:3
242:21 273:7	321:11	316:2	<b>filibuster</b>
279:18	<b>family-</b>	<b>feet</b>	235:23,25
312:12	<b>friendly</b>	289:7,16	236:7
316:12 320:9	39:8	<b>felony</b>	<b>filming</b>
342:10	<b>fan</b>	255:14,24	154:20
345:13	84:14	<b>felt</b>	<b>final</b>
347:25	<b>fancy</b>	22:11 145:15	10:14 75:11
<b>facts</b>	290:21	149:15,18	128:6 256:9
129:24	<b>fantastic</b>	177:14	259:9
245:13	50:23 54:12	196:16	<b>finally</b>
<b>failed</b>	<b>far</b>	205:23 230:8	28:13 76:17
235:22	16:12 26:25	241:18 287:2	139:13 164:6
<b>fair</b>	57:3 105:2	299:10	<b>find</b>
21:6 25:8,9	112:11	314:13	35:13 105:11
30:15 102:6,	127:12	316:24 317:1	151:9 160:12
8 119:3	155:8,23	319:2,12,20	308:3,4
120:12,24	177:20 243:1	348:4	314:25
129:17	255:6 306:2	<b>festival</b>	315:13
147:23 152:3	330:21	99:8	<b>finding</b>
163:18	<b>far-left</b>	<b>festive</b>	73:24 74:6
204:16,23	245:9	97:1	75:8 76:9,20
205:3 213:21	<b>fashion</b>	<b>fields</b>	103:16
214:8 219:10	262:7	156:3,5	104:21
225:5 232:22	<b>father</b>	<b>fiery</b>	128:18,20
257:8 270:24	310:24	109:16,18	259:17
307:19 326:2	<b>fathom</b>	<b>Fifth</b>	299:16
<b>fairly</b>	238:17	249:19	327:22
10:8 21:7	<b>fault</b>	<b>fight</b>	337:21,25
94:2 201:14	193:23	50:2,4 86:2,	<b>findings</b>
210:2	<b>Faye</b>	8,9 200:18	11:20 74:2
<b>fairness</b>	24:19	205:25	103:13
122:8	<b>FBI</b>	<b>fighting</b>	105:14
<b>faith</b>	131:15	14:8 49:21,	128:14,23
129:9	132:12,15,16	24 50:5,9	133:15
<b>fallen</b>	133:9,20,24	<b>figure</b>	181:5,12
303:2	134:7 182:22	19:24 92:9	259:10
<b>false</b>	183:3 321:7	138:10	271:15
255:13,23	<b>federal</b>	194:2,10	327:18
<b>familiar</b>	249:7	360:1	<b>finds</b>
60:1 234:23	<b>feel</b>	<b>figures</b>	133:24
235:9	148:16	72:22 329:4	<b>fine</b>
<b>families</b>	196:13,14	<b>figuring</b>	20:15 67:25
15:19 16:4,8	272:3	253:17	132:6 156:13
48:11	320:11,15	<b>filed</b>	180:13
<b>family</b>		75:13 76:16	182:13,16
			203:23

234:22	185:10	<b>Flein</b>	<b>flooring</b>
239:21	192:21,23	10:3 90:24	44:22
282:23 361:9	196:10	93:7,8,18,24	<b>Florida</b>
<b>finish</b>	242:16	94:8 95:18	32:7
16:12 33:1	252:25	98:7,11,25	<b>flyover</b>
54:7 59:7	261:17,19	102:3 105:19	24:17
109:21	283:13	106:15	<b>focus</b>
179:21,22	289:21	107:16	14:25 264:6
180:7	292:15	112:14 113:9	<b>folding</b>
268:16,18	309:20	114:14,17	294:21
281:21	341:18 350:8	116:5,21	<b>folks</b>
282:10	<b>fists</b>	117:3 119:5	332:5 356:18
340:3,12	294:11	120:12 121:8	<b>follow</b>
<b>finished</b>	<b>five</b>	123:15	132:5 257:4
50:15 79:10	189:13	126:10	272:9
253:20	207:7,15,23	128:12	<b>followed</b>
268:23 284:1	211:17	130:5,22	142:16 261:2
<b>fire</b>	214:16	131:17,22	313:18
110:10	231:17	132:11 135:4	<b>following</b>
<b>fired</b>	237:21	356:20	165:25
84:9 265:25	238:5,10,24	<b>Flein's</b>	169:16
267:1 268:7,	239:8,21	113:24 183:8	<b>follows</b>
12	258:10 259:3	<b>flew</b>	13:6 93:20
<b>fireworks</b>	261:14	24:23	136:5 184:15
31:13	263:6,17	<b>flight</b>	187:10
172:20,22,23	277:14 339:4	13:20	283:14
174:24 310:4	340:22 341:6	<b>flip</b>	341:19 350:9
<b>firing</b>	350:18	147:4	<b>food</b>
285:20	<b>fix</b>	<b>flipped</b>	36:25 65:12
286:16	150:12	17:2	<b>foot</b>
<b>first</b>	<b>flag</b>	<b>Floor</b>	36:20
10:19 13:5	61:12 295:19	126:2 186:21	<b>football</b>
14:24 15:1,	297:1 304:2	189:3 191:1	156:3,4
3,9 18:12	317:9	192:4,18,20	<b>force</b>
24:20 32:12,	<b>flags</b>	194:20	18:11 120:5
22 33:4	57:2,3 286:6	197:7,23	<b>Foreign</b>
34:20 42:9,	295:18	198:9 199:3,	209:5,6
11,22 45:6	313:15	8,10 200:12,	<b>foresee</b>
62:15 87:18	354:17	13,15 206:3	340:22
93:19 106:5	<b>flamethrowers</b>	209:22	<b>forewarning</b>
111:17	57:22	210:21	105:9
114:25 116:3	<b>flash-bangs</b>	264:10,24	<b>Forgive</b>
122:11,12	176:21 177:3	265:14,22	136:18
123:6 136:4	285:21	266:20,25	<b>forgot</b>
137:17 151:3	286:16,21	267:14	35:24
169:17	308:20 310:8	268:13,23	<b>form</b>
179:12	336:12,16	342:7,12	202:3
184:14	337:1	344:22	

<b>formation</b> 289:25 290:5,8	<b>fraudulently</b> 79:23 80:4 81:2,8	<b>fulfilled</b> 214:20	265:18,19 285:20 286:16,20 308:20 336:11,14, 16,22 337:1
<b>formed</b> 220:24 236:13 246:5	<b>fray</b> 312:5,11 313:2	<b>full</b> 48:5 213:25 221:11 227:14 232:22 302:13	<b>gassing</b> 174:10
<b>forming</b> 290:25	<b>free</b> 74:22 272:3	<b>fully</b> 181:9	<b>gathered</b> 16:7
<b>Fort</b> 110:17,25	<b>freedom</b> 18:22 21:12, 13,21 22:5, 19 23:10 33:24 38:6 42:16 43:6, 19 82:13 86:9,13 120:3,23	<b>fulsome</b> 181:17	<b>gathering</b> 129:23
<b>forth</b> 89:17 306:11	<b>freedom-</b> <b>loving</b> 22:8 39:3 61:15,25 62:10,25 63:6,21 66:3	<b>fun</b> 147:2 159:3, 5	<b>gave</b> 74:22 84:1 123:14 342:21 346:3
<b>forum</b> 21:10 245:17	<b>freezing</b> 154:5	<b>function</b> 188:5 198:21	<b>gazillions</b> 147:3
<b>forward</b> 40:25 53:24 247:10 281:23 286:9	<b>Friday</b> 11:5 245:7	<b>fund-raising</b> 70:8	<b>gear</b> 104:16 148:13 316:2 328:20
<b>found</b> 76:6 105:12 150:16 158:10 160:16 183:3	<b>friend</b> 150:2 151:13 209:9 210:9, 12 315:21	<b>fundamental</b> 130:2	<b>general</b> 11:25 94:10 235:7 299:24
<b>foundation</b> 37:16 130:14	<b>friendly</b> 146:7,12 153:21 210:18 304:4	<b>funds</b> 15:22	<b>General's</b> 8:24
<b>founded</b> 13:25 14:23 107:20 323:18	<b>front</b> 37:8 81:12 110:6 112:2 176:8 178:25 190:14 196:25 285:9 287:15,16 314:16 335:13,23,25 337:8	<b>funny</b> 158:24 303:20 304:1	<b>generally</b> 171:15 187:23 231:19
<b>founders</b> 13:18	<b>fulfill</b> 214:4,5	<b>furniture</b> 195:22 196:1	<b>generations</b> 39:6
<b>four</b> 9:23 31:17 36:8 293:20, 21 294:1 340:18		<b>G</b>	<b>gentleman</b> 134:9 140:17 146:8 298:16 302:18 314:14 317:8 358:11
<b>frame</b> 102:21 209:16 251:6 268:21		<b>G-O-S-A-R</b> 94:19,21	<b>gentlemen</b> 100:17 295:18
<b>frankly</b> 189:24		<b>gallery</b> 191:25 193:22	<b>Geoff</b> 8:12
<b>fraud</b> 75:21 76:5 87:24 124:7 265:3 274:24 275:15,16		<b>game</b> 119:4 204:16	<b>Georgia</b> 26:9,11 76:16 77:2,
		<b>garbled</b> 114:12	
		<b>gas</b> 104:23,24 105:1,8,9 174:9,20 176:21 193:9,10,12 194:5,8	

4,7 109:25 110:7 <b>Gessler</b> 8:14 12:11 135:8,22 136:7 138:17 141:8,15,20 142:24 143:5,10,11, 12 144:24 145:1 146:16,22 147:22 152:15,18 153:11,18 156:9,12,17 157:6,7,15, 25 158:3 159:21 160:2 162:12 163:1,24 164:5 165:11,17 166:4,7 167:1,5,9 168:3 169:5, 11 170:7,13 171:24 172:6,12 175:8,14 178:10,17 179:11,18 180:9 181:23,25 182:4 183:5, 17 184:17 202:11 204:12 205:5,11 206:11 218:11 220:3,7 222:1 224:16,18 226:5,17,22 227:3,6,8 231:10 233:13 262:10,19	271:8 272:23 274:10 275:10 278:18 279:11 282:2,15,19, 23,25 283:4, 16 291:12,20 292:23 293:4 300:1,7 301:18,20 302:2,8,12, 14 304:22 305:6 307:4, 8 309:3,9, 14,17 310:12,19 311:21,23 313:7,11 319:22 321:15 324:18 339:24 340:17 343:10 344:13 345:11 347:6 349:8 354:24 356:8 357:4, 11,19,22,25 358:1 359:9, 22 360:2,7 361:9,13 <b>get all</b> 112:1 <b>getting</b> 16:21 30:9 46:8 73:12 74:13 96:6 118:11,17 170:22 192:19 205:24 315:3 321:6 337:11 <b>giant</b> 145:12 <b>gigantic</b> 325:13	<b>girl</b> 300:21,22 317:23 318:3 <b>Giuliani</b> 26:23 27:13 240:21,22 241:7 <b>give</b> 9:20 11:17, 23 16:9 34:12 80:12 84:15 99:17 109:20,23 112:4 122:16 143:5 154:7 174:5 192:13 195:1 207:2 217:3 228:15 245:12 256:22 257:18 310:11 324:24 <b>given</b> 85:10 91:22 102:16 115:24 231:18 238:7 360:15 361:6,7 <b>giving</b> 204:9 302:13 <b>glass</b> 195:7 196:2, 4,8 297:20 <b>glued</b> 65:1,6,13 <b>goaded</b> 110:8 <b>goal</b> 200:2 <b>goal/their</b> 198:21 <b>God</b> 22:14 154:24 <b>goes</b> 73:15 142:24	177:21 190:16 204:19 245:10 313:17 314:19,22,23 344:8,10 <b>Gohmert</b> 28:5 <b>going</b> 9:12,21 10:11 11:3 16:1 17:4,7, 17,24 18:21, 23 19:20,24 21:19 28:4, 15 29:25 30:23 34:20 35:14,16 36:18 38:2,6 40:17 41:24 42:12,15 43:5,20 44:9,14 50:25 61:4 65:3 68:8,21 75:4 78:8 84:9,12 86:9,20 92:15 95:7, 15 97:23 98:23 100:6, 7 101:18 110:17,24 112:3,4,11, 22 113:1 114:3 116:22 117:3 119:13 121:5,16,23 123:11,13,20 125:13 128:3 129:4,5 130:14 132:4 134:8 135:8 136:18 137:14 138:1 139:14 140:8 141:13,17,
---	---	--	--

19,25 143:1	292:9	<b>Gosar</b>	<b>grassy</b>
144:22	297:23,25	94:11,17,19	320:5
145:9,11	298:12,15	95:22 105:17	<b>great</b>
149:15	300:11	108:12,14,15	8:21 23:17
152:12	301:13,24	125:17	40:3 42:15
154:17	305:13,20	126:13,15	45:23 53:5
156:10 160:6	306:4,16	127:3,23	54:16 91:6
164:12,13,17	307:9,17	191:5 215:25	93:5 108:21
166:22	308:10,17,18	<b>Gosar's</b>	135:25
168:11	310:2,4,11	119:8,21	138:16 184:9
171:11	311:12,14	124:3,5	234:12
172:15	313:4 314:25	125:22	244:11
175:1,25	324:15	<b>gosh</b>	270:10 282:4
176:5,19	334:11	21:14	341:8 347:4
177:13	336:23	<b>governed</b>	<b>green</b>
184:22	339:19	91:18	289:22
186:24	342:10	<b>government</b>	<b>Greene</b>
192:20	352:15	14:6,9	215:22
193:25 194:3	355:13,14	15:23,25	<b>Greg</b>
196:15	360:25 361:6	78:16 113:17	36:14,20
198:24 199:2	<b>good</b>	116:10 235:8	<b>Greg's</b>
202:14,20	8:7,11,16,22	<b>governor</b>	36:20
204:13,22	9:17 13:9,11	26:11	<b>Grimsley</b>
205:3,17,20	40:9 54:24,	<b>governor's</b>	8:7,8 10:23
206:7 211:21	25 56:22	110:7	25:15 26:19
218:23	90:22 96:23	<b>GPO</b>	27:12 28:20
224:11 225:3	98:13,14	113:15 116:9	29:6 30:17
226:4 230:19	102:3,4	<b>grabbed</b>	34:15 35:4,
231:25	108:19	166:17	19 37:15
233:13,24	129:9,11	<b>grabbing</b>	47:12 52:5
234:5,6	136:8,9	288:11,17	53:4 54:3,
237:22	146:12,13	<b>graduate</b>	20,23 59:9,
238:23	152:25 154:1	186:13	19 61:20,22
241:10,13	156:14	<b>grand</b>	62:4,7,19,22
243:22	181:14	253:8	63:25 64:18
244:21	183:18,21	<b>grandmas</b>	66:19 67:9,
245:23 253:4	184:18,20	64:2	14 68:1,5,9,
267:9 268:10	227:2 232:14	<b>grandparents</b>	10 69:8,10
270:13	234:18,21	39:6	71:4,6
271:16	245:7 263:25	<b>grandpas</b>	73:14,17,19,
272:24	308:8	64:2	23 74:1,5
273:3,15	321:20,21	<b>grants</b>	75:3,7
276:18 279:5	324:20	91:17	77:11,13
281:12,18	<b>good-sized</b>	<b>grass</b>	79:4,7,12,17
282:2 283:19	317:14	320:23	80:18 82:22
284:2,14	<b>goodness</b>	<b>grassroots</b>	83:1 88:6
285:25	206:8	14:18	89:11 90:3
286:21			180:21 181:1
290:22 291:4			

182:8,19 234:15,17 243:19,21 244:2,4 262:16 263:16 360:9 361:5,15,25 <b>Griswold</b> 8:4,25 <b>ground</b> 133:12 335:5 <b>grounds</b> 278:19 337:2 <b>group</b> 17:16 23:13 32:20 60:2 111:5 208:8 220:24 238:21 250:23 258:15,16 298:3 306:15 313:5 323:16,21,24 <b>group's</b> 324:5 <b>groups</b> 20:22 21:7 60:9 100:5 183:4 199:25 250:24 <b>growing</b> 10:1 <b>Guard</b> 218:4 <b>guess</b> 12:7 14:3 30:1 36:15 44:23 60:15 84:3,4,6 93:1 146:8 150:2 151:20 168:18 187:23 192:2 193:11 223:25 276:7 296:24 320:4 324:20	326:7,9 336:23 <b>guessing</b> 154:10 <b>guests</b> 96:4 <b>gun</b> 200:10 267:13 <b>guns</b> 196:11 265:21 266:19,24 268:4,11 <b>gurney</b> 318:2 <b>guy</b> 36:11 173:3 175:3,24 286:7 289:16 291:4 294:18,19 295:20 303:7,16 304:4,5 306:1,5 314:9,11,20, 21 315:2 <b>guys</b> 36:8,13 40:22 154:24 288:13,24 298:15 314:3 315:6 318:19 <hr/> <b>H</b> <hr/> <b>hair</b> 294:20 <b>haircut</b> 298:18 <b>half</b> 18:8 190:18 192:3 276:5 <b>hall</b> 340:12	<b>hallway</b> 205:17 <b>hand</b> 13:3 93:17 136:2 184:12 292:18 <b>handcuffs</b> 321:9 <b>handing</b> 166:14 <b>handled</b> 37:3 40:23 <b>Hang</b> 62:10 82:6 <b>hanging</b> 159:3,5 287:4 <b>happen</b> 28:1 30:6 40:13 42:2 81:21 111:24 192:11 194:12 229:18 294:16 <b>happened</b> 14:21 16:20 29:21 30:18 31:5 35:10 37:9,10 44:19 47:8, 10 71:19 72:20 73:3,7 121:14,20 122:19,22 189:8 191:4 192:15,24 193:2 216:14,20 228:6 229:14 230:4 238:1 240:13 250:19 253:17 265:7 273:1 275:12,23 276:8 278:7 285:17 292:2	293:6 344:12 <b>happening</b> 24:11 25:5 27:11 41:14 64:22 65:15 155:6,9 193:21 241:13 246:20 309:18 <b>happier</b> 12:17 <b>happy</b> 23:1,4,7 33:25 48:6 50:17,22 52:2 54:11, 14 61:17,25 62:11,25 63:3,21 89:21 134:8, 15 159:9 212:2 287:6 297:3,8 303:6 327:11 329:10 331:7 <b>hard</b> 151:8 158:25 196:5,6 204:8 233:19 275:21 289:12 301:11 <b>Harleys</b> 154:21 <b>harm</b> 359:7 <b>Harry</b> 210:11 <b>hat</b> 318:13 <b>hate</b> 99:11 171:20 334:1 358:4 <b>hats</b> 354:17 <b>hauling</b>
---	---	--	--

325:13 <b>He'll</b> 10:18 <b>head</b> 17:21 41:11 148:9 248:10 <b>headed</b> 162:4 284:18,19 285:24 308:1 <b>heading</b> 69:18,21 141:23 164:25 166:1 170:4 <b>healthcare</b> 14:9 16:1 <b>Heaphy</b> 10:25 202:20 360:10,15,25 361:21 <b>hear</b> 12:24 54:13 56:5 60:21, 25 92:6 93:9,10,13 94:3 106:18 107:3 129:5 131:20,23 134:9 141:9 152:11 154:25 155:7 157:21,24 158:25 166:23 180:15 181:21 182:21 184:7 198:6 205:1 216:15 230:23 265:25 275:7 277:7 289:1 291:8 295:22 308:19 330:5,9,18 332:24 333:2,10	338:12,15 350:21 <b>heard</b> 34:4 66:1 76:15 77:3, 5,8,10 78:17 82:4 137:21 160:9 171:12,19 172:19 173:21 176:16 184:9 190:8 200:11 217:15,20 222:25 228:14 252:17 295:20 310:3 330:15 333:3 338:18 354:11,12 <b>hearing</b> 66:22 75:23 76:15 132:8 187:16,18 268:23 269:21 <b>hearings</b> 217:11 226:10,11,13 228:9 249:14 252:19,25 255:18 260:18,19 <b>hearsay</b> 27:18 47:13 133:3 141:4, 5 147:14 221:24 224:8 228:3 235:7 291:11 <b>heated</b> 161:9 <b>heavy</b> 149:14 297:20 <b>Hehn</b> 113:6 270:14	<b>held</b> 33:19 43:4 137:18 <b>hell</b> 47:23 50:2 78:6,11 <b>hello</b> 145:25 283:17,18 <b>helmets</b> 104:16 328:21 <b>help</b> 112:4 168:16 196:18 220:13 270:9 <b>helped</b> 147:4 150:12 <b>helpful</b> 84:21 <b>Hensel</b> 186:1 <b>herd</b> 286:15 314:5 <b>hey</b> 139:13 172:20 304:9 <b>hide</b> 296:18 <b>hiding</b> 296:21 <b>high</b> 351:7 <b>highjacking</b> 156:15 <b>highlight</b> 50:21 95:15 <b>highly</b> 179:21 <b>hijack</b> 45:17 <b>hill</b> 100:14 251:15,21,23 <b>historical</b> 262:14	<b>history</b> 13:15 85:14 210:18 215:19 216:14,19 261:10 262:9 <b>hit</b> 36:21 277:10 295:2 <b>hitting</b> 295:9 353:15 <b>hold</b> 19:2 24:3 33:15 42:17 59:5 83:7 129:3 136:24 241:5 277:3 281:19 <b>holding</b> 56:8,10 58:10 334:21 <b>home</b> 41:6 272:21 <b>honest</b> 65:14 <b>honestly</b> 14:4 <b>honor</b> 8:8,12,17,23 9:17,20 10:13,24 11:15 19:4 23:21 25:12 26:19 27:14, 23 28:20 29:7 30:16, 17 31:1 34:15,19 54:18,20 59:14 63:24 64:5 67:8 73:12 74:7 75:2,3 88:9 90:15,17,23 91:7 92:16 93:11 97:13, 16,22 101:6, 15,25 111:20
---	---	--	--

112:6 113:21	273:11	<b>horses</b>	252:14
114:7,23	274:10,19	154:22	260:25
118:17,21	275:10	157:18	261:5,25
119:17	276:25	<b>hostage</b>	264:10,24
121:13	279:12,15	198:22	265:14,17,22
122:4,11	281:3	<b>hotel</b>	266:9,20,24
123:4,24	282:14,24	29:21 30:2,	268:13,22
125:10,21,23	283:4 292:23	3,4,7,19	287:14
128:2,7,9	300:2 301:18	31:6,7,11,12	324:12
130:5,7,19	302:8	39:18 55:15	338:13
131:18	304:22,25	<b>hour</b>	342:7,12
132:1,24	307:5 309:4	55:2 190:18	<b>housekeeping</b>
134:19,24	310:12 319:8	225:10,11	90:4
135:2,7,22	321:16	341:22	<b>houses</b>
141:10	324:18	<b>hour-and-a-</b>	321:8
142:21	339:24	<b>half</b>	<b>HR</b>
143:6,8	340:18,21	21:18	237:9,12
146:16	343:6,10,16,	<b>hours</b>	<b>huge</b>
147:13	19 344:13	11:17 31:16,	22:6 150:3
153:13	345:12	17 102:20	167:15
156:14	346:2,19,25	144:16 249:3	<b>Hulsey</b>
157:8,9	349:9,13,15	264:4	15:6
159:22	350:5 354:25	268:20,22	<b>humans</b>
163:25	355:25	325:17,21	255:5
165:11 166:6	356:3,8,16,	358:18	<b>humble</b>
167:2 169:5	21 357:2,11,	360:3,5	179:24
171:25	17 359:10,22	<b>house</b>	<b>hundred</b>
172:8,24	360:10,22	44:13 46:17	107:8,12
175:9 178:10	361:10,14,25	47:11 120:3	156:2
179:11,18	<b>hoodie</b>	186:22	<b>hundreds</b>
180:12,21	158:7,8,11	187:15,17	103:6 245:3
181:10	318:13	189:22	249:3 326:4
182:1,17,20	<b>hoofed</b>	190:2,6,8,	327:14
183:10	310:21	17,22 191:1,	<b>hung</b>
202:6,11	<b>hope</b>	14,16,18,22,	151:9,12,22
203:10,22	73:22 182:6	23 192:4,18,	152:1
204:13,20	232:5 360:3	20 194:20	<b>hungry</b>
205:11 220:3	361:10	197:1,3,7,	146:15
221:24	<b>hoping</b>	23,25 198:9,	<b>hurt</b>
222:1,18	166:23	11 199:6,8,	198:24
224:7,17	<b>hornet's</b>	10 201:3	312:23
226:5 227:7	46:7	206:17	<b>hurting</b>
231:12	<b>horrible</b>	210:16,17	161:4 176:24
232:20	70:23	212:13	
233:12,14,22	<b>horrifying</b>	224:6,14	
234:13	69:5	236:5,6,8,	
262:10	<b>Horse</b>	10,19 243:2,	
271:9,13	137:2	4 251:18	
272:23			

<b>I</b>	<p>343:19 <b>implicated</b> 126:25 <b>implicating</b> 256:3 <b>important</b> 213:7,15 218:8 221:7, 11 230:13,16 241:9 319:3 320:1 345:3 <b>impugn</b> 248:6 <b>in-person</b> 109:8 <b>inauguration</b> 209:18 <b>inches</b> 294:25 297:21 <b>incidents</b> 34:11 <b>incite</b> 84:20 85:1 86:6,22 <b>inciting</b> 84:2,23 85:11,17 86:11 <b>include</b> 140:20 <b>included</b> 103:22 217:21 239:1 247:24 317:5 <b>includes</b> 103:25 328:2 <b>including</b> 26:23 104:10 202:16 249:23 316:7 <b>incomplete</b> 128:25 <b>incompleteness</b> <b>s</b> 222:11</p>	<p><b>inconsistent</b> 73:4 <b>incorporate</b> 181:19 343:15 <b>indeed</b> 100:23 <b>Independence</b> 100:16 <b>independent</b> 235:18 236:13 <b>indicate</b> 264:21 <b>indicated</b> 250:8 <b>indicating</b> 124:23 <b>indication</b> 193:18 <b>individual</b> 66:1,10 113:25 257:23 <b>individuals</b> 48:10 57:12 60:9 61:14, 23 62:8,23 63:17 91:12 111:13 237:21 252:21 <b>individuals/</b> <b>members</b> 216:11 <b>infer</b> 198:16 <b>inflammatory</b> 82:14 <b>influencers</b> 21:15 <b>information</b> 116:7,16 123:1 213:25 222:5 224:5 241:14,22 243:7 247:1</p>	<p>254:21,23 255:13,23 256:21,25 257:14,23 260:10 279:20 302:13 306:4 <b>initiating</b> 129:9 <b>injury</b> 199:15 <b>innocent</b> 245:4 <b>inquiries</b> 217:25 <b>insert</b> 183:9 <b>inside</b> 57:7 86:25 87:2 171:11 195:7,8 266:9 297:22 300:15 338:20,22 <b>insidious</b> 274:2,7 <b>insight</b> 327:3 <b>insisting</b> 46:21 <b>instance</b> 200:4 <b>instantly</b> 304:6 <b>instigate</b> 39:16 <b>institutions</b> 347:17 <b>instructions</b> 272:9 313:19 354:6,7 <b>instruments</b> 104:7 328:12 <b>insult</b> 319:13 <b>insurrection</b> 71:2,3,14,</p>
<p><b>idea</b> 30:22 46:8 58:13,18 60:11 66:21 78:14 166:15 196:19 204:9 260:20 331:8 352:3,11 353:4 <b>identify</b> 260:12 <b>identity</b> 296:19 <b>idiot</b> 71:2,15 <b>II</b> 155:14 <b>illegal</b> 16:5 105:6 <b>image</b> 330:23 <b>imagine</b> 327:7 <b>immediate</b> 102:15 <b>immediately</b> 165:25 294:8 <b>immigrant</b> 16:6 <b>impeach</b> 231:1 345:18 <b>impeachable</b> 349:3 <b>impeaching</b> 209:24 <b>impeachment</b> 209:21 210:2,4,6,22 211:8 212:9 236:16 261:3,4,8,9, 10,13,17,19, 22,25 262:2, 6 273:9</p>			

16,24 72:2,4 218:16 226:3 257:10 319:5,16 320:19 350:24 351:2 356:2 <b>insurrectionists</b> 319:13 <b>integrity</b> 17:19 70:8 188:11 248:7 323:17 <b>intelligent</b> 355:11,12 <b>intended</b> 133:17 318:21 <b>intent</b> 67:10 <b>intention</b> 250:25 <b>interest</b> 255:4 <b>interested</b> 132:8 147:8 224:21 258:23,25 <b>Interior</b> 99:23 <b>interrupt</b> 263:2 295:6 324:19 346:10 <b>interrupted</b> 265:8 345:16 <b>interrupting</b> 339:25 342:13 344:7 345:4 349:7 <b>Intervenor</b> 8:13 12:21 <b>Intervenors</b> 8:4 35:15 134:6,16	<b>interview</b> 82:11 84:16 256:7,23 270:3,21,23 278:9 342:21 346:2,5 <b>interviewed</b> 248:17 252:1 255:11 279:2 <b>interviewing</b> 253:2,16 <b>interviews</b> 252:24 253:4,19 255:6,21 256:15 260:22 281:9 <b>intimidating</b> 268:2 <b>intimidation</b> 200:19 <b>introduce</b> 178:11 292:24 300:2 302:3 304:23 310:13 346:4 356:14 357:6 <b>introduced</b> 140:18 291:14 <b>introducing</b> 222:2,5 <b>Invade</b> 106:19 330:7 <b>invading</b> 331:5 <b>investigate</b> 129:19 220:24 235:19 246:12 <b>investigated</b> 132:17 246:14 <b>investigating</b> 244:25	<b>investigation</b> 129:9,12,17, 22 202:4 208:24 214:1 215:4,6,9 218:24,25 221:13 227:15 229:12 241:25 242:14,22 246:19 247:5 248:16 249:18 253:1,3,5, 14,20,21,25 254:1,2,9,11 255:8 256:21 258:3,5,7,9 260:14,24 <b>investigation</b> <b>s</b> 235:8 254:8 <b>investigative</b> 247:16,19,24 248:12,17,22 249:2,6,12 257:22,24 <b>investment</b> 137:2 <b>invite</b> 38:20 <b>invited</b> 63:13,14,17 95:9,19 146:2 306:16 <b>invoked</b> 249:19 <b>involved</b> 16:21 18:20 20:22 21:5 32:15,16 113:25 183:24 231:2 251:8 260:24 265:1 312:21 <b>involvement</b> 227:19,21	245:20 246:2 257:10 <b>involving</b> 138:19,24 <b>iphone</b> 152:23 <b>Iran-contra</b> 208:24 215:3,6 254:10 <b>irregularities</b> 76:5 124:9, 24 126:1,7, 17,20 127:7 265:2 274:25 <b>irregularity</b> 127:14 <b>irrelevant</b> 76:18 97:13 319:9 <b>Island</b> 70:11 <b>isolated</b> 100:5 <b>issue</b> 19:10 20:17 46:18 131:16 133:17 180:22 212:16 213:25 225:3 257:11 277:9,25 342:14 <b>issued</b> 132:21 243:15 258:18 <b>issues</b> 19:14 20:10 30:21 53:18 92:14 118:17 123:19 181:11,20 223:18 225:7 231:14
--	--	---	---

278:22 351:13 <b>items</b> 104:9 328:15 329:9	120:1,14 128:13,22 129:8 130:12,24 131:2 132:25 133:13 137:15,19,24 141:18 143:2 148:5,7 183:2 186:17,20 189:2 190:3, 24 201:25 202:2,4,10, 16,19 204:5, 14,17,18 206:23 207:2,4 208:17 209:11,13, 15,17,19,20 211:2,10 212:3,10,15, 24 214:1 215:9 216:6, 22 217:20,22 218:16,21 219:5 220:2 221:1,3,12, 19 222:6 223:20 225:13 227:20,22 229:25 230:5 231:3 233:5, 10 234:6,8, 11 240:13,24 241:11,25 242:9 245:2, 14,22 246:2, 6,10,13 247:17,19 248:22 249:2,6,12 254:9 256:6, 9 258:5,12, 17 259:5 260:14 261:2 262:13 264:7	268:10 269:19,21,24 271:15 273:2,7,20 274:9,21,22 275:1,13,24 276:1,9 278:7 279:20 280:20 325:4 327:1,19 337:22 344:12 348:22,24 349:4 350:23 351:6 358:15,21 360:16 <b>Jason</b> 8:9 <b>Jefferson</b> 101:2 <b>Jena</b> 8:3,25 <b>Jennifer</b> 15:6 <b>Jim</b> 189:10 193:3 207:17,18,20 214:11 217:17 218:22,23 220:22 222:21,23 223:9,22 224:9,10,25 239:2,4,11, 12 240:11 257:1,2,3,6, 9,13 277:19 279:18 <b>Jim's</b> 223:10,23 <b>jitter</b> 71:10 <b>Joanna</b> 135:9 <b>Joanna's</b> 53:12	<b>Joanne</b> 8:15 <b>job</b> 94:9 130:3 136:23 <b>Joe</b> 355:6,7 <b>John</b> 26:24 27:13 <b>join</b> 306:16 324:14 <b>joined</b> 14:2 181:9 <b>joint</b> 187:16,17 <b>Jones</b> 26:5 38:18 45:14 57:17 58:20 97:7, 17 <b>Jordan</b> 207:18,20 214:11 217:17 218:22 221:15 222:8,21,23 223:4,5,9,22 224:9,10,13, 24,25 239:2, 11,23 240:11 257:1,9,13 277:19 279:9,18 <b>Jordan's</b> 257:10 <b>joyful</b> 22:16 39:9 54:14 327:10 329:10 331:4,7 <b>Jr</b> 153:8 <b>judge</b> 75:23 203:15 218:9
---	---	---	--

230:18,21	214:11	319:5,13	60:8 61:9
241:14 263:1	220:23 239:3	324:16 340:6	65:2,12 66:7
281:13 282:5	<b>KEN</b>	<b>Kinzinger</b>	67:17 68:20,
349:21	184:13	208:6,12	22 69:21
<b>judges</b>	341:17	209:23	70:6,14
76:1 347:11	<b>kept</b>	210:21	71:11 72:19,
<b>judgment</b>	28:6,11	211:15,20,25	21,24,25
228:16 231:2	167:12 295:4	212:1 213:1	73:5 74:14
240:5	306:3	214:3	76:22 77:9
<b>judicial</b>	<b>Kevin</b>	<b>kitchen</b>	78:13,22,25
52:25 185:17	207:15,23	13:25	80:16 83:5
347:12	213:3,5,10	<b>Kitsmiller</b>	84:12 87:3,8
<b>jump</b>	<b>key</b>	8:20	97:24 100:4
40:25	183:22	<b>knee</b>	107:16,19,
<b>June</b>	<b>keying</b>	161:4	22,25 109:4,
200:5 267:15	135:9	<b>knew</b>	24 110:5,13
<b>juries</b>	<b>kicked</b>	17:7 29:15	111:4,12,15
347:11	321:6	39:14 42:4,5	112:22
<b>jury</b>	<b>kicking</b>	68:14,16,23	113:2,3
242:11,13	100:21	105:17	114:15
253:9	<b>kill</b>	140:11	116:1,13
<b>justice</b>	142:14	192:22 196:9	120:24
91:14 186:5	272:11,14	208:25 234:9	123:17
246:7 273:23	<b>killed</b>	251:2 265:10	124:19,24
347:20	142:17	287:5 313:15	130:9,17
<b>Justin</b>	198:13	324:3	139:1,12
8:14 45:4	<b>kind</b>	<b>knife</b>	140:6 142:4,
<b>jut</b>	16:20 34:20	105:3	11 153:5,25
290:12	37:10 38:22	<b>knives</b>	155:2,7
	48:8,12 50:7	104:1 328:5	157:3 160:7,
	82:14	<b>know</b>	8 161:7,14
<b>K</b>	111:22,23	14:5 15:25	164:13
	145:15	16:23 17:25	166:4,23
<b>Kaegel</b>	146:13	19:7,11	168:5 171:12
24:19	149:14	23:14 26:4	172:22
<b>Katrina</b>	150:10	29:13 33:8,	173:5,12
46:10,23,25	155:1,11	12,22 35:11	175:4 177:3,
47:5,7 59:24	161:6 162:6	37:5 39:4	6,10,13,14,
<b>keep</b>	167:19	41:16 42:14,	24,25 178:4
28:15 29:19	173:1,25	18 43:18	181:16
38:16 89:9	196:16	44:10,14,16,	182:25
352:5 353:6	201:15	22 46:20	184:23
<b>Keepers</b>	205:17,23	47:25 48:4,	189:18 191:5
60:4 111:7	242:17	15,18 49:4	192:19
<b>keeping</b>	290:6,12	50:1,3,12,18	194:11
254:22,25	291:5 293:12	51:14 57:21,	195:23
<b>Kelly</b>	294:18 296:3	22 58:4,12,	196:16
207:18	314:18	22 59:21	197:11,18
			200:1 201:18

204:12	320:4,7,9,	<b>Kotlarczyk</b>	<b>large</b>
205:14,20	18,20 321:7,	8:22,23	21:7,9 192:8
207:5,10,17	10 322:16	90:16 134:23	210:24
208:11,13,20	323:3 324:3,	182:15,16	266:12 316:7
209:1	7,8 327:2,5,	349:14	317:5
210:11,14	13,17 328:19	359:14	<b>late</b>
212:6,17	331:8	<b>Kremer</b>	76:18 96:9
213:18 214:4	335:14,15,24	9:22 10:3	139:17
215:21,25	338:1 343:23	12:19,20,22,	167:14,19,20
217:6,7	355:22	23 13:4,9	173:1
218:12	358:8,18	15:7 19:3,15	<b>laugh</b>
224:20	359:20	20:12 24:2,7	159:2
225:15	<b>knowing</b>	26:4 27:25	<b>laughing</b>
226:23 228:2	67:4 102:9	29:2 31:3	158:23
232:13 234:1	326:12,15,	35:22 51:8,9	159:14
235:16	19,24	52:15 54:7,	<b>laughter</b>
236:9,12,15	<b>knowledge</b>	24 56:4 59:6	159:11
239:25	37:17 59:20	62:23 68:12	<b>Lauren</b>
240:25 241:2	104:25 122:5	79:10 88:16	28:7 334:12
248:9,19	127:22 131:9	90:13,18	<b>law</b>
249:21,25	132:7 138:24	122:21	11:20 81:21,
250:16	147:9 183:25	<b>Kremerer</b>	23 92:3
251:3,8	189:25	12:19	133:15
252:5,7,9	201:21	<b>Kylie</b>	173:13,15
258:13	206:23	15:6	181:6 186:9,
259:18	209:12		13,14 198:20
260:1,23	210:23		223:24 224:1
261:1,7	216:17,18	<b>L</b>	245:5 253:15
264:13	225:12,22		274:4 339:16
266:15	248:2,14,24	<b>L'AMOUR</b>	351:4,20
272:11 275:6	249:4,9,15	351:11	352:12,23
282:21 283:1	250:2,20	<b>La</b>	353:17
285:20	251:5 257:3	126:23	<b>lawfully</b>
286:5,9,23	267:2,4	<b>lacking</b>	116:18
287:1,5,21	329:3,5	349:1	<b>laws</b>
289:7 290:14	334:15	<b>lady</b>	73:5,6,10,21
297:17	337:16 338:2	198:11	<b>lawsuit</b>
299:12,23	339:13	<b>laid</b>	76:16 322:2,
301:3,8,12,	<b>known</b>	78:17	5
13 303:11,24	105:14	<b>lamp</b>	<b>lawsuits</b>
304:1,3,11	212:18	293:13	75:14
305:12 306:1	313:20	<b>lamps</b>	<b>lawyer</b>
308:7,18,19	<b>knuckles</b>	290:21	76:10 81:5
310:1,7,22	104:3,22	<b>language</b>	227:23 234:1
312:18	328:8	82:13,15	347:22
314:22,24	<b>Kopelmer</b>	83:18,21	<b>lawyers</b>
315:12,18	28:7	84:1 87:10,	227:25
316:19,23,24		11	
319:14			

<p>247:25 248:6,12 <b>lay</b> 80:13 <b>layers</b> 158:10 <b>Lead</b> 277:24 <b>lead-up</b> 87:8 245:13 <b>leader</b> 111:6,7 207:13,15,23 211:18 214:16 218:19,23 220:11,12,15 229:22 237:21 238:19,24 239:16 243:17 258:3,11,15 348:19 <b>leaders</b> 273:18 <b>leadership</b> 245:15 <b>leading</b> 16:14 89:5, 12 109:15 137:16 227:1,5,7 278:5 <b>lean</b> 173:17 <b>learn</b> 137:17 <b>learned</b> 68:21 <b>learning</b> 224:23 <b>leave</b> 110:17,24 149:12,21 197:7 198:8 263:4,11</p>	<p>283:3 297:4, 5 302:24 304:17 306:24 308:22 316:8,16 337:3 <b>leaving</b> 40:14 51:23 52:1,19 140:4,25 195:19 199:5 302:20 307:15 308:21 309:23 <b>led</b> 247:20,21 <b>leeway</b> 204:6,9 <b>left</b> 14:2 26:9 54:9 99:15, 22 140:5 143:15 144:14 149:11 150:13 176:10 199:4,5,9 263:8 277:14 284:23 287:17 290:16 292:6,7,17 298:5 303:22 305:16 307:1 318:9 <b>left-wing</b> 312:22 <b>leftists</b> 117:15 <b>legal</b> 107:22 181:11,20 223:25 224:1 355:15</p>	<p><b>legality</b> 272:18 <b>legislation</b> 235:22 259:24 260:1 267:13 <b>legislative</b> 14:25 251:17 <b>legislators</b> 124:22 <b>legislature</b> 26:12 <b>length</b> 225:6 241:20 <b>letter</b> 87:20 <b>letting</b> 111:22 254:23 <b>level</b> 85:25 290:3 319:16 <b>Library</b> 101:2 206:18 <b>lied</b> 121:2 <b>lies</b> 274:7 <b>life</b> 50:22 305:16 <b>light</b> 110:9 229:10 329:13 <b>lighting</b> 172:20 <b>limited</b> 102:13 123:14 224:12 <b>line</b> 83:3,6 153:23 290:25 291:2 292:5 339:5 350:18 353:1 <b>lined</b> 150:21</p>	<p><b>lines</b> 83:12 100:22 186:12 279:4 <b>lips</b> 19:19 <b>list</b> 46:24,25 47:2,11 59:25 103:21 123:7,9 202:22 233:3 322:13,16,17 <b>listen</b> 60:20 95:11 152:4,6,9 153:2 157:18 160:3 271:24 272:8,22 275:11,13 <b>listened</b> 152:12 227:24 310:22 <b>listening</b> 49:14 96:24 154:2 159:10 171:14 <b>Literally</b> 84:13 <b>litigate</b> 278:21 <b>little</b> 30:9 45:20, 22 91:4 96:7 138:13 174:5 182:21 184:24 193:13 217:3 220:14 221:21 227:1,4,6 233:24 236:15 242:23 247:14 278:14 288:7 290:21 295:1,3</p>
---	--	---	---

300:20,22 305:16 311:10 313:9 320:11 336:15 341:14 361:17 <b>live</b> 105:22 136:16 249:14 <b>lives</b> 22:10 31:8 142:19 312:17 <b>livestream</b> 200:16 <b>livestreamed</b> 91:19 <b>Liz</b> 208:2,3,23, 25 209:23 210:7,13 211:20 237:23 238:8,23 <b>LLC</b> 107:21 <b>load</b> 144:6 <b>lobby</b> 198:12 <b>location</b> 58:11 147:24 <b>locked</b> 148:14,18 295:11 <b>logistically</b> 44:20 45:2 <b>logistics</b> 138:10 <b>Lone</b> 143:25 <b>long</b> 9:11 83:2 94:13 102:18 132:6 144:11	160:21 185:6,19 203:24 204:6 208:22 272:1 294:20 315:14 325:16,21 340:20 361:11 <b>longer</b> 12:4 92:10 135:17 194:17 336:21 341:4 <b>look</b> 63:15 86:17 87:15 114:9 127:11 134:15 145:2 154:12 155:17 165:18 169:12 171:22 201:15 218:8 250:16 281:23 291:6 302:9 313:12 331:3,9 <b>looked</b> 41:16 66:11 96:18,20 98:13 130:1 151:24 154:11 160:19 179:6 227:23 266:6 291:23 296:2,3 297:2 298:16 <b>looking</b> 19:17 49:23, 24 114:25 133:18 157:17 162:3,5,21 163:21 167:17,22	172:21,22 183:9 214:10 219:12 222:15 231:17 247:10 258:16,24,25 337:6 340:14 357:5 <b>looks</b> 12:18 158:6 176:1 337:10 <b>lost</b> 16:5 52:10 178:4 278:5 356:9 <b>lot</b> 18:2 22:13, 15 37:1 121:5 127:15,16 150:16,20 151:23 153:22 163:8 167:22 177:9 179:7 206:8 227:24 228:6 233:16 236:24 250:19 252:7,10 253:2 286:5, 6 288:8 294:12 317:20 321:5 351:10 <b>lots</b> 50:24 <b>loud</b> 83:4 100:20 <b>loudly</b> 100:24 <b>loudspeakers</b> 97:1 <b>Louie</b> 28:5 <b>Louis</b> 351:10,11	<b>love</b> 22:13,14 23:7 34:1,2 48:5 49:1 50:24 54:13 <b>loved</b> 24:24 <b>lying</b> 273:18 <hr/> <b>M</b> <hr/> <b>maced</b> 36:21 <b>mad</b> 70:13 319:15 <b>madam</b> 289:6 <b>made</b> 10:14 59:2, 12 64:8 91:23 112:1 114:5 122:15 131:5,7 159:2 189:5, 22 190:9 215:23 218:19 228:2,3 231:1 238:20 254:14 357:7 <b>MAGA</b> 354:16 <b>magnetom-</b> 44:24 <b>magnetometers</b> 56:20,24 57:7,8,13 58:15 60:13 <b>main</b> 77:10 139:20 142:3 149:16 160:13 <b>majority</b> 193:5 200:9 210:24 252:1,6,16
--	--	--	---

<b>make</b> 11:4 12:6,16 20:7 25:21 59:15 64:6 81:23 89:15 91:2 93:13 110:17,25 111:2 115:9 117:16,17 138:11 149:20 156:13,19 160:9,25 172:7 180:11 183:20 188:9,21 198:22,23 218:1 232:4, 22 248:8 253:4,9 255:1 275:15 280:2 302:13 314:5 319:17 320:22 354:11 361:2	<b>mansion</b> 110:7 <b>map</b> 151:8 335:12 <b>marble</b> 295:2 <b>march</b> 18:23 23:10, 12 32:4 38:6 42:16 55:18, 23 75:4 <b>marched</b> 21:22 22:21, 23 292:4 <b>marching</b> 55:20 61:3 <b>Maricopa</b> 126:25 <b>Marine</b> 24:22 <b>Mario</b> 8:10 263:21 <b>Marjorie</b> 215:21 <b>mark</b> 223:19 224:2 333:5 <b>marked</b> 311:25 <b>marker</b> 106:12 <b>married</b> 39:5 320:21 <b>Martha</b> 8:9 <b>mask</b> 104:24 194:8 296:15 314:10 <b>masks</b> 104:23 105:8 193:11,12 194:6 265:19 <b>mass</b> 200:6 267:7 <b>Massachusetts</b> 189:10,11	<b>material</b> 240:5,12 241:22 242:12 243:7 256:20 257:23 274:13 <b>materially</b> 255:13,23 <b>matter</b> 28:23 31:8 90:4 123:5 138:9 142:19 183:10 222:3 291:14 312:17 <b>matters</b> 222:17 <b>Maxine</b> 189:17 <b>mayor</b> 302:23 306:19 <b>Mccarthy</b> 207:15,23 211:18 213:4 214:16 215:15 218:19,23 220:6,10,11, 15 229:22 237:16,21 238:19,24 239:16 243:17 258:7,11,15 <b>Mccarthy's</b> 258:3 <b>Mcdaniel</b> 70:10 <b>Mcgovern</b> 189:10 193:4 <b>Meadows</b> 223:19 224:2 <b>mean</b> 14:4 17:12 22:6,25 23:4	24:14 29:11 30:1 33:5,22 36:9 37:4,8 38:15 39:4, 7,13 41:18 42:4 43:16, 18,19 45:17 48:3,6,14 49:3,12 50:2,4,10,17 54:12 57:21, 23 58:8,12 60:15 62:13, 14 64:24 65:1,9,11 66:6,25 68:25 70:22 72:20 73:2 84:6,8,10 85:8 86:7 89:19,20 92:20 121:21 130:10 147:10 166:8 167:18 168:1 173:9,11,24 210:8 222:14 272:25 275:6 286:19 288:17 289:1 295:12 301:1 306:7 310:8 312:15 314:1 324:19 326:15 <b>meaning</b> 47:5 <b>means</b> 263:8 <b>meant</b> 49:22 61:10 188:8 230:6 238:3 342:1 344:5 <b>media</b> 15:9 78:6 91:24 342:19
--	--	--	--

<b>meet</b> 138:2 145:22 148:25	328:19 330:6 342:18,25 343:21 345:10,14,18 346:7,9,16 348:14	<b>metal</b> 44:25 45:1 294:20,22 297:19,22 298:12 338:23	<b>military-grade</b> 104:17 328:22
<b>meeting</b> 299:17			<b>Miller</b> 8:15
<b>meetings</b> 109:8 225:24	<b>memory</b> 190:14,15 195:25 265:23 267:20 278:14 284:4 328:25	<b>metaphorical</b> 50:5	<b>milling</b> 194:10 197:2 301:2 308:15
<b>meets</b> 228:25 229:1		<b>metaphorically</b> 50:1 57:24 72:14,15 86:8,16	<b>million</b> 127:15 248:23
<b>megaphone</b> 173:21		<b>methods</b> 255:5	<b>millions</b> 245:18
<b>Melito</b> 8:19	<b>mention</b> 261:6	<b>Metro</b> 40:18 197:15	<b>mind</b> 27:10,16 43:13 87:1,2 94:3 142:25 143:4 155:4 183:8 223:3 340:11 343:6
<b>member</b> 16:5 131:5,6 189:22 190:2 191:23 193:4,21 202:9 246:14 259:16,17 323:16,20	<b>mentioned</b> 107:7 116:6 121:15 138:8 174:9 205:23 215:2 236:14 259:20 359:6	<b>mic</b> 138:14 173:18	<b>minimize</b> 199:14
<b>members</b> 25:6 28:6 31:19 34:6 38:12 104:15 105:13 106:18 115:8,18 117:5,9,16, 17 118:4 140:24 190:6,8 191:24 192:3,5,8 195:19,21 196:1 198:23 199:4,15 206:24 214:16 215:20 218:13 235:15 237:14 243:2,4 247:4 258:10,16 259:11 267:24 268:1	<b>mentioning</b> 132:15	<b>Michael</b> 8:23	<b>minimum</b> 118:4
	<b>mercifully</b> 347:8	<b>Mick</b> 8:19	<b>ministerial</b> 188:5
	<b>merged</b> 59:24	<b>microphone</b> 94:2 98:25 193:8	<b>Minnesota</b> 138:3 161:13
	<b>merits</b> 75:24	<b>microphones</b> 152:10 201:1	<b>minority</b> 207:14,22 210:3 215:5, 8,10 216:10 220:15 221:2 229:11 254:15 259:20,25 260:4,5
	<b>mess</b> 46:9	<b>mid-december</b> 137:20	<b>minute</b> 67:23 98:6 135:10 283:21 337:14
	<b>message</b> 113:4 116:1, 17 117:4 118:2 119:20	<b>mid-november</b> 23:19	<b>minutes</b> 9:13 26:1 144:21 160:22,23
	<b>messages</b> 109:8 113:11 114:10 115:23 119:12 120:17 342:19	<b>middle</b> 41:6 175:2 197:9 225:9 286:23 308:2	
	<b>met</b> 47:1 107:18 146:1,5 149:1,6 314:14	<b>middle-aged</b> 96:21	
		<b>Mike</b> 62:10 65:23 78:20 82:6 171:17,19,20	
		<b>mildly</b> 322:20	

193:7	<b>Moelker</b>	11 17:2	273:10,11
194:17,18	8:19	46:13 54:24,	276:22 286:9
225:11	<b>Mohave</b>	25 55:1 91:3	300:1 309:4
231:17 232:5	126:22	95:6 100:12,	310:13 319:8
263:6,8,10,	<b>Molotov</b>	13 111:16	342:11 356:5
17 277:14	31:9 36:13,	113:5 115:18	<b>moved</b>
297:17	15	135:14	43:23 196:1
336:24 339:4	<b>moment</b>	136:8,9	206:1
340:1,15,18,	100:9 102:16	148:7 149:17	<b>movement</b>
22 341:1,7	203:10,13	269:20	13:23 14:5
350:18	263:2 283:20	<b>moron</b>	42:4,5
<b>miscellaneous</b>	313:20	107:10	177:21 286:7
104:9 328:15	359:20	<b>motion</b>	<b>moving</b>
<b>misleading</b>	<b>moment's</b>	269:5,12	43:13 53:24
255:13,23	22:10	<b>motions</b>	177:18,23
257:7	<b>Moms</b>	348:2,3	195:22
<b>missed</b>	21:3	<b>motivation</b>	233:17
96:15 131:15	<b>money</b>	142:25	286:18
<b>missing</b>	348:16	<b>motorcade</b>	<b>MSNBC</b>
345:1	<b>monitor</b>	157:17	270:3
<b>mission</b>	9:10	<b>motorcycles</b>	<b>multiple</b>
160:13,15	<b>monitors</b>	154:18	9:8 124:23
<b>Misstates</b>	9:8	<b>Mountain</b>	280:1
80:7	<b>months</b>	168:20,21	<b>murder</b>
<b>Mitchell</b>	70:3 185:9	336:5	245:7
270:4 342:22	264:1	<b>move</b>	<b>murdered</b>
345:24	<b>monument</b>	16:18 25:13	329:18
<b>mob</b>	150:23,24	28:21 37:22	<b>Muriel</b>
198:24	151:10,19	44:7 45:8	302:22
266:4,10	152:2,8	52:3 82:3	<b>murmuring</b>
280:10 281:5	155:13,15,	90:4 101:8	193:2
337:14 339:4	21,24 156:23	114:4 116:22	<b>Murray</b>
342:1,12	157:1 162:24	125:14 128:4	8:9
344:20,21,25	167:17	131:19	<b>museum</b>
345:15,19	169:18,23	138:13	155:14
346:9,16	176:7 285:11	146:17	<b>music</b>
354:4 355:21	287:24,25	153:12	96:25
<b>mobilize</b>	308:4 310:22	157:9,18	<b>mute</b>
17:13 33:9	311:16,17,18	159:21	277:10
<b>mobilized</b>	330:21 332:7	162:12	<b>muted</b>
14:10	335:17	163:24	277:6
<b>mobs</b>	<b>mood</b>	165:12 167:1	
355:19	51:25 54:9	169:6 170:7,	
<b>model</b>	64:1 96:23	14 171:24	<b>N</b>
147:7	<b>morning</b>	175:8 178:11	
<b>modern-day</b>	8:7,11,16,22	179:12,19	<b>name</b>
13:18,23	10:18 13:9,	205:8 208:1	29:12 32:2
		224:8 250:25	115:1

136:11,12 140:19 142:12 150:4,5 <b>named</b> 26:5 140:18 207:15,19 208:6 314:14 <b>names</b> 207:17,24 239:8,11 <b>naming</b> 207:10,11 <b>Nancy</b> 28:7 239:7 <b>narrative</b> 71:16 319:6, 18 320:19 <b>narratives</b> 274:2,8 <b>Nashville</b> 36:7,8,23 <b>national</b> 24:21 44:21 218:4 256:4 <b>Navy</b> 200:24 <b>necessarily</b> 141:11 348:2 <b>need</b> 9:10 28:11, 12,13,16 41:16 44:15 46:3 47:9 53:21 115:8 120:4 126:10 141:8 213:22,23 222:20 239:21 263:4,13 271:3 274:11 277:4 278:23 282:9 296:21 301:14 358:3 <b>needed</b> 17:21 36:10	117:9 140:19 310:24 <b>needle</b> 328:16 <b>needles</b> 104:10 <b>needs</b> 321:12 <b>negotiating</b> 223:12 <b>Nehls</b> 233:2 239:4 <b>Nehls'</b> 203:1 204:25 <b>nervous</b> 320:11,13 <b>nest</b> 46:7 <b>never</b> 13:19 50:3, 20 56:6 76:14 85:16, 25 89:19 115:23,24 116:18 122:23 133:5,14 151:2 189:24 201:21 210:15,16 216:13 217:16 223:13 236:10 266:22 322:15 323:23 325:22,24 359:5 <b>news</b> 64:25 87:19 247:12 <b>newspaper</b> 134:10,11 312:2 <b>newspapers</b> 166:12,16	<b>nice</b> 153:25 298:17,20 303:7 304:5 <b>Nicolais</b> 8:10 202:5 203:9,22 204:4,23 221:23 222:18 224:7 226:4 231:12 232:20 233:21 263:21,23 270:11,17 271:13,18 273:10,12 274:19 276:24 277:1,8,15, 17 278:16 279:1,7,14 280:5,8,23 281:2,4,16 282:12 340:19,21 341:21 343:5,18 344:2 345:2, 17 346:1,23 <b>Nicolais's</b> 276:3 <b>night</b> 16:24 30:7 31:6 39:17 81:20 <b>Nikhel</b> 8:9 <b>nine</b> 185:8 207:6 208:9 247:9 <b>nodded</b> 148:9 248:10 <b>noise</b> 196:7 294:12 324:21 <b>nominate</b> 239:22	<b>nominated</b> 237:15,21 238:24 243:16 258:11 <b>nomination</b> 277:20 279:9,18,23 <b>nominations</b> 239:17,18 <b>nominee</b> 225:1,10 <b>nonactions</b> 218:10 <b>nonlegal</b> 186:2 <b>nonmembers</b> 346:20 <b>Nonspeaking</b> 115:7 <b>nonviolent</b> 301:3 <b>noon</b> 168:10 179:23 180:8 <b>Norma</b> 8:3 <b>normal</b> 16:24 206:25 215:17,18 <b>north</b> 8:14 100:16 <b>nose</b> 238:14 <b>notable</b> 26:18 28:1 100:2 286:4 <b>note</b> 114:11 182:4 <b>notice</b> 22:10 52:25 108:20 324:25 <b>noticed</b> 36:13 286:10,13
--	---	--	---

<b>notified</b> 115:23	<b>Obamacare</b> 14:8	159:23	<b>observed</b> 104:15
<b>notwithstanding</b> 262:20	<b>object</b> 27:3 30:18	162:14 164:1	339:16
<b>November</b> 18:7,11	73:12 90:8	165:13 167:3	<b>observing</b> 216:21
20:23 23:20	115:22,25	169:7 170:9	<b>obtained</b> 116:17
26:14 28:1,9	126:16	172:1 175:10	<b>obvious</b> 17:3,23
30:11,13,19	127:24	178:12	310:10
31:21,23	189:19,23	179:14	<b>obviously</b> 95:12 152:24
32:15 38:5,	190:4 204:18	180:20 182:2	171:16,19
12 39:18	226:5 233:14	183:6	177:15 199:1
41:14,15,19	262:11 269:5	189:16,22	202:14 208:3
71:20,25	272:24	190:12,15,20	230:5 231:15
72:11 75:14	274:11 276:6	191:12 202:5	241:17 246:4
110:1,8	278:18	221:23 224:8	254:17 278:6
185:12 187:1	343:11	228:3 262:25	285:22 308:8
323:18	356:11	264:15,25	338:25
<b>number</b> 15:12 16:3	<b>objected</b> 26:24 27:19	268:16,19	352:25
17:5 31:16	189:12,18	271:8,17	355:11
32:9 33:18	190:1,2	273:4 276:19	<b>occasion</b> 54:14 210:15
37:5 47:23	191:5,7	279:6,11	<b>occasions</b> 215:20
54:4 68:22	259:17	280:6	<b>occupation</b> 143:24
72:20 73:2	<b>objecting</b> 126:2	291:11,18	<b>occupations</b> 199:19
76:12 81:18	<b>objection</b> 25:14 26:20	292:25 300:3	<b>occupied</b> 200:12
85:8 192:8	29:6 34:16	302:4 305:1	267:14
197:24 207:5	35:16 37:15	309:6 310:14	<b>occur</b> 256:16
233:3 248:20	47:12 52:5	319:7,10	336:19
249:21	59:8 63:23	343:24	<b>occurred</b> 22:19 198:7
266:12 270:5	66:16 67:7	354:24 355:2	212:10 216:7
281:8 293:25	80:6 89:11	357:9	240:1 250:22
309:8	97:12,21	<b>objections</b> 27:20 105:24	275:16
<b>numbers</b> 237:7	98:4 101:9	118:10	<b>occurring</b> 25:10 251:5
<b>nuts</b> 24:25	118:16	119:21 122:2	<b>October</b> 277:23
	119:14	124:3	<b>odd</b> 193:13
	121:13	188:17,19,21	
	124:6,11	189:2,5,14	
	125:9,20	190:5,7	
	128:1,4	191:1 204:22	
	132:23	269:15	
	141:4,9	274:24	
<b>oath</b> 60:4 111:7	142:20	343:16 356:9	
255:10,19	146:18	<b>observation</b> 314:6	
283:7 341:11	147:12	<b>observations</b> 225:23	
350:2	153:14	226:17	
<b>Obama</b> 14:7	157:11	227:10	
		<b>observe</b> 217:11	

<b>offense</b> 255:24 349:4	<b>officials</b> 73:4 108:17	149:8,22	206:21
<b>offer</b> 101:19	117:24	150:14	208:11,14
<b>offered</b> 28:23 141:7	124:21 127:2	151:4,11,15,	209:10
143:16	252:3	18 152:7,14,	210:7,20
343:19	<b>okay</b>	21 153:5,9	211:21
<b>office</b> 8:24 105:23	9:4,14,18	154:3,7,12	212:21
106:2 117:22	10:6,10,16	157:16,25	216:13,21
119:11 186:7	11:2,8	158:14,20	219:10,15,25
206:6,14	12:12,23	159:20	220:25
225:8 266:6	16:16,17	160:3,24	221:6,14
296:5	19:25 20:19,	161:22	225:5,12,22
<b>officer</b> 28:22 192:22	20 24:5,10	162:9,11	228:18,22
193:8 194:18	26:2 27:22	163:9,13,18,	229:24
245:8 265:9,	30:8,14 35:3	23 164:7,21	232:7,19
13,14	44:6 45:25	165:1,7,10,	234:11
291:23,24,25	47:15 50:25	18,21 166:3,	244:11 248:9
294:5 339:20	58:8 60:23	18,25	261:15
352:10	62:3 68:7,13	168:11,23	264:14,25
<b>officers</b> 61:24 173:7	72:5 79:16	169:2,4,19,	265:6
174:25	83:7,10,13,	22,25 170:3,	266:12,14
194:21	14,17 92:4,	6,14,19,25	267:16 268:4
195:14,23	17,24 93:5,	171:3,7,22	269:17
196:5,10,19,	12,14 97:9	172:13,15	270:2,24
24 197:2,8,	99:1 102:25	173:17,19	273:10
17,24,25	106:7 109:1,	174:3,14,17,	277:15 280:5
198:1,15	23 112:9,12	19 175:6,15,	281:15,25
199:5 205:15	114:5,19	17 176:5,12,	282:4,11
245:5 265:21	115:1,2,16	16,23 177:5,	283:23
289:19,22	116:24	17 178:6,9,	284:1,6,10
291:5 351:5	118:5,8	18,23 179:2,	285:3,5,7,13
353:13	119:15	10 180:6,17,	286:2 287:7,
354:18	123:10	25 182:12,18	10,18,23
<b>offices</b> 192:5,9	130:16	183:11	289:18
206:17	131:25	184:3,10	290:9,19,24
<b>official</b> 8:25 91:20	134:21	185:10,14,23	291:21
111:17	135:12,21	186:15,23	292:11,20
116:9,10	136:15,22	187:3,9,21,	293:19,23
117:15	137:9,14,22	24 188:16	294:7,10,13,
256:10	138:6,23	189:1	16 295:14
	139:2,7,18,	190:10,24	296:6,9,22
	22 140:3,22	191:3,16	297:6 298:2,
	141:15,21	192:6,10	7 299:1,8,
	143:11,19,23	194:4,13	14,25 301:17
	144:2,11,18,	195:9,15	302:12
	22 145:4,22	196:12	303:4,13,15
	146:4,14,23	197:14	304:7,19
	147:23	198:2,14	305:7
	148:3,6,20	199:7,18	306:18,25
		201:6,23	307:7,18

308:5,11	102:10 106:4	359:23	217:10,12,13
309:2,14	112:10	360:20	361:3
311:7,19,24	128:13	<b>one-sidedness</b>	<b>opposed</b>
313:6,9	148:20	222:12	14:6 112:2
315:23	158:11	<b>one-touch</b>	118:19
316:4,18	166:17	118:22	<b>opposing</b>
317:4 318:6,	169:17	122:15	143:7 182:5
22 321:14	180:22	123:11	<b>opposite</b>
325:1,5	182:19	<b>ones</b>	100:8 175:23
326:11,18	189:17	55:17 106:5	285:10 288:3
329:2,12	195:23	256:5 339:16	339:8
331:3,9,25	197:6,20	351:21	<b>options</b>
332:3,16	198:8 200:7,	353:4,5	202:25
333:12	23 202:14	<b>online</b>	<b>orange</b>
334:24	203:13 205:9	33:6 194:2	289:23
336:25	214:23	<b>open</b>	<b>order</b>
337:6,24	215:10,19	27:6 40:1	92:2 187:20
338:5,19	221:10	43:21 63:14	213:24
340:23 341:8	222:6,12	156:17	230:17,21
346:23 347:1	223:8 225:8,	295:13	272:17,18,19
349:16	20 229:10	<b>open-ended</b>	306:1
358:20	231:4 233:1	192:14 272:4	<b>ordered</b>
359:2,8,16	234:2,7	<b>opened</b>	65:12 200:14
360:6,18,24	238:11,12	123:17	<b>orders</b>
361:19	247:9 250:23	130:10	76:2 187:14
<b>Olson</b>	263:2 270:6	187:14,18	<b>organization</b>
8:9	275:24	188:9 190:22	15:18,20
<b>omnibus</b>	276:23 280:2	297:18	18:13 44:2
81:20	281:16	<b>opening</b>	88:2 107:20
<b>once</b>	282:16,20	188:6,14	<b>organizations</b>
55:11,14	283:20	<b>opens</b>	34:18
65:7 108:15	284:21	187:15	<b>organized</b>
122:23 181:5	290:2,20	<b>operating</b>	32:11 108:1,
199:16	291:4,5,23	198:15	8
<b>one</b>	296:1,24	<b>opinion</b>	<b>organizer</b>
12:9 13:18	297:14	125:8 129:13	89:4
14:15 18:6	304:24	137:24 139:3	<b>organizers</b>
21:10 24:22	307:15	161:6 188:5	87:9 132:19
25:6 30:22	318:6,8	271:11	<b>organizing</b>
36:7,12	323:12	278:22	18:10 42:8
40:22 46:24,	326:12,19	<b>opinions</b>	114:1 250:24
25 47:24	337:14	130:12,14	<b>orient</b>
51:16 52:16	341:22	210:24	163:9 168:16
55:16 61:17	342:11	275:4,12,14	176:5 287:24
68:22 70:10	343:12	276:13	<b>oriented</b>
75:17 76:1,	347:15	<b>opportunity</b>	156:8
11 88:12	356:10	44:7 122:17	
90:3 96:15	357:21		
	358:2,3		

<b>orienting</b> 155:4	125:14 271:17	<b>p.m.</b> 66:23 67:4 68:15 69:12 183:14 264:11 269:3,7,9 337:15 339:2,3 350:13	58:3 76:2,14 78:9 87:4,5 111:5,10 191:17 219:5 225:7,16 248:15 276:6 299:13 306:12,14 311:3 324:9 329:6 333:3 338:25 345:3 360:15
<b>original</b> 155:24	<b>overruled</b> 35:18 37:20 64:4,15 67:11 80:9 98:4 291:19 319:11 355:2 357:12	<b>packed</b> 151:25 157:1	<b>participated</b> 347:20
<b>originally</b> 43:5 58:25 231:16 235:16 237:12 258:11 310:1 344:11	<b>oversees</b> 264:22	<b>page</b> 46:12 82:23, 24 83:15,17 84:19,24 85:20 88:11 114:21 115:5 118:1,9 119:25 313:8 337:19	<b>particular</b> 64:21 189:14 201:20 252:14 265:4 356:10
<b>outcome</b> 75:22	<b>overthrow</b> 78:16	<b>paid</b> 146:8	<b>parties</b> 11:6 12:1 181:8 195:3
<b>outcome-</b> 127:7	<b>overturn</b> 75:16 78:15 334:5	<b>paint</b> 229:9	<b>parties'</b> 12:5
<b>outfit</b> 302:19 303:9,20 304:10	<b>overwhelmingl y</b> 107:13	<b>pan</b> 170:23	<b>partly</b> 305:17
<b>outside</b> 11:22 36:7 57:8,13 58:15 60:13 109:25 154:4 192:20 195:6 205:21 250:19 251:4 266:4,8,11 276:20 280:3,11,19 281:6 343:13,14,25 345:15 346:10,17 350:13	<b>owned</b> 146:8 <b>owner</b> 136:25 146:1 147:5	<b>panned</b> 98:12 152:24	<b>parts</b> 217:12 230:8 233:17
	<b>P</b>	<b>paragraph</b> 244:22,23 245:11 312:2	<b>party</b> 10:11 13:19, 23,24 14:1, 2,5,12 21:3 26:10 33:10, 11 69:15,25 70:14,16,18 89:20 135:1 137:3,4,6,8, 12 147:2 207:25 216:3,10 225:2 262:1 321:23 322:1,5,15 349:11 359:12 360:20
	<b>P-184</b> 243:20	<b>Parc</b> 31:10	
	<b>P-241</b> 82:23	<b>parents</b> 39:7	
	<b>P-267</b> 69:9	<b>Park</b> 44:21 154:23 155:18	
	<b>P-273</b> 71:4	<b>parked</b> 39:24 150:19 151:5	
	<b>P-311</b> 343:6	<b>parking</b> 37:1 150:16 288:7	
	<b>P-78</b> 327:22	<b>part</b> 11:16 15:5 19:19 34:1	
	<b>P-94</b> 61:18		
	<b>P-94-A</b> 61:20		
	<b>P-94-B</b> 68:1		
	<b>P-94-C</b> 63:16,20		
<b>outsiders</b> 201:8			
<b>overcome</b> 235:25			
<b>overlap</b> 283:20			
<b>overlook</b> 245:7 251:18			
<b>overnight</b> 147:24			
<b>overrule</b> 119:13			

<b>pass</b> 236:6	<b>peacefully</b> 160:8 354:11	24 34:6,22, 25 35:2,12 38:22,24 39:1,2,4,5,9 41:21 46:9, 10 47:25 48:6,8,12, 15,16,19 49:1,16 50:17,20,22 51:23 52:19 54:11 55:19 56:8,10,11 57:2,5,6,7 60:22 63:2, 12,19 65:10 69:21,23 70:13 71:18 74:10 81:19 82:15 84:8, 20 85:2,8 86:22 87:14 96:3,23,24 100:5 102:6, 10,15 105:4, 8 107:8,9 109:17 117:17 121:6 133:20 140:8 141:13 145:16,18,23 146:5 147:10,16 151:7,23 153:20,23 155:1 157:22 159:8,13 163:8 164:17 166:9,11,14, 19 170:4 171:4,10,12, 15 173:4 174:11 175:2 177:4,7,12, 17,22 178:1 179:8 188:20 191:25 196:20,21 199:25 206:9	217:14 229:19 230:25 233:20 240:14 245:13 250:23 252:1,10,13, 16 253:2,16 255:9,10 256:24 259:4 260:10 262:1 266:7,13 271:3 280:11,19 281:6 285:21 286:5,8,10, 14,17,20 287:1,3 291:1 292:8 293:8,16,21, 23,25 294:1, 6 296:23 297:4 298:1 299:14,23 300:13,15 301:2,3 304:14 306:10 308:15,17 309:25 312:18,23 313:4,13,18 314:2,4,5,8, 13 316:25 318:14,16 320:10,16, 20,22 321:6, 8 326:3,6, 13,15,20 329:9,18,20, 21 334:9,11, 13 338:12, 15,18,24 354:3,13,16 355:20 <b>people's</b> 54:15 171:8 271:12
<b>passed</b> 103:7 188:19 236:5,19 257:21 327:15	<b>Pelosi</b> 192:25 207:19 208:1,7 209:16,20 215:13,19 218:21 229:22 237:13,22 238:2,22 239:7,20 241:17 243:12 247:3		
<b>passionate</b> 84:7,8			
<b>past</b> 121:9 189:24 216:2			
<b>path</b> 313:14			
<b>patriotic</b> 22:8 48:5 61:15,24 62:10,24 63:5,21 66:2 107:14	<b>Pelosi's</b> 218:3		
<b>patriotism</b> 22:15	<b>Pence</b> 62:10 65:23 66:13,15,24 67:18 68:17, 23 77:21,23 78:4,13,20 80:3,10 81:7 82:6 171:17, 19,20 191:9 332:25 333:19,25 334:1,4 358:5		
<b>Patriots</b> 13:24 14:1 21:3			
<b>Paul</b> 142:18 191:5 215:25			
<b>pause</b> 9:15 23:24 68:2 203:12 243:25 244:9 283:22 335:1 338:9 340:2 341:2,9 344:18 352:20 353:9	<b>Pence's</b> 80:22		
<b>paychecks</b> 16:2	<b>pending</b> 131:24		
<b>Paz</b> 126:23	<b>Pennsylvania</b> 75:22		
<b>PD</b> 40:18	<b>people</b> 11:4 12:13, 14 14:10 15:14 17:7, 13,14,16,17, 25 18:3 20:22 21:8 22:7 23:1,4 24:15 27:21 28:19 29:9, 13,23,25 31:20 33:9,		
<b>peaceful</b> 89:9,21 103:3 107:14 305:23			

<b>pepper</b> 103:23 105:2 328:3	243:12 286:11 289:10	165:24 166:1 167:10,11 169:14,15	334:21
<b>perceive</b> 196:15 212:22	296:24 303:15 326:24 327:6	289:19 290:16,17 302:17	<b>place</b> 155:25 156:24 247:9 299:11 314:10
<b>perceived</b> 194:15	<b>personal</b> 131:8 132:7 257:2	<b>photographer</b> 152:25 308:8	<b>plain</b> 194:21
<b>percent</b> 210:3 211:6 262:17 305:15,20	<b>personally</b> 69:3 82:12 85:9 196:12 226:14	<b>photos</b> 331:10	<b>Plaintiffs</b> 10:21
<b>Percenterers</b> 60:6	<b>perspective</b> 198:14 222:7,24 262:21	<b>phrase</b> 280:10	<b>plaintiffs'</b> 73:24 76:3 77:12 79:7, 18 80:24 82:8,24 85:19 87:15
<b>perception</b> 198:3	<b>perspectives</b> 211:13	<b>physical</b> 49:23 50:4 267:17	<b>plan</b> 18:15,17 20:21 38:3,4 89:17 323:17 355:11,12 360:23
<b>perfect</b> 98:16 341:16	<b>Petitioners</b> 8:8 10:21 203:4 234:4 262:22	<b>pick</b> 283:19	<b>planned</b> 41:13 43:4 316:24
<b>perfectly</b> 67:25	<b>Petitioners'</b> 181:4 202:21 311:20,25	<b>picked</b> 41:19,25 144:14 166:13	<b>planning</b> 42:10,12,22 44:3 121:24 132:19 135:19 156:9 360:11,21
<b>perimeter</b> 201:20	<b>Phelps</b> 186:2	<b>pickup</b> 325:12	<b>plate</b> 143:17 144:3
<b>period</b> 108:6 246:6 279:24 356:25	<b>Phoenix</b> 108:10	<b>picture</b> 19:6,18 164:16,18,20 221:12 292:6 294:4 303:9, 10,12,18 304:14 315:11,16 334:22 337:11	<b>platform</b> 310:5
<b>permission</b> 91:13,17,22 213:6	<b>phone</b> 109:7 229:15 305:14,20 306:23 315:11,17	<b>pictures</b> 168:21 305:18 335:24	<b>play</b> 23:22 50:25 53:3,5 60:17,19 62:4,19 76:10 90:6 97:10 144:22 152:15 158:1 187:25 188:2 204:11 270:8,14 309:15 331:14 338:6
<b>permit</b> 18:4,7 29:12 38:5 44:1	<b>phones</b> 192:18 200:17	<b>piece</b> 122:12,18	
<b>permits</b> 45:9	<b>phonetic</b> 24:19 28:7	<b>Pierson</b> 47:5,7 51:6	
<b>permitted</b> 192:18 256:22	<b>photo</b> 69:17,20 161:24 162:2,9 163:14,15, 19,25 164:9, 10,14,15,22	<b>Pierson's</b> 46:2	
<b>perpetrated</b> 31:19 34:9 71:17 245:9 329:21		<b>Pima</b> 127:1	
<b>person</b> 60:25 61:10 173:20,21,22 214:24 216:3,5 234:2,7,8		<b>pitchfork</b> 304:1 317:9	

351:23	71:5 74:6	174:15,23	289:18,21
353:23	77:12 79:5	175:20	291:5,21
<b>played</b>	87:16 88:11,	176:13,23	292:4 298:3
24:6 51:4	12 113:6	177:8 178:3,	299:7,9,22
52:13 56:3	125:14 128:5	6,24 181:7,	301:5,9,15
60:24 61:21	136:1,10,11	12,13 193:6,	308:23,25
62:6,21 90:6	144:25	19 195:23	314:16 337:4
98:10 106:13	146:17	197:9,22	338:21
145:5 152:17	152:16	199:6 200:3	339:5,20
154:14 158:2	153:12	205:18	350:18
165:20	154:13 158:1	207:9,22	352:10
170:16	163:14	212:5 244:8	353:13
172:5,11	164:7,15	264:3,24	354:18
175:16	165:12,19	265:11,15	355:22
178:20	169:13	267:17	<b>policy</b>
270:16	170:15	281:15	14:25
284:3,7	171:23	284:20 285:2	<b>polite</b>
287:9 299:3	178:19	286:24,25	321:12
300:10 307:3	184:12	294:3 296:12	<b>political</b>
309:16 315:5	243:20 263:2	297:14	49:24 50:1
330:3,12	271:21 287:8	299:15	109:17
331:15	299:2 300:9	305:15	228:21
332:20	302:16	307:16	229:5,8
333:8,22	303:14	308:11,24	230:1 244:25
338:8 347:16	306:23	314:7 317:24	245:3,19
351:24	309:15	327:20	246:19,24
352:7,19	311:22	334:5,7	247:2
353:8,25	339:22 350:6	345:18 353:2	272:12,13
<b>playing</b>	353:7,23	360:20	274:13
51:19 333:21	355:1 357:3,	<b>pointing</b>	276:12
334:10 352:5	23	80:23	319:18
353:6	<b>podium</b>	<b>points</b>	348:10,12,
<b>plays</b>	194:19	127:4,5,17	17,25 349:1
49:5	<b>point</b>	<b>police</b>	<b>politician</b>
<b>Plaza</b>	10:24 11:22	28:11 36:17,	26:8
18:22 21:12,	17:20,21	22 61:24	<b>politics</b>
13,21 22:5,	29:22 38:16	144:1 154:23	13:16,20
19 23:10	41:10,11	155:19 173:7	16:13
33:24 38:6	43:9 46:15	174:25 177:1	228:20,24
42:16 43:6,	57:11 59:12	192:22 193:7	229:2
19	61:6 89:20	194:14,18	<b>Pond</b>
<b>please</b>	95:3 97:19	195:10,11,16	150:17
13:3,14	99:14 102:14	196:19,23,24	<b>Pool</b>
23:23 33:1	103:2 122:16	197:1,16,18	150:18
35:23 51:3	133:13 141:6	201:7 205:14	<b>popped</b>
54:10 61:20	148:8,11,23	206:19 245:8	28:8 196:3
62:5,20 64:7	160:13 165:2	258:1 287:3,	<b>popping</b>
67:21 69:9	169:19	20 288:9,10	196:2

<b>popular</b> 85:5	117:11,13,23 257:18	105:24 233:1	159:16
<b>popup</b> 148:15	<b>potentially</b> 240:12	<b>present</b> 60:10 64:13 213:20 218:4,5 231:4,5 247:8	168:13 187:13 191:8,9 195:1 209:18,21,24 211:8 212:9 218:9,17 226:3 227:19 231:1 240:18,20,23 241:1,11 243:8 246:1 248:5 249:23 250:1,4 251:2 261:17 263:18 264:22 271:2,6,24, 25 272:6,10, 20 322:5,8, 13,19 323:1, 4,13 329:25 331:22 334:4,6 345:23 349:3 356:6
<b>Portland</b> 142:15	<b>POTUS</b> 120:5	<b>presented</b> 133:5 219:14 249:13	<b>President's</b> 230:12 262:1
<b>portray</b> 231:5	<b>pounds</b> 318:4	<b>presenting</b> 97:17	<b>presidential</b> 77:21 85:23 125:18 126:24 278:4
<b>posed</b> 303:12	<b>power</b> 45:15 79:22 80:4 81:1 89:9 219:18	<b>president</b> 14:17,20 15:21 16:9 24:23 27:1 34:2 42:23 43:2,10,15 44:4,9 47:1 48:7,22 49:2,15 50:6,14,18, 20 54:13 58:19 59:16, 25 65:22 66:13,14,15, 23,24 67:3, 10,13,18 68:17,21 72:1,16 75:13,18 77:24 78:7, 9,12 79:20, 22 80:3,22 81:1,7,9,10, 24 85:6,17 86:18 87:7 88:18 96:13 105:20 106:9 107:15 124:15,18 125:1,7,12 127:10,20,24 132:18 133:19 138:19,25 139:6 152:4 158:19	<b>presides</b> 187:13 <b>presiding</b> 264:19,21 <b>Presler</b> 21:5 <b>press</b> 14:16 243:15 244:12 258:21 <b>pretty</b> 18:17 55:8 65:6 97:1 99:18 147:21 149:17 153:8
<b>position</b> 12:5 94:14 136:23 152:7 181:21 184:25 185:2,20 186:3 204:13 320:21	<b>powerful</b> 85:5 <b>practical</b> 123:5 <b>prayed</b> 292:18 <b>praying</b> 99:7 <b>pre-rally</b> 96:5 <b>precautions</b> 39:11 <b>precursor</b> 35:10 <b>predating</b> 35:8 <b>predicate</b> 234:24 <b>preference</b> 203:8,16 <b>prejudice</b> 74:25 <b>premise</b> 343:25 <b>preordained</b> 129:10 <b>preparations</b> 143:15 <b>prepare</b> 140:4 205:19 <b>prepared</b> 231:16 359:23 <b>preparing</b>		
<b>positions</b> 194:22 195:18			
<b>possibility</b> 181:2 323:10,11			
<b>possible</b> 44:8 229:10 245:12,20 334:8			
<b>possibly</b> 43:15 78:2 238:17 353:22			
<b>post</b> 183:2 256:12,14,15 312:8,13 315:11			
<b>post-january</b> 203:25 204:3			
<b>posted</b> 141:18 256:6			
<b>posting</b> 256:17			
<b>postured</b> 227:13,14			
<b>potential</b> 105:18			

154:19 159:9	180:4,10	345:4,16	<b>prohibited</b>
160:13	192:3	346:11	92:3
167:14,20	197:19,24	348:10	<b>prohibiting</b>
173:11 182:6	204:5,18	359:24	235:7
200:25 209:2	227:25	361:22	<b>prominent</b>
273:1 304:10	289:15	<b>process</b>	335:23
317:13	293:20	19:19 130:23	<b>promote</b>
<b>prevent</b>	294:25	131:2 187:10	348:12
275:21	295:25	188:3,17,18	<b>promoting</b>
<b>prevented</b>	299:11	190:11,23	132:20
250:14	305:17	191:15	<b>proof</b>
267:14	306:10	206:25 214:6	76:4 85:24
<b>previous</b>	315:14	216:9,25	323:2
64:12 333:15	319:19	223:12	<b>proper</b>
<b>previously</b>	325:20	225:7,17,19	141:10
11:9 97:14	330:21	227:10 228:7	189:21
283:13	333:13,16	232:23 233:4	191:12
332:18	340:15,25	235:14	<b>properly</b>
334:18	358:18 361:6	242:18	190:9
335:10	<b>probe</b>	247:15 248:9	<b>proposition</b>
341:18 350:8	74:24	251:24	218:15
<b>primary</b>	<b>problem</b>	268:16,19	<b>Propublica</b>
20:8	54:2 129:16	269:1 276:1	108:4,18
<b>printout</b>	157:7	347:10,12	<b>prosecution</b>
113:3	<b>problems</b>	348:19	255:14
<b>prior</b>	9:6 212:22	355:15	<b>prosecutions</b>
58:20 76:24	<b>procedure</b>	<b>processes</b>	273:22
96:2,15	186:14,25	204:15	<b>prosecutor</b>
151:1	260:23	<b>produced</b>	213:5,19
185:15,23	<b>procedures</b>	218:14	230:19 240:2
199:20 205:9	202:15	219:3,4	241:20 242:2
<b>private</b>	216:22	221:3 228:12	252:25
254:5 258:6	259:19 261:1	336:3	253:8,13
<b>privilege</b>	<b>proceed</b>	<b>production</b>	347:21
249:24 250:9	19:22 80:17	219:21	<b>protected</b>
<b>pro-life</b>	91:9 143:10	<b>profess</b>	348:5
142:12	204:10 350:4	53:10	<b>protecting</b>
<b>probably</b>	<b>proceeding</b>	<b>professional</b>	255:4
31:16 44:13	91:19 95:13	298:17	<b>protest</b>
84:7 85:14	209:21 230:7	<b>professionals</b>	201:2
105:8 108:8	233:18	48:17	<b>protesters</b>
109:18	241:24 242:1	<b>professor</b>	201:11,19
112:17,21	257:9 342:2,	186:11	266:22
137:20 156:1	5 344:6	361:20	<b>protesting</b>
160:22	<b>proceedings</b>	<b>program</b>	200:1 201:12
168:25	91:11 241:3	18:25 21:18	<b>protocols</b>
179:19	249:10	38:8 186:13	198:17
	342:14 344:7		

<b>Proud</b> 60:2 111:6	106:11 113:6 270:12 278:16 327:21 330:1 331:12 332:17 333:4 334:17,25 337:18 339:23 352:17 357:3	254:14 255:18 292:18 295:1,3 303:25 306:15 323:25 359:23	121:24 122:10 123:16 130:6 134:20 143:6 172:16 181:11 184:23 192:14 204:7 225:18,25 227:12,17, 18,24 231:11 233:2 234:7 242:15 244:19 256:13 257:5 260:18 274:20 279:3 321:16 344:17 346:25 349:9,10,12, 14 356:4 359:10,11, 13,14
<b>prove</b> 345:18		<b>putting</b> 205:15 321:8	
<b>provide</b> 255:12 257:14 260:11	<b>pull-through</b> 287:21	<hr/> <b>Q</b> <hr/>	
<b>provided</b> 202:7,8 221:17 222:8 331:11	<b>pulled</b> 154:19 239:16	<b>question</b> 25:15 31:4 59:8,15 75:5,16 77:22 83:25 112:8,10 122:23 125:16 126:11 128:7 129:7 131:23 132:3 203:17 205:9 212:7 226:20 228:2 253:11 271:20 272:4 281:17 282:16,20 291:12,17,22 292:22 302:10 330:12 343:25 351:8 357:21	
<b>provides</b> 221:8,9	<b>pulling</b> 321:7		<b>quick</b> 18:6 180:22 219:16 308:6,9 324:23
<b>providing</b> 224:5 255:22	<b>purely</b> 111:25 246:23		<b>quickly</b> 118:13 200:25 277:16 334:20
<b>provision</b> 235:11 259:25 260:4	<b>purpose</b> 224:12 229:4,5,8 247:5		<b>quite</b> 85:12 317:20 331:24
<b>provocateurs</b> 318:20	<b>purposes</b> 256:21 343:19		<b>quote</b> 108:21 110:2,22 344:6
<b>provocateurs'</b> 313:19	<b>push</b> 314:4		<b>quoting</b> 182:25
<b>psychological</b> 71:17	<b>pushing</b> 15:1 200:19 267:20,25 268:3		<hr/> <b>R</b> <hr/>
<b>public</b> 131:5,7 160:16 188:10 226:11,13 228:13 249:14 252:19,25 253:4,9,19 254:24 256:10 258:6 260:18	<b>put</b> 9:9 27:9 29:14 35:15, 17 45:12 69:2 76:17 87:7 91:15 108:19 116:14 134:6,17 144:9 158:12 181:4,22 194:7 197:6 201:16 241:21 243:19 248:2	<b>questioned</b> 217:16 260:19,21 <b>questioning</b> 226:16 <b>questions</b> 54:18 64:1, 12 88:7 90:2,13 101:7 112:3, 18 116:23 118:24	<b>race</b> 77:21 127:6

<b>radicals</b> 312:23	87:10 95:4, 5,8,11,14,25	<b>Ray</b> 106:23	249:25 250:7
<b>radioed</b> 303:1	96:17 97:15	<b>Rayburn</b> 99:24	344:16
<b>radios</b> 171:13 334:9,10	99:8,15 100:7 101:15	<b>re-call</b> 283:5	351:10
<b>raining</b> 96:22	102:6,19 103:1,7,8 105:17 107:4,15 109:25 110:6,14 115:19 117:6 118:19 119:7 121:9,21 122:20 132:19 137:18,24 138:1,18,20, 24 250:25 311:10 322:21 325:7 326:1,13 327:10,15,16 329:9,25 330:19,25	<b>re-elected</b> 127:4	<b>readdress</b> 12:3
<b>raise</b> 13:2 93:16 122:23 136:2 180:22 184:12		<b>re-tweet</b> 79:24 81:3,4	<b>reading</b> 66:3,13,22 91:14 244:16
<b>raised</b> 97:14 261:3 348:15		<b>re-tweeted</b> 88:3	<b>ready</b> 60:14 96:6 106:6 140:7 179:19 183:15 205:24 337:11 350:4
<b>raising</b> 78:6		<b>re-tweeting</b> 79:19 87:19	<b>real</b> 129:21 183:24 213:21 219:16
<b>rallies</b> 33:15,19,21 34:7,23 35:1,8 36:4 37:13 61:15 64:13 70:6 74:11,18 89:5,16,18 108:1,9,16, 20 109:15 114:1 312:20 329:14,15		<b>reach</b> 257:24	<b>realize</b> 205:25
<b>rally</b> 18:8,11,16, 22 20:23 22:4,19 24:13 25:25 26:13 27:21 28:1 29:12 31:21,24 32:8,15,22 33:4,9,24 35:7 36:6,19 38:2,3,14,23 40:5,9,10,14 41:15 42:9 43:3,14 47:18 49:9 52:19 64:12	<b>rallying</b> 14:17	<b>reached</b> 43:13 70:5	<b>realized</b> 174:24
	<b>ramp</b> 317:18	<b>react</b> 88:20,23 291:21 296:23	<b>reason</b> 11:16 19:16 20:13 29:3,4 74:18 75:6 81:6 139:20 183:18,19 231:4 237:5 238:16 248:4 259:13 329:2 337:24
	<b>ran</b> 26:10 36:20 147:4 208:25 226:2	<b>reacted</b> 66:22 201:7	<b>realize</b> 205:25
	<b>Rand</b> 142:18	<b>reacting</b> 50:9	<b>realized</b> 174:24
	<b>range</b> 102:24	<b>reaction</b> 48:25 101:21 123:20 158:21 296:12 300:16 356:6,22,24	<b>reason</b> 11:16 19:16 20:13 29:3,4 74:18 75:6 81:6 139:20 183:18,19 231:4 237:5 238:16 248:4 259:13 329:2 337:24
	<b>rapidly</b> 305:20	<b>reactions</b> 106:9 171:8 329:24	<b>reasons</b> 97:14 247:10 250:10 279:13 318:9
	<b>Raskin</b> 8:16,17 10:13 90:14 135:2 182:11,13 349:12 359:13 360:22	<b>reactive</b> 49:6	<b>rebel</b> 110:16,23
		<b>read</b> 19:18 66:5 74:4 81:18 83:4,5,11,13 88:2,12 110:19 114:14 217:12 235:2 244:5,17,18	<b>rebellion</b> 111:18
			<b>rebuttal</b> 10:22 360:13,15
			<b>rec</b> 201:17

<b>recall</b> 57:6 119:2 122:9 222:23 236:20 237:4,5,6 243:14,18 258:19,20 260:2 264:12 268:21 270:22 350:14 356:19 <b>received</b> 25:18 52:7 90:10 91:12 101:22 146:20 153:16 157:13 159:25 162:16 164:3 165:15 167:7 169:9 170:11 172:3 175:12 178:15 179:16 223:11 228:12 293:2 300:5 302:6 305:5,8 309:12 310:17 357:14 <b>recent</b> 216:19 225:2 280:21 360:16 <b>recently</b> 217:18 280:18 <b>recess</b> 91:8 184:5 232:12 349:25 <b>recognize</b> 319:19 <b>recognized</b> 190:16	<b>reconciliatio n</b> 59:1,11 <b>reconvene</b> 91:4 183:13 232:10 <b>record</b> 8:2 19:14 20:10 27:9 53:18 64:6 91:21 92:14 113:17 116:10 136:11 184:4 185:2 220:9, 14 237:3 289:13 <b>recorded</b> 91:20 256:7 335:5 <b>recorder</b> 289:4 <b>records</b> 116:25 <b>RECROSS- EXAMINATION</b> 130:20 <b>red</b> 303:22 <b>redirect</b> 88:8,14 119:15 128:8,10 281:19 282:19 340:18 347:5 357:18 <b>reelection</b> 125:17,22 126:16 273:15 <b>refer</b> 280:19 281:6 <b>reference</b> 25:24 27:4 204:5,18	<b>references</b> 133:14 <b>referencing</b> 27:2 29:3 <b>referred</b> 57:16 61:16 76:20 220:5 345:15 <b>referring</b> 65:23 95:20 119:19 159:5 211:24 226:11 313:1,2 342:20,24 344:20 <b>refresh</b> 278:14 284:4 <b>refused</b> 200:11 207:24 215:14 223:9 240:23 241:2 249:23 250:3,5 <b>regard</b> 35:6 47:11 342:19 <b>regarding</b> 19:14 20:10 53:18 92:14 246:9 274:8 344:6 <b>regret</b> 82:7 <b>regular</b> 108:5 <b>regularly</b> 117:20 <b>reign</b> 74:22 <b>reiterate</b> 92:2 <b>reject</b> 79:23 80:4 81:1,8 239:7	<b>rejected</b> 215:14 239:10,15 <b>rejection</b> 87:21 <b>related</b> 180:23 249:8 <b>relating</b> 118:25 <b>relation</b> 164:22 165:24 168:6 175:19 179:3 216:6 288:1 307:18 336:20 342:17 <b>relationship</b> 208:19,21,22 229:2 <b>release</b> 116:25 243:15 244:13 253:18 254:3,12 258:21 <b>released</b> 90:20 113:12 116:7 117:1 135:5 254:15,18 273:14 282:18 349:19 359:17 <b>relevance</b> 25:16 30:18 34:17 35:7 142:21,23 274:18 <b>relevant</b> 26:17,25 34:20,21,23 35:5 122:7 143:4 260:10,13 274:20 280:2
--	---	--	--

<b>reliability</b> 248:7	<b>repeated</b> 342:9	210:23	<b>Republican</b> 8:4,18 10:11
<b>relieved</b> 145:15	<b>repeating</b> 223:5	211:21	26:10 69:15,
<b>remember</b> 9:12 11:15 32:10 50:10 82:18 128:14 140:19 153:10 193:20 200:7 228:19 236:21 237:25 238:1 258:21 264:19 270:9,21 278:2,8,10 280:13,15 284:8,10 311:2 342:3, 15 343:3 347:13 358:6	<b>replay</b> 358:3	244:13 261:23 284:24 336:2	25 70:14,16, 18 135:1 137:4,6,8,12 200:21 207:13,15,25 208:4 211:5, 6,7 212:19 213:13 225:2 235:24 237:23 238:8,11,13 257:21 273:18 321:23 322:1 349:11 359:12 360:20
<b>remembered</b> 344:4	<b>report</b> 75:11 131:15 132:12,16, 22,25 133:4, 9,15,23 134:7,12,16 182:21,22,24 215:5,8 217:12,15, 20,22 219:5, 6,7 220:4 221:3,19 223:8,15,21 224:22 228:25 229:5,6,12, 25 230:9 247:17 248:7 254:14,15 256:9 257:6 258:19,21, 22,24 259:1, 3,5,9,21,25 260:4,5 262:13 271:15 273:7 279:21 337:22 345:24 360:17	<b>representatio n</b> 25:9 40:9 51:25 98:14, 16 293:24 <b>Representativ e</b> 108:12,14,15 119:8,20 124:3,5 125:17,22 126:15 127:23 184:18 204:14 205:6 208:12 211:22 212:1 215:15 220:5,9 221:15 222:8 224:19,24 239:1,2,3,4, 11,12 240:11 243:11,15 244:14 271:11 275:11,14, 18,25 276:8, 11 278:22 279:3 324:21 340:3 343:14 345:13 349:5	<b>Republicans</b> 200:9 207:8, 16 208:9 210:1,5 211:12,17 212:24 218:20 220:20 225:18 235:21 236:24,25 238:5,7,16, 17,25 248:13 252:4,8,20 261:19,20,24 319:14
<b>remote</b> 90:25	<b>reported</b> 312:2	<b>Representativ es</b> 211:14,24 212:25 214:3 239:23 264:10 287:14 324:13	<b>request</b> 91:24
<b>remotely</b> 360:11	<b>reporter</b> 19:17 20:16 45:23 94:3		<b>requested</b> 302:24
<b>remove</b> 77:24	<b>reporting</b> 65:4,7		<b>required</b> 44:22 259:22 260:5
<b>removed</b> 215:20,25 264:20	<b>reports</b> 124:21 235:8	<b>represented</b> 116:6 211:4	<b>requirement</b> 12:2,16
<b>removes</b> 216:5	<b>represent</b> 113:10 168:11		<b>requirements</b> 234:24 235:10
<b>renew</b> 121:12 224:8 279:12			
<b>repairs</b> 150:9			
<b>repeat</b> 27:17 31:4 126:11 271:19 280:10			

<b>reserved</b> 12:14	<b>results</b> 75:17 87:22	18:13 21:8	273:15
<b>Resolution</b> 236:19	334:6	25:22 32:21	277:20,25
<b>resolve</b> 46:17	<b>resume</b> 180:2,16	33:4 35:22	285:19
<b>resolved</b> 46:5	361:19	40:1 41:2	287:11
<b>respect</b> 97:14	<b>retracing</b> 307:19,22	46:6,19 47:6	288:5,9,15,
173:13,15	<b>retreat</b> 70:12	51:20 52:23	16,19 289:17
211:1 212:3	<b>returned</b> 268:25	53:8 55:5,6,	290:11,16
229:24	<b>Reuters</b> 132:22	7 59:12	291:9,24
276:1,4,11	133:8,23	60:1,14 65:8	293:9 294:23
339:16	182:20,23	69:6,13,16,	295:17,24
352:12,23	<b>revenge</b> 318:15	19 73:21	296:2,13
353:17	320:16	77:19,20,25	300:21
356:10	<b>review</b> 223:24 224:1	79:24 80:1	302:25 309:8
<b>respected</b> 351:19	<b>reviewed</b> 83:9 249:3,	83:18 84:4,	311:4 313:10
<b>respecting</b> 353:1	7,10	13,25 86:15	317:8,10
<b>respond</b> 194:14 297:1	<b>revisit</b> 97:24	88:24 93:17	318:11
355:1	<b>revolutionary</b> 315:18	94:4 98:9	321:23
<b>responded</b> 118:5 120:8	<b>revolve</b> 204:5	99:16 101:3	322:9,14
<b>Respondent</b> 8:25	<b>rhetoric</b> 84:19 85:1,	102:16	323:11,13
<b>response</b> 64:7 202:23	6,9,11 86:5	108:22	325:8,11,13,
343:17	109:14,16,19	115:20	19 327:7,11
<b>responses</b> 245:15	<b>Rhodes</b> 111:7	117:7,12	329:23
<b>responsible</b> 351:4	<b>ride</b> 99:21,24	119:23 124:7	331:17,20
<b>restate</b> 226:20	140:10,11,20	125:19	332:9,11,21
<b>rested</b> 122:13	310:25 324:4	127:21	333:7,14,17,
<b>restroom</b> 160:17	<b>ridiculous</b> 84:11 319:6	133:18	18,23 334:1,
<b>result</b> 214:9	<b>rigged</b> 85:23	134:18	22 335:1,6
<b>resulted</b> 75:18 124:24	<b>right</b> 9:16 13:3	135:10 136:2	336:7,13
	16:11,18	145:16,25	350:24
		150:17,19,22	351:20,22
		155:21	352:4 357:16
		164:24 175:1	<b>right-hand</b> 314:17
		176:10,11	<b>rights</b> 348:5
		179:5 184:12	<b>riled</b> 57:25
		214:7 232:21	<b>riot</b> 72:3 142:15
		235:5	230:5 245:2,
		236:11,23	14
		239:5,6,17,	<b>rioters</b> 199:22
		24 242:24	350:20
		243:3 244:16	<b>riots</b> 199:22 245:4
		249:19	<b>rises</b> 319:15
		250:13	
		253:21	
		254:19,25	
		262:3 264:16	
		266:16 267:8	
		268:17	
		269:2,8,9,23	
		270:1,4	

<b>Ritz</b> 70:12 <b>RNC</b> 17:11 70:2, 4,11,20,24 <b>road</b> 37:6 287:22 <b>Robert</b> 8:19 <b>robust</b> 181:17 <b>Rocking</b> 137:2 <b>Rodney</b> 239:1 <b>role</b> 187:24 188:2 214:4,5,20 218:3,6 <b>Ronna</b> 70:10 <b>room</b> 65:9 92:12 196:6 205:21 206:2,7 296:1,4 297:15 323:25 <b>Roth</b> 8:14 <b>roughly</b> 102:23 139:9 160:21 168:5,24 247:24 264:11 269:3,7,23 285:17 <b>rounded</b> 289:21 <b>route</b> 32:10 <b>Rudy</b> 26:23 27:13 240:21,22 241:6	<b>rule</b> 101:19 118:22 122:15 123:12 204:9,22 234:2,25 235:7 253:10 274:4 <b>rules</b> 190:14 191:22 <b>rulings</b> 249:8 348:3 <b>rumor</b> 132:8 <b>run</b> 15:12 16:1 37:4,5 129:20 281:14 <b>running</b> 83:7 300:13 <b>runs</b> 15:2,11 <b>rush</b> 12:13 123:18 168:2 <b>Russia</b> 78:7 <b>Ryan</b> 200:11 <hr/> <b>S</b> <hr/> <b>safe</b> 28:19 29:13, 19 40:1 299:11 <b>safer</b> 43:25 <b>safety</b> 142:4,7 <b>salacious</b> 274:12 <b>sat</b> 225:10	<b>satisfying</b> 234:24 <b>Saturday</b> 18:5,7,9 41:20 77:18 <b>save</b> 166:17 <b>savvy</b> 20:4 <b>saying</b> 15:15 28:11 29:9 33:2 56:5,8 66:9 78:11 80:20, 25 82:1 85:14 86:15, 16 87:14 110:9 111:2 121:4 133:9 154:24 158:23 159:1 177:11 183:3 211:25 253:7 257:22 263:25 269:11 271:1,23 278:2,8 280:13 314:23 315:2 342:3,15 343:3,20 344:4 <b>says</b> 61:10 75:12 79:22 86:21 88:4 91:16 117:4 120:25 223:14,15 224:4,9,10 244:24 272:7,11 312:2,7 313:12 316:5 333:18 <b>scaffolding</b> 179:5,7	<b>scant</b> 133:24 <b>scene</b> 51:18 307:12 356:17 <b>scenes</b> 182:9 255:7 <b>schedule</b> 231:19 232:6 263:14 340:8 349:7 359:19 <b>scheduling</b> 10:25 <b>school</b> 186:9,14 200:8 267:10 351:7 <b>scissors</b> 104:10 328:16 <b>scope</b> 74:20 111:21,25 119:4 122:7 133:1 202:6 204:19 231:16 250:20 251:4 262:15,18,22 274:13 276:21 280:3 344:1 345:25 <b>Scott</b> 8:14 21:5 150:4,6 151:14 <b>screamed</b> 313:21 <b>screaming</b> 197:12 <b>screen</b> 19:16 52:22 75:6 103:19 243:23 283:24 327:24
--	--	---	--

<b>Screw</b> 174:12	<b>seconds</b> 60:21 193:20	87:17,25	337:7,22
<b>screwdriver</b> 37:2	<b>secret</b> 43:20 44:15,	92:11,18,21,	340:22
<b>screwdrivers</b> 104:10	23 103:5	22,23 93:4	353:12,20
328:16	104:14	96:12 97:19	354:13,16
<b>Scroll</b> 313:9	252:18	99:11 100:1,	358:12
<b>scruffy- looking</b> 294:19	327:13	10 103:18,	<b>seeing</b> 49:10 74:12
<b>sea</b> 57:2 69:20,	<b>Secretary</b> 9:1,2 134:22	21,24,25	258:20
22	182:17	104:2,4,6,11	322:16
<b>seal</b> 113:16 116:9	349:15	105:20	<b>seek</b> 213:6 273:15
200:24	359:15	106:15	<b>seeking</b> 75:16 226:1
<b>Sean</b> 8:8	<b>section</b> 179:20	113:15,18,21	271:10
<b>search</b> 246:24	255:12 257:6	114:3,23	<b>seeks</b> 143:7
347:17,25	<b>secure</b> 16:10 148:17	115:12	<b>sees</b> 93:3
348:6,11,12	199:3 206:6	118:6,7,14	<b>Select</b> 103:13
<b>seat</b> 65:19 197:4	<b>securing</b> 196:11 197:3	120:6,7,10,	113:13 116:8
215:24	<b>security</b> 34:24,25	11 129:24	130:24 131:2
241:13	36:8,13,14	139:21 146:9	202:2 235:15
<b>seated</b> 207:21 208:9	37:3,7 40:22	147:20	236:20,21
229:21 242:5	43:17 103:7	155:15,20	237:11,23
<b>seats</b> 191:22	115:10	161:11	247:4 258:12
193:11 216:5	117:10,19,	172:23	259:11
265:19	20,21 192:24	174:22	327:19
<b>Seattle</b> 329:14	194:13,14	176:24	<b>selected</b> 129:12,14
<b>second</b> 9:9 19:3	195:10,11	177:2,6,7	<b>selection</b> 233:4
24:13 59:6	197:16	182:9 196:8	<b>self-defense</b> 105:5
122:12,18	198:15 256:4	197:4 199:5	<b>self- incrimination</b> 249:20
148:21 187:8	327:15	205:13,16,19	<b>selfie</b> 158:5
244:1 261:4,	<b>see</b> 19:22 20:13,	243:24	<b>Senate</b> 187:16
7 295:7	15,17 29:8	244:7,12,23	190:16,21
312:1 316:15	35:7 45:24	245:25	191:13
335:12 340:3	48:7 49:3,9	254:24	206:17
	50:16,19	263:25	235:23,24
	51:18 52:21	269:13	236:4,10,18
	53:6,7 54:15	277:16	262:6,7
	56:2 57:1,3	278:14	
	60:20 65:24	283:23 286:2	
	66:5,8 67:20	289:12,22	
	68:4 74:2	290:6 292:14	
	75:8 77:14	293:6,12	
	85:21 86:3	294:16	
		297:10,22	
		301:4 304:17	
		308:12,23,25	
		313:22 315:4	
		322:23	
		324:15	
		327:24	
		328:3,4,6,	
		10,13,17	

268:25	213:6 243:13	<b>shield</b>	<b>shoulder</b>
<b>Senate's</b>	<b>served</b>	353:16	291:24
263:17	116:18	<b>shirts</b>	<b>shoving</b>
<b>senator</b>	185:21 209:2	100:11,18,19	200:20
87:20	212:24	<b>shit</b>	267:20,25
189:19,23,25	<b>service</b>	110:9	268:3
190:2,4,10,	40:19 43:20	<b>shock</b>	<b>show</b>
11 191:10	44:15,22,23	107:9	55:25 61:18
<b>senators</b>	103:6 104:14	<b>shocked</b>	74:24 82:20
86:1 88:19	264:2 327:14	315:8	87:13 95:10
<b>send</b>	<b>serving</b>	<b>shoe</b>	97:17 103:12
67:16 68:18	213:11,12,13	303:22,23	106:8 120:17
120:3	<b>session</b>	<b>shoes</b>	277:24 278:3
<b>sending</b>	115:11	303:21	310:11
342:18	<b>set</b>	<b>shoot</b>	326:16
<b>Senior</b>	65:21 74:2	301:15	327:18
158:17,19	91:2 149:2	<b>shooting</b>	329:23
<b>sense</b>	152:11	31:12 174:25	339:19
11:4 12:6	176:2,15	176:20	343:22
43:19 154:7	201:14 228:7	177:3,11,25	352:15
156:20 162:6	251:13,14	200:6,8	<b>showed</b>
167:13 182:1	347:24	267:7,11	40:7 318:1
198:17	<b>setting</b>	300:15	<b>showing</b>
205:18 211:9	20:3 96:3	<b>shopping</b>	17:18 75:6
233:16	<b>setup</b>	36:25	96:5 98:2
267:23	57:6 96:6	<b>short</b>	113:16
307:16 308:9	313:21	21:19 108:20	311:24 321:7
<b>sentiments</b>	<b>seven</b>	231:13	<b>shows</b>
358:25	189:5 197:19	<b>short-</b>	97:18 222:6
<b>separate</b>	208:8 238:7,	<b>circuited</b>	328:1 332:5
75:14 218:24	15	347:2	356:24
219:16	<b>seventh</b>	<b>shorter</b>	<b>shrugged</b>
220:4,16	189:17	308:7	291:25
<b>separated</b>	<b>shadow</b>	<b>shortly</b>	<b>shut</b>
28:16	258:8,14	243:16	15:23 31:11,
<b>Sergeant</b>	<b>Shadowy</b>	<b>shot</b>	14 201:5
218:5 258:2	72:22	142:17	267:6 295:11
<b>series</b>	<b>share</b>	143:21 173:2	<b>shuttle</b>
206:15,19	211:19	198:4,6,13	115:9
<b>serious</b>	212:13	300:23	<b>sic</b>
197:13	243:22	301:14 315:3	51:6 142:11
244:25	324:4,5	317:25	191:24 220:6
<b>seriously</b>	<b>shared</b>	318:4,16	<b>side</b>
84:13	210:15 212:8	337:15	26:24 56:19
<b>serve</b>	215:11	<b>shots</b>	100:15,16
137:3 185:19	<b>sharpened</b>	265:25 267:1	176:4,9
211:15,19	37:2	268:7,12	179:6 190:18
			193:22

200:21 201:2	<b>signified</b>	242:13	230:18,22
217:15,20	69:15,25	297:13	<b>son</b>
218:25	70:15	<b>size</b>	141:22,24
221:9,10	<b>signs</b>	317:14	143:14,16
222:12,16	100:21 320:8	<b>skip</b>	<b>son's</b>
225:21	<b>silver-dollar</b>	121:9	143:23
229:10	317:14	<b>sky</b>	<b>sort</b>
230:25	<b>similar</b>	172:21	22:16 50:13
231:3,6	212:16	<b>slate</b>	153:1 157:16
238:10,11	348:20	41:24	159:11,13
254:25	<b>similarly</b>	<b>slept</b>	166:19 171:8
284:11	22:22	147:24	197:15
285:10,22,25	<b>simple</b>	<b>slower</b>	199:19 214:4
286:11	18:18	45:22	220:15 228:8
287:17 288:3	<b>simply</b>	<b>slowly</b>	268:2
290:16,20	29:18 250:5	19:21	285:10,16
292:17	291:16	<b>small</b>	289:12
293:9,13	<b>singing</b>	137:1 150:16	290:24
308:16	22:16 23:2	171:5 210:2	<b>sorts</b>
314:17	24:20,21	314:18	74:14 112:1
317:12,17	96:24 99:7	<b>smaller</b>	123:1
335:8,13,17,	<b>single</b>	199:25	<b>sought</b>
18,19,20	39:5 91:23	<b>smash</b>	235:17,21
336:17	<b>sir</b>	295:23	357:6
339:5,6,8	94:7 146:24	<b>smashing</b>	<b>sound</b>
350:19 355:8	248:5 330:15	295:20 297:9	176:17 196:2
<b>sides</b>	<b>sirens</b>	338:24	239:5,6
213:23	172:9	<b>smoke</b>	262:3 269:2,
219:14	<b>sit</b>	161:16	7,23 270:1
229:13	194:23	<b>smooth</b>	282:8 336:7
230:23	207:25	46:11	<b>sounded</b>
286:14	214:17	<b>snap</b>	196:9 341:13
<b>sidewalk</b>	215:22	308:9	<b>sounds</b>
308:1 317:11	235:4,9	<b>snapped</b>	11:3 106:22
<b>sideways</b>	240:5	164:18	111:25
307:5	<b>sitting</b>	<b>social</b>	135:16 269:9
<b>siege</b>	65:1,9 72:16	15:9 342:19	361:1,21
121:25 122:1	188:6,15	<b>soft</b>	<b>sources</b>
123:21	193:24	341:14	182:25 255:5
<b>sign</b>	194:24 195:4	<b>Solutions</b>	<b>south</b>
255:25	202:9 242:6,	137:1	32:6 100:15
<b>signal</b>	8	<b>solves</b>	<b>sparing</b>
192:19	<b>situation</b>	54:1	305:18
<b>signature</b>	29:15 133:12	<b>some-odd</b>	<b>speak</b>
118:11	197:13	209:25	26:13 38:13,
<b>signed</b>	198:23	<b>someone's</b>	21 42:23
118:11,12	221:12		43:3,11,15

44:4,9 45:22 58:5,23 59:3,10,13, 16,23 62:13 63:1 67:1,12 70:6 72:23 73:8 93:13 94:5 96:13 98:24 109:17 129:5 146:10 265:13 341:14 358:13 <b>speaker</b> 46:17 98:2 192:25 193:6 200:11,14 207:3,19 208:1,7 209:16,20 215:13,19 218:3,21 220:5,10 225:1,3,9 229:22 237:13,22 238:2,19,22 239:20 241:17 243:12,16 247:3 264:18 279:9 348:18 <b>Speaker's</b> 198:12 <b>speakers</b> 18:24 21:13, 19 22:1 38:9,10 42:19 45:12 95:12 96:4, 14 97:15 152:11 155:8 <b>speakership</b> 217:18 277:20 <b>speaking</b> 46:21 48:25 50:15 66:6	97:7,18,19 105:20 106:23 138:22 153:6 158:15,17 166:24 172:25 191:19 277:19 279:17 310:3 334:12 <b>specific</b> 26:16 29:3,4 237:7 246:13 270:22 273:1 <b>specifically</b> 50:11 73:9 76:1 91:16 113:2 119:9 202:8,18 233:2 <b>spectrum</b> 109:18 327:8 <b>speculating</b> 199:13 <b>speculation</b> 63:24 66:17 147:13 <b>speech</b> 44:3 47:17, 18 48:22 50:7 55:3, 11,14 56:16 58:7,21 101:10,16 106:10 141:17 147:20 152:4,9 157:19,24 159:1,10 160:4 161:7, 11 163:3,7 168:6,13 173:1 310:11 326:16 331:20,23 356:7	<b>speeches</b> 26:22 27:4, 7,13,18 28:4 49:5 101:14, 17 152:6,13 153:2 154:2 155:5,11,25 156:24 161:14 171:14 356:23 <b>spell</b> 136:11 <b>spelled</b> 136:13 <b>spend</b> 224:23 358:15 <b>spending</b> 14:6 <b>spent</b> 14:3 167:21 <b>splashes</b> 317:15 <b>split</b> 232:25 <b>splitting</b> 304:21 <b>spoke</b> 57:1 84:3 108:15 173:21 221:15 225:6 241:20 265:9 <b>spoken</b> 247:7,8 <b>spontaneous</b> 133:12 <b>spot</b> 177:16 <b>spray</b> 103:23 105:2 328:3 <b>sprayed</b> 105:1 <b>spread</b> 127:14	191:25 <b>stab</b> 37:2 <b>stabbed</b> 142:13 143:21 <b>staff</b> 94:11 131:6, 12 194:1 199:15 206:4 223:13,14 224:2 247:19,24 248:2,12,17, 22 249:2,6, 12 257:1,4, 22,24 <b>staffer</b> 254:11 <b>stage</b> 18:24 38:7 44:21 55:4,7 56:19 57:1 58:23 <b>staggered</b> 289:24 290:1,4,22 <b>stair</b> 290:2,3 <b>staircases</b> 290:13 <b>stairs</b> 291:2 292:10,12 299:5 300:14 337:8,13 <b>stamp</b> 116:15 <b>stamped</b> 116:9 <b>stand</b> 36:9 119:1 190:20 271:4 283:5 299:8 <b>standing</b> 17:18 34:16 35:16,20
--	--	---	---

36:11 55:4,6	197:5 207:9,	19 41:23	159:7
56:18 58:15	11 264:18	67:4 72:21	161:10,20
60:13 153:2	268:23 292:9	73:6,7 78:21	171:2,16,18,
155:22	294:9 297:4,	80:12 85:6	21 172:19
177:22	7 305:19	86:19	178:4 299:16
287:2,3	<b>starting</b>	133:16,25	302:20
299:6,21	28:10 56:1	185:3 187:19	311:12,13
303:5 304:15	83:3 106:12	261:11 262:9	314:19
314:16	132:12 165:4	318:5	315:21
317:9,22	234:14	<b>states'</b>	358:9,10,15,
<b>standpoint</b>	244:22	189:6	21
183:16	270:12 290:7	<b>stating</b>	<b>Steve's</b>
190:11 230:1	361:9	68:24	166:15
<b>Starbucks</b>	<b>state</b>	<b>station</b>	<b>Stewart</b>
100:14	8:5,18 9:1,2	30:2 355:22	111:7
<b>stars</b>	13:5 17:17	<b>stationary</b>	<b>stole</b>
317:10	18:1 26:11,	177:19	72:14,17,19,
<b>start</b>	12 27:10,16	<b>statute</b>	25
9:19,22	71:18 73:9,	188:19,23	<b>stolen</b>
13:14	10,20 75:25	<b>stay</b>	22:12 34:3
129:11,22,23	93:19 106:4	89:24 94:1	48:2 74:19
172:6 184:24	109:25	96:9 144:19	85:24 89:1
217:5 263:24	124:22	161:16 337:2	124:14,18
278:17	127:21,25	<b>stayed</b>	125:2 273:20
343:7,8	134:22	96:10 144:20	323:1,5,14
349:22	136:4,10	145:20 201:1	324:6
359:24	137:3 142:25	285:22	<b>stood</b>
360:25 361:2	143:4 171:9	331:23	189:11
<b>started</b>	183:8 184:14	<b>steal</b>	211:10
13:17,22	188:25 195:1	107:21,24	299:20
14:5,14	249:7 283:13	108:1,9	304:16
16:20 17:9,	341:18 350:8	109:15,25	<b>stop</b>
17 21:12	<b>stated</b>	110:6,14	35:19 45:19
31:12 32:6	69:1 223:9	354:18	107:21,23
40:20 41:9	323:5,7	<b>stealing</b>	108:1,9
42:9,11,22	<b>statement</b>	124:25	109:14,24
64:25 65:4,7	120:24	<b>STENOGRAPHER</b>	110:6,14
95:25 96:7	218:19	131:20	271:3 288:14
121:10	223:10,23	<b>step</b>	331:16
125:10	256:1 316:12	43:1 135:23	332:22
129:10,21,25	<b>statements</b>	316:8 317:6	333:7,23
154:20	50:8 112:1	<b>stepped</b>	354:17,19,22
161:20	215:23	46:7	355:5
163:10	271:7,14	<b>steps</b>	<b>stopped</b>
164:25	274:21	307:20	17:4,6 32:21
191:14	<b>states</b>	<b>Steve</b>	33:3
195:19	17:4,5 21:23	151:16,17	<b>stories</b>
196:22,23	32:9 33:18,		210:15

250:1,7	<b>struggle</b>	256:14	19 34:7,10
<b>storm</b>	45:15 272:5	<b>substance</b>	36:2,3 37:13
49:17 106:19	<b>study</b>	121:18,19	58:6,14
110:2 330:6	247:22	137:10 142:1	88:23 142:16
<b>storming</b>	<b>studying</b>	<b>suburbs</b>	145:17
331:4	245:1	36:7	271:6,24
<b>story</b>	<b>stuff</b>	<b>succeed</b>	272:8,13
78:8 132:22	78:21 80:12	160:14	301:13
133:8,23	112:23	<b>succession</b>	<b>supportive</b>
217:16,21	145:13 147:7	163:17	218:15
218:25 221:9	150:13	<b>sudden</b>	<b>supports</b>
230:23 231:6	158:25	24:22 45:10	229:16
<b>straight</b>	164:22 177:4	<b>suggest</b>	<b>supposed</b>
144:13,15	288:12,18	179:24	76:4 187:22
<b>Straka</b>	310:8 334:10	<b>suggested</b>	241:21 276:7
21:2	357:6	180:23	298:13 320:5
<b>streaming</b>	<b>stunned</b>	<b>suggesting</b>	<b>suppress</b>
91:11	182:21	81:25 121:3	348:3
<b>street</b>	<b>stupid</b>	<b>suggestion</b>	<b>Supreme</b>
101:3 155:12	175:5 196:17	179:25	18:23 21:23
157:23	205:23	180:11	22:22,24
287:20	300:19	<b>suggests</b>	23:3,8,11
<b>streets</b>	<b>stupidly</b>	104:24	26:14 28:3,
100:8	316:25	<b>summer</b>	10 38:7
<b>strenuously</b>	<b>sturdy</b>	199:21 245:4	42:17,18
26:25	201:18	266:16	91:16
<b>stretcher</b>	<b>subject</b>	<b>Summit</b>	<b>sure</b>
317:23	203:20	138:21	10:23 35:4
<b>strike</b>	210:25 224:6	<b>sun</b>	50:11 59:15
28:21 114:4	234:10	28:10	74:15 77:9
131:19 143:8	255:14	<b>super</b>	89:15 91:2
224:9 319:8	<b>subjected</b>	153:24 303:7	93:13 108:13
<b>striking</b>	216:24	304:4	110:16,21,24
134:4,14	<b>subjects</b>	<b>superior</b>	111:1 113:4
<b>string</b>	212:15	251:17	115:9 120:20
157:22	<b>submit</b>	<b>support</b>	121:1 136:20
<b>stripes</b>	122:5 145:8	16:9 70:5	141:6 153:8
303:22	<b>submitted</b>	95:10 130:1	156:13,19
317:10	181:6 216:24	139:6 329:16	172:7 175:21
<b>strong</b>	<b>subpoena</b>	<b>supported</b>	180:19
88:25	116:18	32:18 124:10	181:19
<b>struck</b>	219:4,18	329:22	183:20
183:12	223:11	<b>supporter</b>	186:10
236:18	318:24	139:5 150:3	187:12 188:9
<b>structure</b>	<b>subpoenaed</b>	322:18,20	192:16
107:23	115:24	<b>supporters</b>	193:16
	218:13	14:16 29:14,	198:22,23
			203:11 204:2

205:11 216:6	159:23	<b>swing</b>	145:2,6,10
221:22 223:7	162:14 164:1	32:9	152:19,21
227:16 229:4	165:13 167:3	<b>sworn</b>	154:15
231:18	169:7 170:9	13:5 93:19	155:16
232:22	172:1 175:10	136:4 184:14	160:21 161:8
241:5,6	178:12	195:14 255:9	162:9 163:14
242:7 248:8,	179:14	283:13	164:9,21
20 250:9	291:11	341:18 350:8	165:21,23
251:2 253:6	292:25 300:3	<b>sympathetic</b>	167:11
264:2 269:11	302:4 305:1	218:15	169:15
270:6 273:7	309:6 310:14	<b>system</b>	170:17
276:20,24	319:7 321:19	213:24 215:4	172:13
283:11 288:2	325:2	241:21 247:2	175:17
291:25	327:21,23	273:23	178:21
302:13	330:1,4	347:20,24	194:22 203:1
303:12	331:12,16,18		214:23
323:15	332:17,21,23	<b>T</b>	231:20
326:10	333:4,7,9,		237:10
327:12	20,23,24		287:12
328:18,23	334:17,19,25	<b>T-O-M</b>	298:19
344:2 361:2	335:3	136:14	301:21
<b>surprised</b>	337:18,20	<b>T-SHIRTS</b>	303:9,17
92:5 241:1	338:5,9,11	100:18,19	304:13
<b>Sus</b>	339:22	<b>table</b>	315:11
8:9 97:12,21	340:9,16	9:2 75:4	318:15
101:10,13	341:3,6	<b>tables</b>	320:16
102:2	350:4,11	158:12	330:8,10
103:15,17	351:23	<b>tackled</b>	331:9 337:11
106:11,14	352:1,5,8,	36:15	<b>taken</b>
112:6,12,13	17,20,22	<b>tactical</b>	64:10,11
113:6,8,23	353:6,9,11,	104:16	91:8 92:7
114:8,18,20	23 354:1	136:25	148:4 163:16
115:3,4	355:3,25	328:20	184:5 198:24
117:2 118:21	356:3,15	<b>taint</b>	232:12
119:18 122:1	357:2,16	253:22	244:14
123:4,8,23	<b>sustain</b>	<b>take</b>	303:10
124:1	128:4 262:24	9:12 19:23	349:25
125:15,23	273:3 276:19	25:1 39:11	<b>takes</b>
126:8,9	279:6	40:17 44:14	244:1
128:6	<b>sustained</b>	45:11 52:25	<b>taking</b>
130:19,21	27:5,20	67:22 84:12	14:9 72:15
131:18	28:25 47:14	91:3 97:3,6	155:25
132:23 141:4	66:18 89:13	99:17,18	156:24
142:20	280:7	106:20	205:24 246:5
146:18	<b>Swalwell</b>	135:10	331:5
147:12	211:22	137:14	<b>talented</b>
153:14	276:12	143:14	108:19,25
157:11		144:3,6,11	

<b>talk</b> 11:6 19:21 45:6 47:18 121:9 122:16 123:20 124:2 132:5,12 171:6 173:18 217:13 247:3 325:3,25 331:4 344:11 359:19	346:6 <b>tall</b> 150:24 151:20 306:1 <b>Tapper</b> 277:24 278:3,9 279:10 346:3 <b>target</b> 149:21 <b>Tarrio</b> 111:7 <b>Taser</b> 105:3 <b>Tasers</b> 104:5 328:10 <b>tasked</b> 258:15 <b>taught</b> 186:8,12,13 <b>Taylor</b> 215:21 <b>Tea</b> 13:19,23,24 14:1,2,5,12 21:3 33:10, 11 89:20 <b>team</b> 21:14 25:6 32:13 41:5 44:6 65:11 78:5 212:2, 19 247:16 <b>team's</b> 44:16 <b>tear</b> 104:25 105:9 174:9,10,20 176:21 193:9,10 265:18,19 285:20 286:16,20 308:20 336:11,14, 16,22 337:1	<b>tech-break</b> 283:20 <b>technical</b> 9:5 53:10 183:16 <b>technicalitie s</b> 76:13,21 <b>technically</b> 20:4 <b>technological</b> 24:3 <b>technology</b> 19:14 20:10 53:18 92:14 98:8 183:20 <b>Ted</b> 191:10 <b>telescoped</b> 294:21 <b>telescopic</b> 294:22 <b>television</b> 226:13 277:23 <b>tell</b> 16:19 20:25 24:10 26:7 31:5 46:4 57:12 81:10 94:8 102:14 140:24 148:6 170:19 185:1 196:6 223:3 235:3 263:12 270:7 278:13 285:16 297:8 304:5 305:13 306:3 343:2 <b>telling</b> 13:15 49:16 88:22 116:11 173:4 174:10 223:3 286:8, 9 318:14 <b>tells</b> 20:4	<b>temperature</b> 154:3 <b>temporary</b> 176:1,15 179:1 <b>tempting</b> 298:11 <b>ten</b> 11:13 78:20 80:11 82:2 185:9,22 196:20 207:11 225:11 231:17 264:1 340:15 341:6 <b>tended</b> 228:5 <b>tent</b> 148:16 149:2 <b>term</b> 266:10 280:19 281:5,10 <b>terms</b> 96:18 132:19 208:16 224:3 230:12 254:8 256:17 <b>test</b> 78:18 306:22 <b>testified</b> 13:6 46:3 74:16 82:20 93:20 102:25 119:5,10 122:3 123:18 125:25 136:5 184:15 201:9 211:22 219:2 222:19 250:2,12 252:2,8,16 258:5 265:20,24 266:3,5,14, 17 267:8 277:18
---	--	---	--

279:16 321:1 324:12 325:18 326:5 327:9 335:10 338:19 339:15 343:20 344:20 345:14 346:24 351:18 <b>testifies</b> 135:18 <b>testify</b> 30:24 135:20 147:17 180:1 202:8,15 203:5,19,24 223:9,15,16 232:17 233:4,9,20 234:5 240:23 241:3 249:24 250:3,5,10 251:16,23 283:14 318:23 341:19 350:9 <b>testifying</b> 82:18 202:20 246:21 258:2 322:7,10 341:25 346:8 347:13 <b>testimony</b> 28:21 74:9, 17 90:19 121:18,19 122:5 123:3 134:5,9,15 135:4 137:11 162:1 179:20 183:12 204:11 205:10 220:14 223:13 224:12 226:1	229:16,21 231:9 234:10 241:4 249:13 253:23 257:19 262:17 265:12 274:16 276:5,16 281:22 282:7 284:5,25 330:17 344:16,17 346:15 349:18 356:14 359:18 360:8 <b>testosterone</b> 267:21 <b>text</b> 109:8 113:4, 11 114:9,12 115:6,23 116:1,16 117:4 118:2, 9 119:11,20 120:17,25 194:1 211:23 223:19,21 302:22 305:12 306:19 308:22 <b>texted</b> 115:7 120:2 <b>texting</b> 121:11 <b>texts</b> 114:17 299:17 <b>thank</b> 9:4 13:13 20:1 27:22 30:25 37:11, 19 40:3,18 47:3 54:16 75:1 89:23 90:1,17,18,	21 91:6 93:23 94:6, 24 97:2 101:5,24 114:6 119:16 126:8 128:7 130:4 131:13 134:18 135:3,6,25 136:15 138:15,16 156:7 184:21 186:15 206:10,21 224:16 231:7 232:8 233:21 234:12,22 263:15 264:1 282:5,6,11, 12,14 283:3, 8,9 289:8 325:1 341:1, 12 349:5,6, 17 350:3 357:16,25 359:17 <b>Thanks</b> 304:12 349:20 <b>then-leader</b> 237:16 <b>theoretically</b> 12:7 <b>theory</b> 129:20,23 <b>thereabouts</b> 11:1 <b>thesis</b> 226:2 <b>thick</b> 294:25 <b>thing</b> 10:19 22:17 33:8 42:13, 16 43:18 48:4 49:8 50:13 67:6, 16 71:11	79:2,24 104:21 130:11 142:3 151:21 182:20 192:21,24 286:12 292:15 342:11 344:25 <b>things</b> 37:10 70:22 73:3,6 81:19 84:4 85:15 86:18 89:9 100:3 111:24 119:15 120:18 148:14,16 158:24 159:1 173:24 217:15 221:16 224:13 230:9 246:14,15 250:19 255:16 279:23 280:1 305:18 316:19,20 318:7 356:15 <b>think</b> 9:16 10:15 11:4,22 12:5 16:25 21:4, 17,18,22 27:1,15 38:9 41:15,22 43:23 52:9 57:16 59:4 61:16 69:11, 14 70:15,21, 22 71:15 77:17,23 78:4 82:10 83:19 84:21 86:11,21 95:14 96:6
---	--	--	---

100:5 105:16	256:19,24,25	183:18 206:8	<b>Tides</b>
108:14	257:12,13	213:7 227:25	150:17,18
112:17	261:5,12	230:4 298:13	<b>tie</b>
114:24	262:8,16	300:19	143:7
124:14,17	267:15	301:16	<b>Tierney</b>
127:4	269:20 271:2	303:20,25	8:10
128:17,22	272:2,6,8,	309:25	<b>ties</b>
129:8 130:8	10,12,16,17,	310:2,4	38:13,19
138:4 141:8,	18,21 275:6	335:21,24	<b>time</b>
18 143:6	276:19,20	345:9	11:3,25
150:6,18	278:3,23	<b>thoughts</b>	12:14,17
152:8 153:7	279:22	208:14,16	15:17 25:10
155:14 157:2	282:9,17,22	273:8	33:14 36:24
162:4,7,20	284:22	<b>thousand</b>	43:10 50:2
163:6 168:24	290:12	107:9,12	56:25 58:11
179:20	295:25	196:21	60:20 62:15,
180:7,10	298:24	<b>thousands</b>	17 70:3
181:7,25	305:19	102:5,10	80:12 93:23
182:5,10	314:23	107:8 326:3,	99:16 100:11
183:5,12,22	319:5,25	4,12,19	101:1 102:21
187:5 189:12	322:25 323:9	<b>threat</b>	106:12
190:17	329:19	194:11,15	115:11
192:23 194:7	335:12	197:22	126:21,22
198:19	340:14,20	199:12,14,15	146:13 151:3
199:9,11,12	342:10	<b>threatened</b>	154:2 167:22
201:9,10	343:21,24	196:13	168:5,7,17,
202:12	344:3,8	355:23	20,21,23
203:23 207:7	345:2,19	<b>threats</b>	169:3 171:1
209:25	347:19	117:16,17	181:7,13
210:13	348:23	<b>three</b>	187:8 188:7,
211:3,10	351:1,3	9:21 31:17	20 189:3
212:18	357:24 360:4	39:6 41:17	192:4 194:9
214:2,7,8,	361:5	42:6 60:6	196:17,24
13,19,23	<b>thinking</b>	108:9 207:17	197:10
218:8 219:5,	12:13 53:24	239:20	200:13
12,13 220:22	140:3 168:8	250:24 262:8	207:13,14
222:25	<b>thinks</b>	293:18	209:16 212:7
227:11,17	71:1 125:12	297:17	220:11
228:16,24	<b>third</b>	340:1,17	224:23 225:9
230:11,15,	244:21 313:8	<b>throw</b>	228:4,21
17,21 231:19	<b>thought</b>	36:18	242:6,8
233:15	11:25 26:17	<b>throwers</b>	251:6 254:13
236:15,24	45:16 68:7	57:23	260:25
237:1 239:15	92:6 126:5	<b>throwing</b>	264:12
242:4,16	149:19	31:9 40:20	268:16,21
245:23	154:19	<b>thrown</b>	277:12
246:17	164:19	76:13,20	278:23
247:13 248:5	172:24,25		279:10
250:18			

281:12	224:14 247:4	150:10	<b>Troy</b>
282:15 294:1	255:22	325:13	239:3
298:4	299:19 301:5	<b>train</b>	<b>truck</b>
301:11,25	324:14 340:6	30:2	144:9
304:17	350:17	<b>transcripts</b>	148:15,18
309:20	<b>Tom</b>	252:18	149:11,13
310:10	9:22 90:24	253:18	325:12
324:23 336:6	93:18 136:3,	254:3,5,13,	<b>true</b>
349:6 356:25	12,13 283:12	14,16,20	35:6 63:8
358:14,20	350:7	<b>transition</b>	78:3 103:11
<b>timely</b>	<b>tomorrow</b>	246:6	124:16,20
91:23	10:18,19,25	<b>transparent</b>	182:9,10
<b>times</b>	181:3,18	316:13	222:12 354:5
37:5 270:5	360:11 361:2	<b>transpiring</b>	<b>Truman</b>
348:1	<b>tomorrow's</b>	316:6,14	210:11
<b>timestamps</b>	359:24	318:8	<b>Trump</b>
336:4	<b>top</b>	<b>travel</b>	8:5,13 12:21
<b>tiny</b>	83:15 133:15	149:5	14:15,17,20
295:2	337:13	<b>traveled</b>	15:21 16:9,
<b>title</b>	<b>topic</b>	41:4 325:6	25 27:1
186:10	276:23	358:12	30:20 32:4
<b>today</b>	<b>total</b>	<b>traveling</b>	34:2 42:23
9:21,23 10:5	75:12	148:24 324:1	43:2,10
12:4 69:14,	<b>totally</b>	<b>Travis</b>	44:4,9 45:5
24 70:15	17:2 239:21	88:5 140:18	49:2,9,15
74:10 90:19	<b>touch</b>	144:15	50:6,14 57:2
93:24 133:2	123:2 151:7	<b>Tread</b>	58:19 59:16
137:5 180:5	<b>tough</b>	61:12	65:22 72:1
231:9 234:4	212:6	<b>treasurer</b>	75:12,13,18
235:10	<b>tour</b>	137:4 321:22	77:24 78:5
276:17	31:25 32:3,	<b>Tree</b>	79:20,21
280:22	16 33:16	143:25	80:5,25
318:23 322:7	34:8 41:2,4	<b>trees</b>	81:9,10
349:6	147:19	288:4,5	85:17 87:7
<b>token</b>	273:21	307:24	88:18 96:13
326:23	298:20	<b>trial</b>	105:20
<b>told</b>	<b>tourists</b>	213:21	110:18,25
28:22 29:10	146:7	227:23,25	111:3
80:5 81:9	<b>tours</b>	263:17	124:15,18,25
108:4,18	33:13	<b>trials</b>	125:1,7,12
110:14 138:4	<b>track</b>	250:22 262:9	127:10,11,20
140:20	356:9	<b>troops</b>	132:18
141:3,12,16,	<b>trail</b>	14:17	133:19
18,24 166:17	316:7,15	<b>trouble</b>	138:2,19,25
173:25	317:5	19:23 114:15	139:4 142:16
175:24	<b>trailer</b>	149:19 303:3	145:13,17
202:12	140:7 148:2		146:9 147:11
213:10			150:3 153:7,

24 157:3,21 158:16 159:16 161:11 166:23 167:23 172:25 209:21,24 211:8 212:9 218:17 226:3 240:18,20,23 241:1,11 249:23 250:1,4 252:2,11,13, 14,21 261:17 263:18 271:6,24,25 272:6,10,20 301:12 303:2 305:23 310:2,4,10 312:19,20 313:14 314:11 316:1 317:2 322:5, 8,19 323:1, 4,13 329:16, 22 332:25 333:19 334:1 345:23 349:3 354:4,10,17 358:12	<b>trust</b> 347:10,16,18 348:7,21 <b>trusted</b> 347:11,12 <b>truth</b> 13:6 28:23 93:20 101:20 136:5 183:9 184:15 222:2,3 228:8,20 229:3 242:20 246:24 260:7 283:14 291:14 319:3,25 321:11 322:11 341:19 347:17,25 348:6,11 350:9 354:2 <b>truthful</b> 291:16 <b>try</b> 45:22 46:11 92:15 94:1,4 114:13 180:9 226:24 232:22 277:16 345:17 347:7 <b>trying</b> 9:9 12:13 21:4 29:5 39:15 45:11 58:9 111:23 122:25 138:10 167:12 187:5 192:13 194:10 253:16 261:12 267:12 286:14 287:24	295:13 312:23 314:4,5 317:3 318:16 320:16 340:5 342:11 345:21 346:4,10,17, 20 354:18 359:25 <b>tunnels</b> 206:15,19,20 <b>turn</b> 9:10 52:16 136:18 201:24 206:22 263:20 276:10 307:6 311:19 351:12,13 355:18 <b>turned</b> 178:5 245:17 355:16,19,20 <b>turnout. '</b> 108:21 <b>turns</b> 335:25 <b>TV</b> 64:20,22 65:2,7,10,13 76:11 206:7 266:6 <b>TVS</b> 64:24 <b>Tweet</b> 65:23 66:3, 14,23 67:3, 16,20 68:4, 6,11,18 69:11 71:7 77:14 79:19, 21 80:24 82:7 85:20 87:18 88:19 112:15 223:18	<b>Tweeted</b> 111:17 <b>Tweets</b> 61:17 <b>twenty-five</b> 325:17,20 <b>Twenty-four</b> 325:17 <b>twenty-six</b> 325:21 <b>twice</b> 24:24 108:16 <b>Twitter</b> 13:22 315:12,13,15 <b>two</b> 27:2 39:20 42:14 43:6 70:3,21 102:20 105:15 111:13 115:17 117:4 135:11 195:3 202:13,25 208:9 215:20 222:17 239:10,15,22 240:19,20 242:15 259:7 277:22 295:18,25 356:15,16 360:3,5 <b>two-and-a-half</b> 186:3 <b>two-letter</b> 217:4 <b>type</b> 23:3,16 24:14 33:23 38:8,24 39:8,9 47:24 48:3 49:7,8 82:14 83:18 86:5 149:16 164:8 223:4
<b>Trump's</b> 43:12 48:22 66:14,23 67:10 90:5 106:9 127:24 141:17 147:20 152:4 157:24 161:14 168:13 218:9 227:19 248:5 322:13 329:25 331:20,22 356:6			

306:22 <b>types</b> 48:15 254:3 <b>typical</b> 96:21 216:9 254:19 263:7 267:21 <b>typically</b> 194:23 195:2 201:12 216:2 225:19 227:18 229:11 237:18 255:25 256:24 259:23	246:3,8 247:21 <b>unclear</b> 191:19 <b>unconvincing</b> 76:7 <b>undercut</b> 58:9 <b>underlying</b> 75:20 <b>underneath</b> 206:16 265:19 <b>understand</b> 76:23 80:19 98:3 111:1, 23 116:24 209:16 233:19 239:14 240:9 248:8 262:21 321:25 322:3,4,14 346:14 <b>understanding</b> 31:24 46:16 47:10 49:21 91:10 101:13 103:10 118:22 147:16 156:14 188:22 237:17 346:6 <b>understood</b> 106:7 123:23 127:19 161:18 198:10 334:16 338:4,21 340:9 355:13 <b>unguided</b> 273:20 <b>uniformed</b> 173:7 192:22 194:21 195:13	<b>Union</b> 195:2 <b>United</b> 21:23 67:4 85:6 86:18 133:16,25 185:3 261:11 262:9 318:5 <b>University</b> 186:9 <b>unknown</b> 197:22 <b>unmute</b> 277:10 <b>unnamed</b> 182:25 <b>unprecedented</b> 87:24 <b>unusual</b> 192:10,12 233:25 253:24 265:7 <b>unwilling</b> 223:16 <b>uplifting</b> 48:5 <b>upside</b> 313:15 <b>urged</b> 110:1 334:6 <b>urgent</b> 127:17 <b>USA</b> 99:6 285:21 <b>USC</b> 255:12 <b>USCP</b> 268:13 <b>USEIP</b> 306:14	356:12 357:8 <b>Van</b> 10:3 90:24 93:7,8,18,24 94:8 95:18 98:7,11,25 102:3 105:19 106:15 107:16 112:14 113:9,24 114:14,17 116:5,21 117:3 119:5 120:12 121:8 123:15 126:10 128:12 130:5,22 131:17,22 132:11 135:4 183:8 356:20 <b>vandalism</b> 316:17 <b>vandalized</b> 39:23 <b>vantage</b> 57:11 102:13 103:2 286:25 <b>variety</b> 48:19 <b>various</b> 33:15 36:1 356:9 <b>vehicle</b> 144:7 <b>vendor</b> 158:10,12 <b>verbally</b> 202:12 <b>verified</b> 356:16 <b>Vernon</b> 26:5 97:7,17 <b>versus</b> 8:3 155:5 222:12
<hr/> <b>U</b> <hr/>			
<b>U.S.</b> 81:11 110:15 113:17 186:5,7,22 245:8 247:20 287:14 323:17 <b>Uh-huh</b> 165:6 290:11 302:1 328:4 329:1 330:16 337:23 <b>ultimately</b> 202:3 229:9, 23 <b>Um-hmm</b> 169:24 176:11 217:9 305:9 312:6 327:25 328:9,14,18, 23 331:2 332:9 336:9 <b>unanimously</b> 259:10 <b>unaware</b> 112:15 236:3			
		<hr/> <b>v</b> <hr/>	
		<b>vacuum</b> 205:18 <b>validated</b>	

<b>vests</b> 289:23	175:16,17 178:20,21	225:23 229:17,19	<b>visibly</b> 100:25 297:8
<b>veterans</b> 200:24	179:9 249:3 270:16	230:1 242:17 290:1 310:9	<b>voice</b> 34:4 306:5,6
<b>vibrant</b> 304:4	273:14,17,24 284:7,8	<b>viewed</b> 85:11 98:19	<b>voices</b> 160:9 354:11
<b>vice</b> 66:13,15,24 67:18 68:17 78:7,12 79:22 80:3, 22 81:1,7,24 187:13 191:8,9 264:22 334:4	285:18 287:9,10,12, 13 299:3,4 300:10 301:21 307:3 309:16,19,24 315:2,13 317:22 318:1 321:5 330:3, 12,16 331:15,17 332:5,20,22 333:1,8,15, 21,22 335:4 336:3,5,20, 22 337:7,14 338:6,7,8,10 339:20 343:11,22 350:13,15 351:23,24 352:6,7,16, 19,21 353:7, 8,10,14,21, 24,25 356:5, 17,22,23 357:23	<b>viewpoint</b> 215:11 349:2 <b>viewpoints</b> 211:14 359:3 <b>views</b> 88:25 209:13 211:4,20 212:13,16 228:21 324:6,8 348:13	<b>void</b> 293:12 <b>volume</b> 52:16 <b>volunteer</b> 256:25 <b>vote</b> 122:2 186:18 187:11 190:19 209:22 210:22 211:7 232:15 236:21 237:1,2 261:4,8,9,20 263:7 269:18 272:7,8 283:2 342:6 344:22
<b>victory</b> 75:18 83:19 84:10 87:11 88:4 127:24	<b>video</b> 24:6,8,12 25:1 40:7 51:4,7,11, 13,15,21 52:13,18,21, 25 53:20,21 56:1,3,6,12, 13,15 60:24 61:21,24 62:6,15,21, 24 63:15 65:24 66:12 68:8 97:6,17 98:8,10,12, 14,20 101:11 106:13,16 107:1 144:23 145:3,5,6,9, 10,19 148:4 152:17,19,22 154:14,15 155:24 158:2,4 165:20,21,24 170:16,17, 20,21 172:5, 7,9,11,13,17 173:3	<b>vindicate</b> 75:20 <b>violation</b> 92:1 <b>violence</b> 22:18 31:19 34:6 37:14 40:4 84:20 85:2,12,17 86:6,12,22 89:19 105:18 117:11,14,23 122:6 132:20,21 133:20 176:24 245:1 271:4,7 329:20 359:6 <b>violent</b> 109:13 245:3 272:21 308:12 312:22 313:5 350:20 358:22,24 359:2 <b>violently</b> 329:17 <b>visibility</b> 56:23 130:22 131:1,4	<b>vote</b> 122:2 186:18 187:11 190:19 209:22 210:22 211:7 232:15 236:21 237:1,2 261:4,8,9,20 263:7 269:18 272:7,8 283:2 342:6 344:22 <b>voted</b> 209:23 210:1,4,5 212:14 230:3,25 236:24 237:8 261:18,21,25 262:2,7 268:24 269:4,10,11, 14 <b>voter</b> 87:24 124:7 126:17 274:24 <b>voters</b> 145:17 <b>votes</b> 75:20 118:18 119:22 121:17 124:4 125:11

127:15 171:11 187:1,19 188:9,11,13 189:12,15 212:12 232:1,2 235:24 236:15,16 261:13	<b>walking</b> 100:5,15 115:10 161:20 163:10 176:6,13 285:1 297:7 308:16,18 311:2 320:23 332:6	264:6 271:19 272:11 274:15 275:7 278:21 280:9 287:3 298:25 299:13 302:9,12 303:17 312:1 316:11 320:21 321:10 329:23 334:20 337:5 338:21,25	188:20 <b>warfare</b> 71:17 <b>warmed</b> 167:25 <b>warmth</b> 149:16 <b>warned</b> 105:13 <b>warriors</b> 61:17,25 62:11,25 63:4,22 89:21
<b>voting</b> 126:1,21 231:25 237:6 265:2,3	<b>walks</b> 195:1 <b>wall</b> 15:23 196:25 <b>want</b> 9:20 11:4,6 16:10,12 19:4 23:5,6 25:20 27:6 29:14 33:25 40:25 44:7, 10 50:7 53:2,7 57:24 58:2 59:15 60:20 78:15 83:10 89:16 106:8 118:4, 11,24 121:6, 8 124:2 127:11 129:18 130:13,18 132:2 134:6, 16 139:18 145:2 156:13,19 172:7 176:22 177:15 178:1 181:20 186:16 189:1 210:12 213:11,12 220:13 232:21 235:13 237:2 244:17 246:14 247:14 248:8	<b>wanted</b> 15:21 16:12 18:3,19 28:19 29:11, 13,16 34:4 38:16 41:21 55:10 58:25 59:4,10,16, 22 74:23 78:16 80:10 89:24 129:13,15 132:5 138:7, 9 139:3,5,8, 10,20 140:11 143:20 155:15 157:2,3,21, 24 160:7 161:5,11,18 162:5 164:19 180:11 200:8,10 218:1 257:14 263:9 275:11,13,15 279:1 305:11,12 307:16 308:2 310:9 319:17 324:2,16,24 338:3 <b>war</b> 86:1 155:14	<b>Washington</b> 16:8 17:22, 25 18:2,3 22:11 32:7 37:24 40:15 41:11 50:21 95:1 105:5 137:18 141:23 144:12 148:24 150:23,24 151:10,19 152:8 155:13 162:23 167:17 169:18,23 176:7 183:2 186:6 251:13 285:11 287:23,25 308:3 311:16 312:3 330:20 332:7 335:17 <b>watch</b> 228:5 <b>watched</b> 331:22 350:12 <b>watching</b> 24:19 64:20, 22 65:5 91:25 254:9 350:14
<b>w</b>			
<b>wacko</b> 45:12 <b>wackos</b> 57:16,20 <b>wait</b> 19:5 49:2 161:17 254:1 <b>waiting</b> 48:6 311:11 340:12 <b>waive</b> 12:1,15 <b>wake</b> 17:1 <b>walk</b> 155:12 165:4 263:11 292:11 311:1 320:6 <b>walked</b> 99:3,19,22 100:14 155:16 176:2 286:3 288:9, 15 289:16 292:5 294:23 315:1 332:14 <b>walkie-talkie</b> 306:9			

<b>Waters</b>	196:5 197:21	138:21	105:6 174:20
189:17	301:5 327:14	145:24,25	356:10
<b>way</b>	328:2	155:13	<b>whatsoever</b>
11:21 20:6	<b>wear</b>	157:20,23	246:2 337:17
21:20 30:23	143:20	160:17,20	<b>wheelchair</b>
31:16 40:19,	<b>wearing</b>	161:2,3,19	317:18
24 43:20	100:17	167:24	<b>wheeled</b>
53:12 73:13	104:15 158:8	175:23,25	317:23
74:8 84:3	194:5 314:9	176:9,11	<b>White</b>
86:23 88:23	328:20	178:5 191:13	44:13 46:17
89:25 92:16	<b>Webex</b>	200:25	47:11 224:5
99:3,4,5	53:16 92:11	217:18	251:18
100:2,3	<b>website</b>	230:10	252:14
102:9	244:15	231:15	<b>whoop</b>
111:21,24	256:10	233:10	61:1,11
121:13,22	<b>Wednesday</b>	247:16	<b>wide</b>
129:11	11:13,21	255:16	48:19
161:13 166:9	<b>week</b>	257:17	<b>widespread</b>
171:6 172:18	18:8 40:15	288:19 291:5	76:4 274:2
175:25 176:3	77:15,18	292:6,7,16	<b>wife</b>
179:21	139:12,15,16	294:6 295:16	95:22
189:21	207:11	297:15	<b>Willard</b>
194:15	<b>weekend</b>	307:24	30:5,19
198:15	41:21	311:9,16,17	31:6,7,14
212:20 228:8	<b>weeks</b>	312:16	55:15 61:5,8
241:18	70:3 208:5	315:20	62:16 64:9,
242:19	225:4 277:22	317:11,15,16	20 66:21
251:12,13	<b>weigh</b>	322:21,23	<b>William</b>
281:20	44:10 254:22	329:15	88:5
284:12,22	<b>weird</b>	331:11	<b>Williams</b>
290:5,18,22	19:12 316:2	335:22	137:11
303:24	<b>Weld</b>	358:17	<b>win</b>
304:20	185:18	<b>west</b>	127:17 229:9
307:6,12	<b>well-armed</b>	41:5,8,9	<b>wind</b>
308:3 311:5	197:25	335:14	140:15
317:16,19	<b>went</b>	339:5,6,10	<b>window</b>
323:12	16:8 21:11	<b>Western</b>	291:7,13
326:11,14,	23:13 24:25	138:21	295:3,4,8,15
18,24 348:19	30:1,3 32:9	<b>wet</b>	296:3,25
<b>weak</b>	33:7,8,18	118:11	297:15,16
201:14	41:8 44:6	<b>whacked</b>	<b>windows</b>
<b>weapon</b>	46:16 47:1	295:1,15	293:9,13,14,
267:22	55:14 59:25	<b>whacking</b>	17 294:2,9,
<b>weaponization</b>	61:7 63:12	295:4	14,24
273:22	67:9 95:21	<b>whatnot</b>	295:21,22,25
<b>weapons</b>	120:21	16:2 23:2	297:9 299:12
35:12 103:6,	129:24	32:19 33:6	301:4,10
22 195:24		43:22 44:15	

338:24	281:13,23	<b>wood</b>	85:4 142:5
<b>windy</b>	282:4,11	195:6	310:25 311:1
154:6	283:8,11	<b>word</b>	<b>worry</b>
<b>Winners</b>	291:16	217:4 237:10	296:21
137:3	315:15	288:25	<b>worth</b>
<b>winning</b>	322:8,10,13,	<b>words</b>	264:2
16:25 215:24	16,17	315:18 316:9	<b>Wow</b>
<b>winter</b>	341:12,15	321:12	347:2
70:12	346:19 347:4	<b>wore</b>	<b>wrap</b>
<b>withdrawn</b>	349:20 350:3	149:20	28:11,12,13
199:17	356:4,13	<b>work</b>	29:5 42:19
264:23	359:23 361:1	20:18 106:1	<b>wrapped</b>
<b>withdrew</b>	<b>witnessed</b>	119:11	28:18 29:20
207:23	315:9	128:24	<b>wrapping</b>
239:18	<b>witnesses</b>	138:11 149:4	28:2 176:12
<b>witness</b>	9:21,23,24	187:23 209:7	<b>wreak</b>
12:25 19:25	10:12	231:22 232:6	274:2
45:25 90:21,	118:23,24	241:21	<b>Wren</b>
24 93:6,10,	119:3 213:8,	242:23	45:4 46:5
15 94:18	16 218:14	267:14 282:3	59:22,24
95:21 99:1	219:1,23	340:7	<b>wrestle</b>
101:7 122:9	225:13,25	<b>worked</b>	183:19
123:7,9	233:17 241:2	14:12 15:18	<b>write</b>
131:25 133:7	243:2,4	42:13	71:21,22
135:6,13	246:22	124:10,20	78:1 312:12
138:15	248:18	150:2 186:1	313:24 316:9
155:10	249:14,16,18	208:23 215:2	<b>written</b>
156:1,6,25	252:20	275:21	188:8
162:20,25	253:23	<b>workers</b>	<b>wrong</b>
167:21	255:18	15:25 48:17	105:6 175:25
180:19 184:8	257:17,18	<b>working</b>	318:21
202:21	258:4	18:18 32:21	323:9,11
203:15,21	260:19,21	33:3 59:23	<b>wrongdoing</b>
205:22 217:7	356:16,19	98:7 213:24	216:4
223:7 226:12	360:14,21,23	284:12	<b>wrote</b>
231:24	<b>woke</b>	<b>workings</b>	77:25 118:3,
232:8,18	148:8	131:9,11	10
233:3 234:12	<b>woman</b>	<b>works</b>	<b>Wyoming</b>
240:5,12	154:25 315:3	53:11 143:25	209:1
241:22	<b>women</b>	237:18	
242:12 243:3	14:14,24	361:13,15	
246:21	15:2,8 18:12	<b>world</b>	
256:19	24:20 32:12	45:14 85:14	
257:13,20	87:18 105:4	155:14	
263:1,5,15	<b>won</b>	228:19,23	<b>y'all</b>
275:19	125:17	319:14	20:15 22:21
277:13	<b>wondering</b>	<b>worried</b>	28:15 31:24
278:25	53:9		37:23

**Y**

<b>yards</b> 156:2	171:5,10,21 172:18	<b>years</b> 185:8,22
<b>Yavapai</b> 126:22	174:2,7,21	186:3,5,6
<b>yeah</b> 9:7 10:2	176:14,20	189:24 247:9
11:18,24	178:8 179:4	264:1 347:21
16:22 22:6	184:11 185:3	<b>yell</b> 60:25 106:19
25:23 27:15	191:5 192:12	330:6
34:14 36:6	198:19	<b>yelled</b> 174:1,5
39:13 40:16	201:10	193:23
45:1 55:2	205:22	<b>yelling</b> 173:24 174:7
73:15 77:20	216:18	175:3,24
84:1,5 92:8,	221:25	197:11
20,22 93:3	233:15 235:6	293:15
99:17 101:12	254:7 256:11	<b>yellow</b> 289:23
105:11 110:4	263:12	<b>yesterday</b> 181:16
112:16 113:1	265:13	273:13
114:2 115:3	267:10 269:9	280:25
125:4 127:22	271:2 272:5	281:7,9
135:19	281:8	342:10,16,21
137:25	284:14,16	<b>YMCA</b> 51:19
139:4,17	285:3,4,6,	<b>young</b> 206:4 296:14
140:2,17	14,24 289:3,	298:18 304:3
141:3,16	11,15,20	317:23
143:16	291:3,9	<b>Yuma</b> 126:22
144:5,8	293:20,22	
145:24	296:7 299:6	
146:12	300:21	
147:1,18	303:16 304:9	
148:1,2,12	305:22	
149:1,7	306:21	
150:1,6,8	307:22	
152:5,6,10,	311:4,9	
23 153:3,9	319:12	
154:6 155:10	322:23 323:7	
156:6,25	325:19 326:7	
157:20 158:5	327:2 328:7,	
159:18	11 329:19	
160:16,18	331:1 332:2,	
161:2 162:8,	4 333:11,16	
20,22 163:6,	334:2,8,23	
16,20,22	336:8 337:10	
164:11 165:3	338:23	
166:10,21	342:17	
167:12	350:16	
168:1,18,20	353:15 354:9	
169:16	358:7,9,17	
	<b>year</b> 16:23	