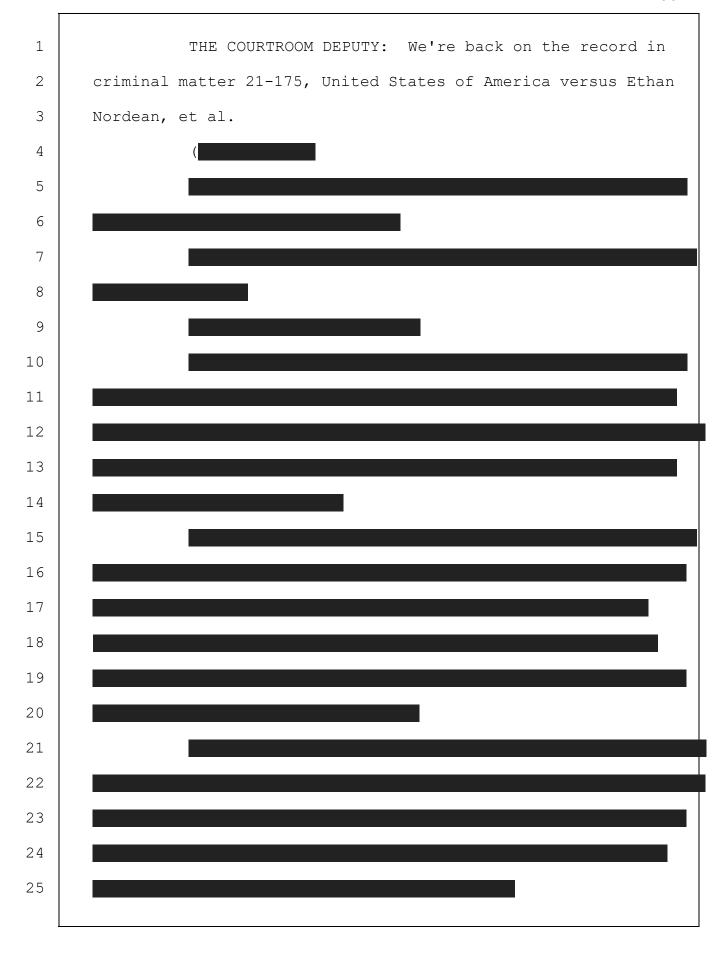
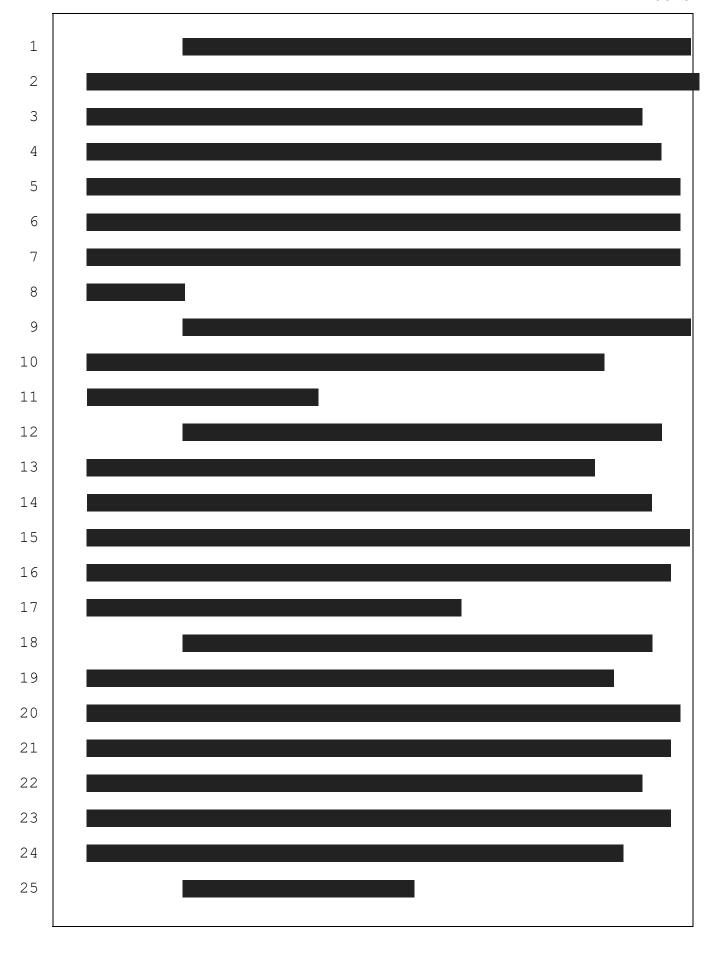
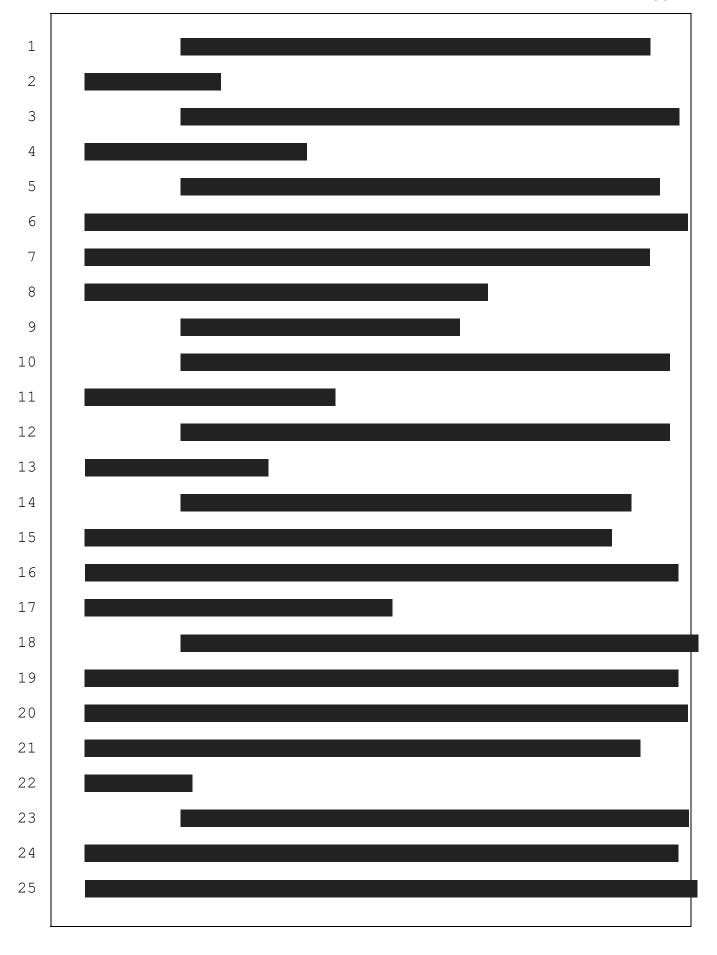
1	IN THE UNITED STATES DISTRICT COURT		
2	FOR THE DISTRICT OF COLUMBIA		
3	United States of America, )		
4	Plaintiff, ) Criminal Action ) No. 21-cr-175		
5	vs.		
6	) JURY TRIAL Ethan Nordean, ) Day 31		
7	Joseph R. Biggs, ) Zachary Rehl, ) Washington, DC Enrique Tarrio, ) February 13, 2023		
8	Dominic J. Pezzola, ) Time: 1:30 p.m.		
9	Defendants. )		
10	TRANSCRIPT OF JURY TRIAL		
11	HELD BEFORE  THE HONORABLE JUDGE TIMOTHY J. KELLY		
12	UNITED STATES DISTRICT JUDGE		
13	A P P E A R A N C E S		
14			
15	For Plaintiff: Jason McCullough  Erik Kenerson  601 D Street NW		
16	Washington, DC 20530		
17	Email: Jason.mccullough2@usdoj.gov Email: Erik.kenerson@usdoj.gov		
18	Conor Mulroe DOJ-CRM		
19	1301 New York Avenue NW, Suite 700 Washington, DC 20005		
20	Email: Conor.mulroe@usdoj.gov Nadia Moore		
21	U.S. Attorney's Office 271 Cadman Plaza East		
22	Brooklyn, NY 11201 Email: Nadia.moore@usdoj.gov		
23	For Defendants: Nordean Nicholas D. Smith		
24	David B. Smith, PLLC 1123 Broadway		
25	Townsend Building, Suite 909 New York, NY 10010 Email: Nds@davidbsmithpllc.com		

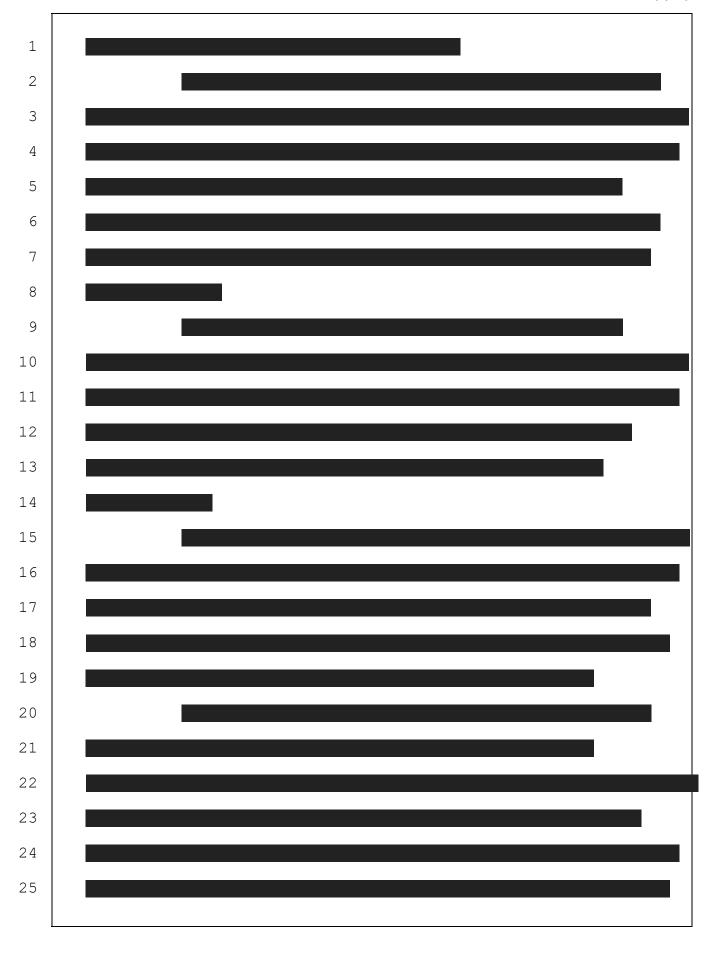
1	Biggs:	John Daniel Hull, IV Hull McGuire, PC
2		1420 N Street, NW Washington, DC 20005
3		Email: Jdhull@hullmcguire.com Norman A. Pattis
4		Pattis & Smith, LLC
5		383 Orange Street, First Floor New Haven, CT 06511 Email: Npattis@pattisandsmith.com
6	Rehl:	Carmen Hernandez
7	venr.	Law Office of Carmen Hernandez 7166 Mink Hollow Road
8		Highland, MD 20777 Email: Chernan7&aol.com
9	Tarrio:	Nayib Hassan
10	Tallio.	Law Offices of Nayib Hassan, P.A. 6175 NW 153 Street, Suite 209
11		Miami Lakes, FL 33014 Email: Hassan@nhassanlaw.com
12		Sabino Jauregui Jauregui Law, P.A.
13		1014 West 49 Street Hialeah, FL 33012
14		Email: Sabino@jaureguilaw.com
15	Pezzola:	Steven Alan Metcalf, II Metcalf & Metcalf, P.C.
16		99 Park Avenue, Sixth Floor New York, NY 10016
17		Email: Fedcases@metcalflawnyc.com  Roger Roots
18		Roger Roots Roger Roots, Attorney at Law 113 Lake Drive East
19		Livingston, MT 59047 Email: Rogerisaacroots@outlook.com
20		Email. Rogerisaacrootseoutrook.com
21	Court reporter:	Janice E. Dickman, RMR, CRR, CRC U.S. District & Bankruptcy Courts
22		Email: Janicedickmandcd@gmail.com
23		
24		
25		

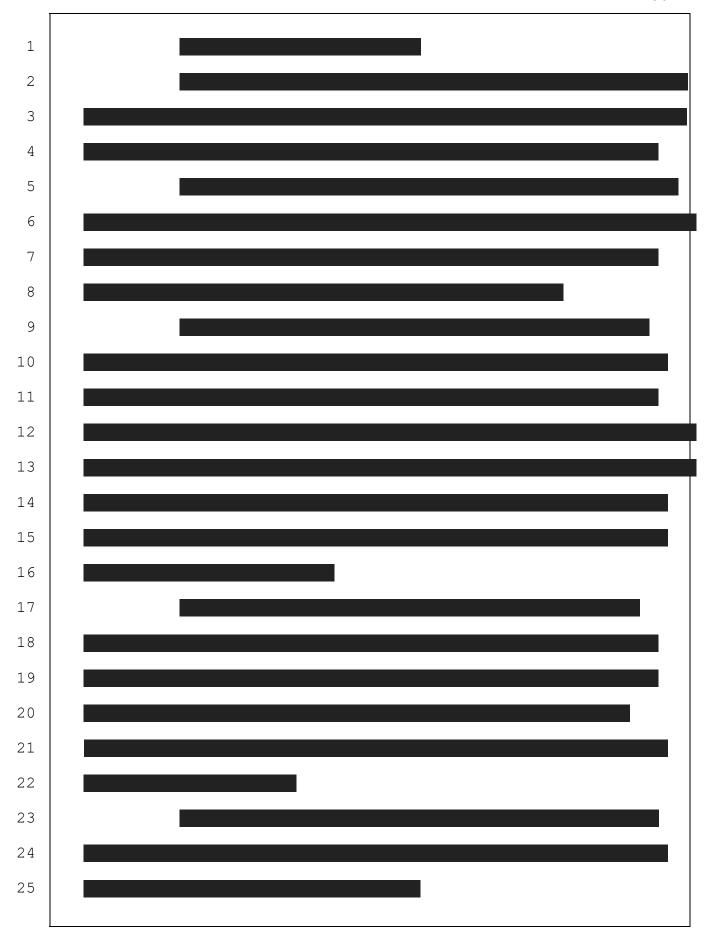


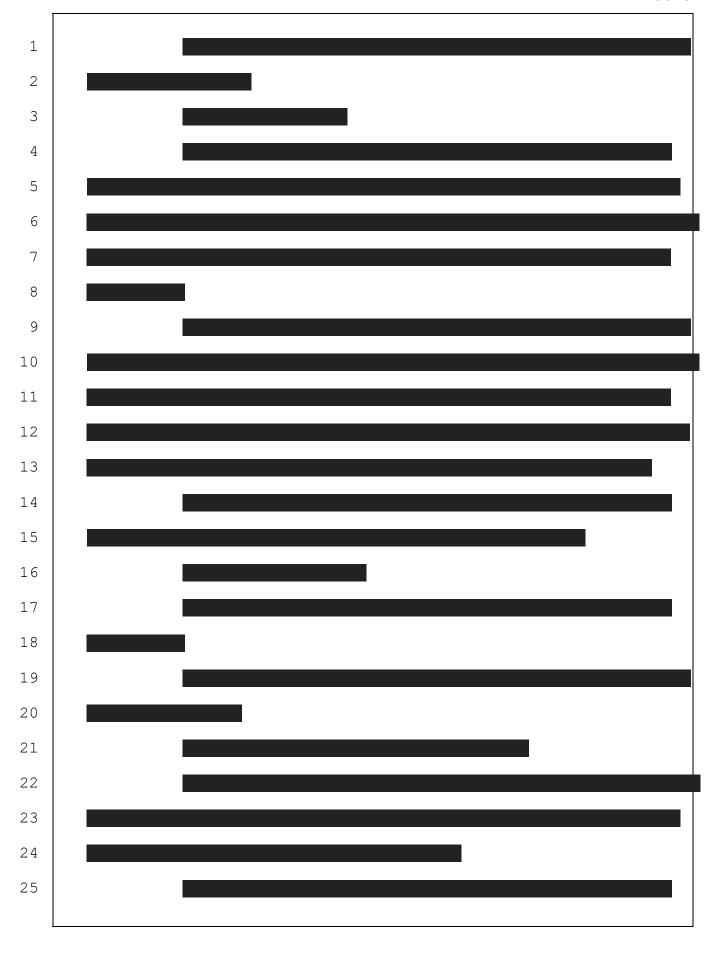


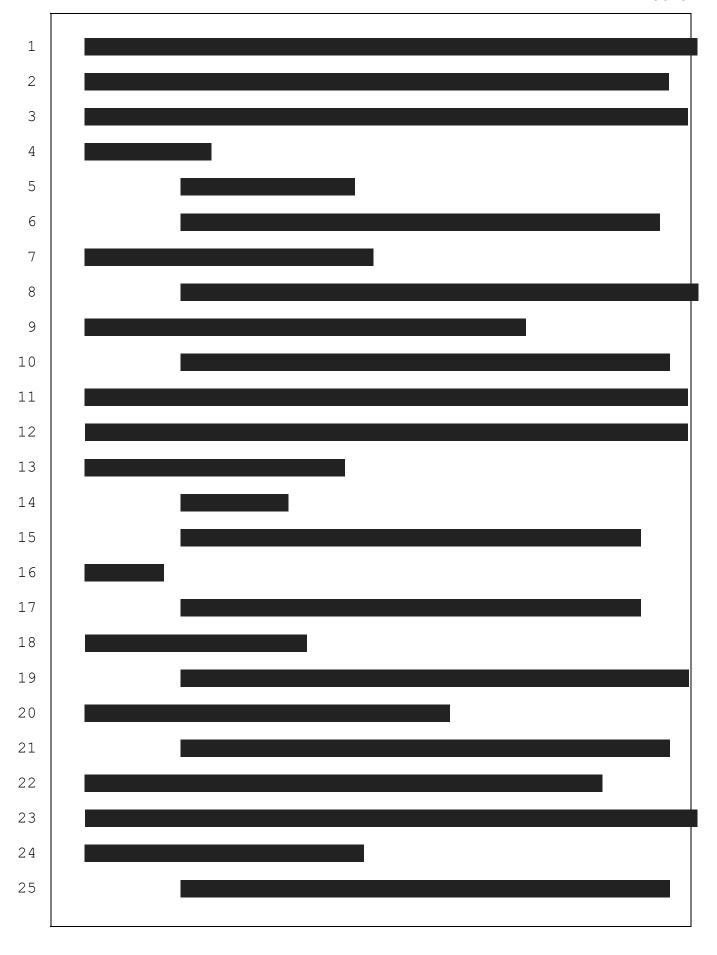




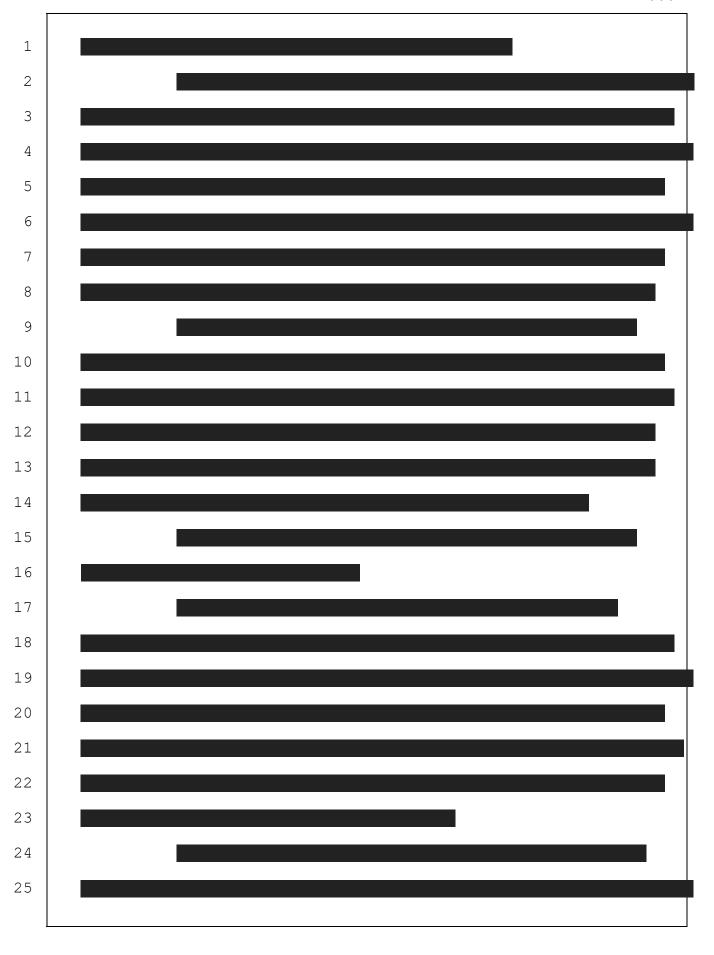


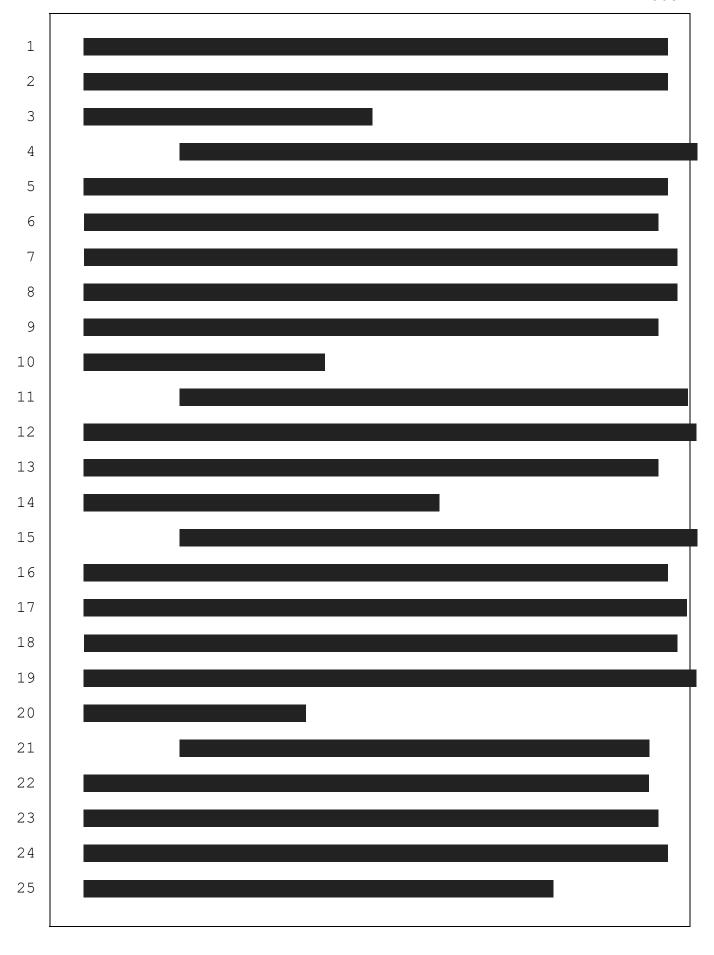






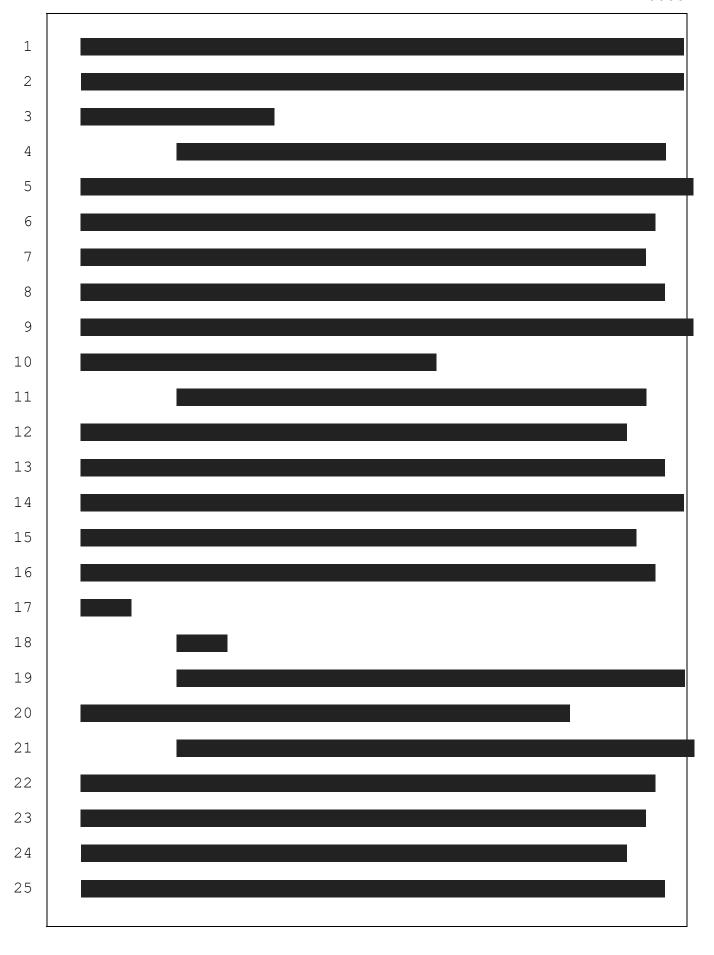


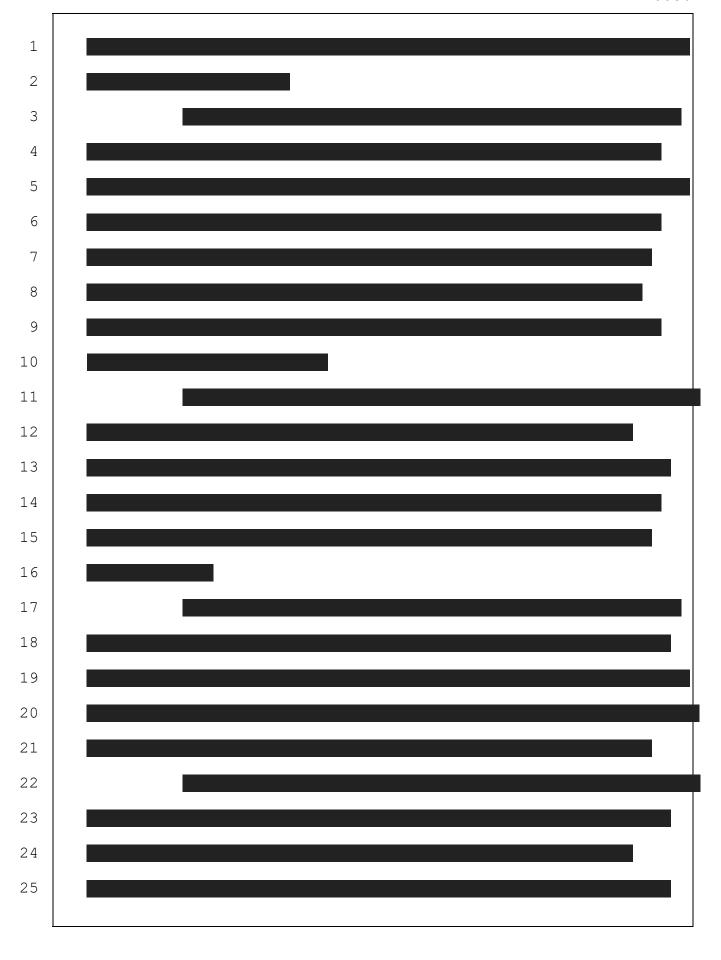


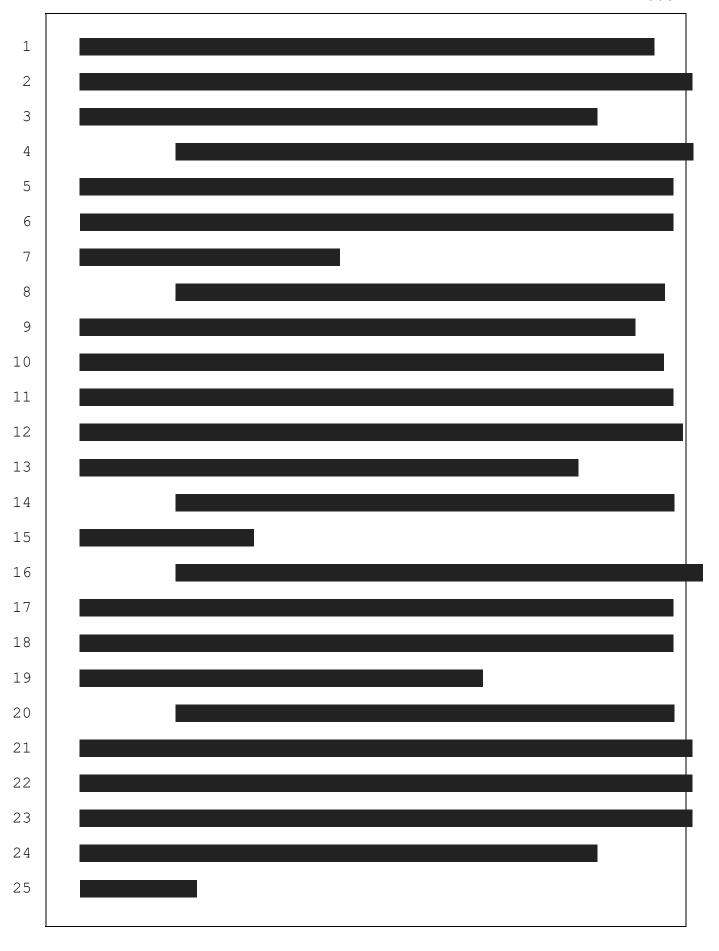


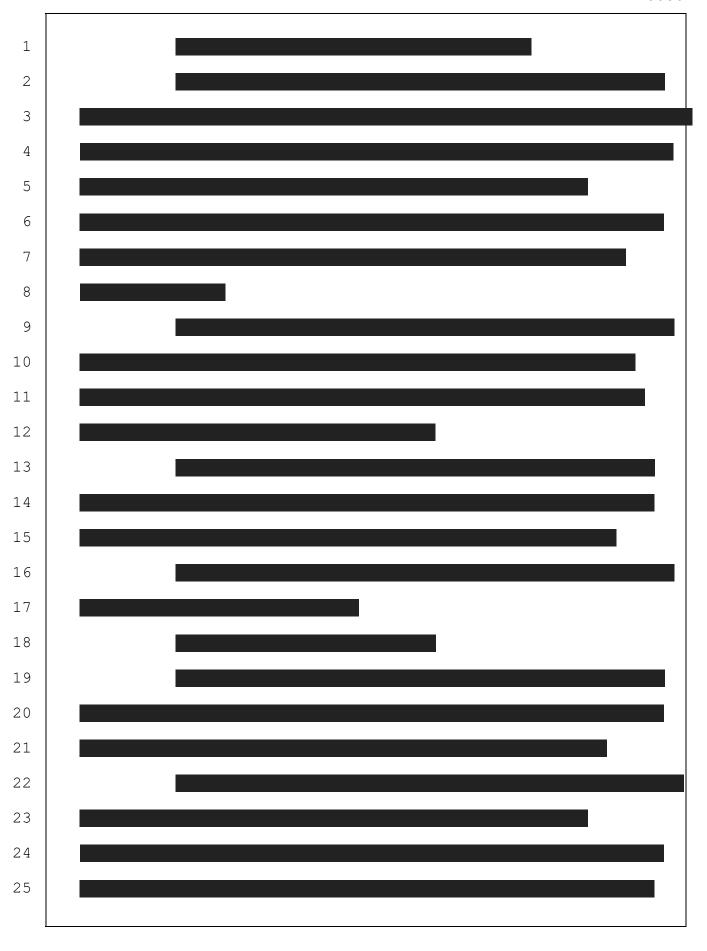


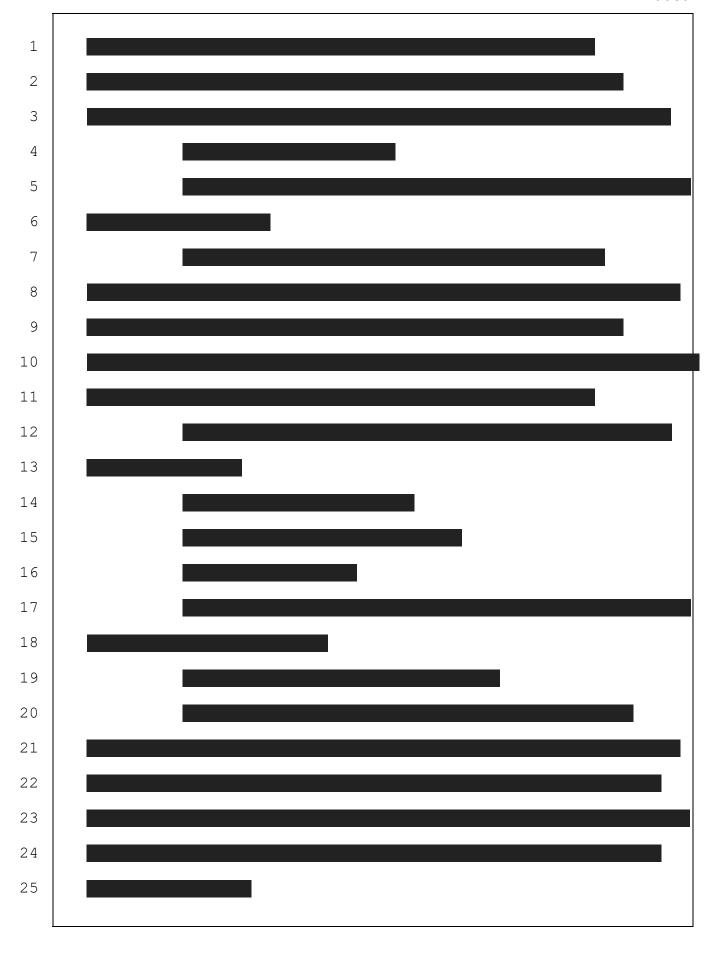


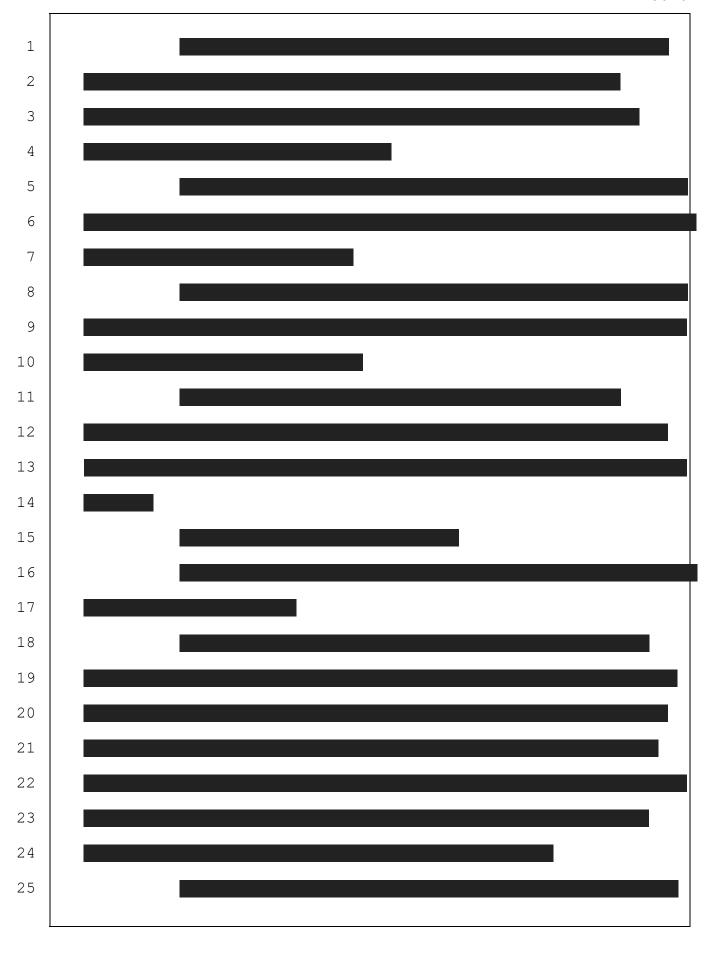




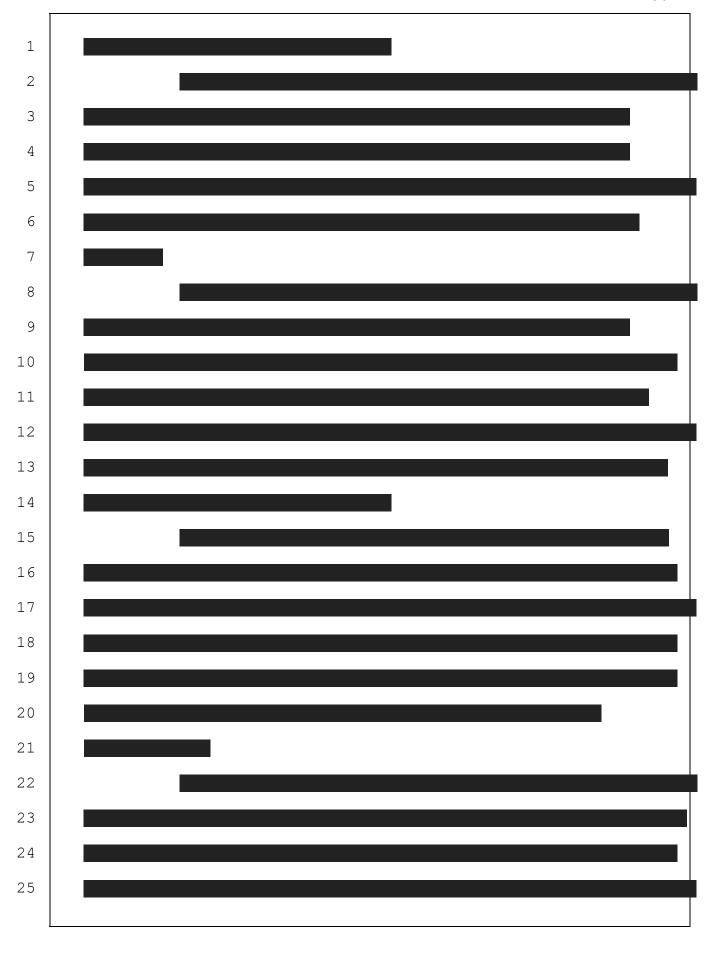




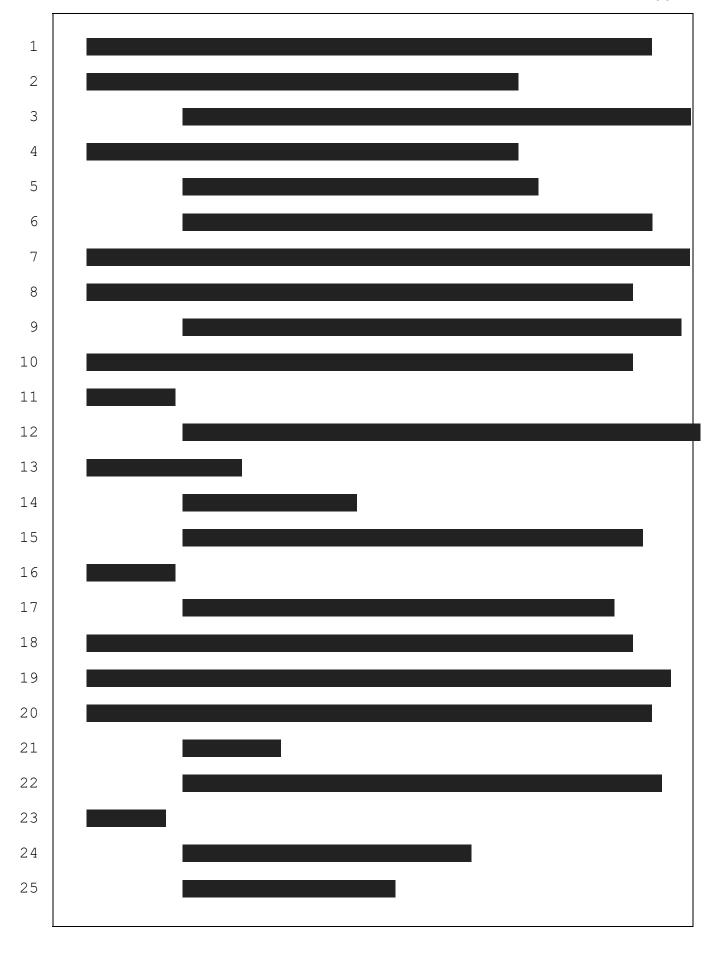


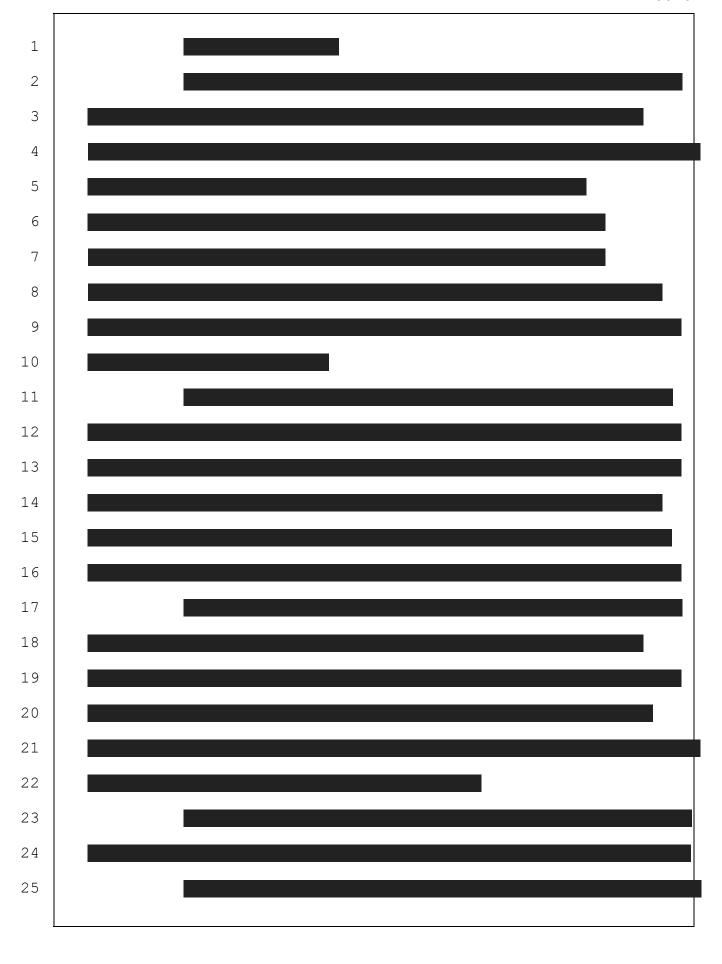


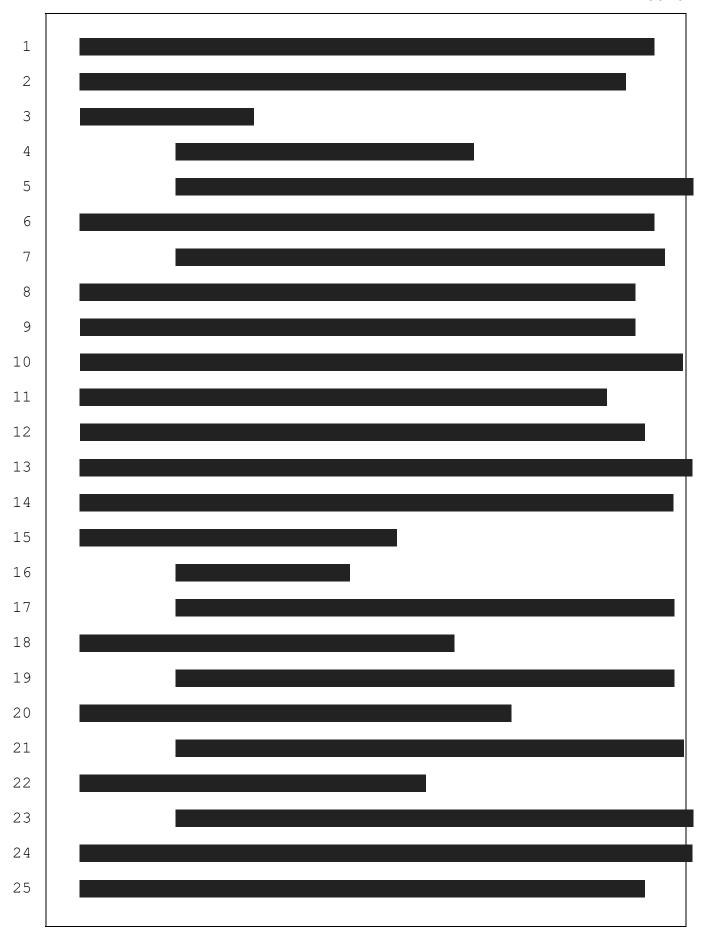


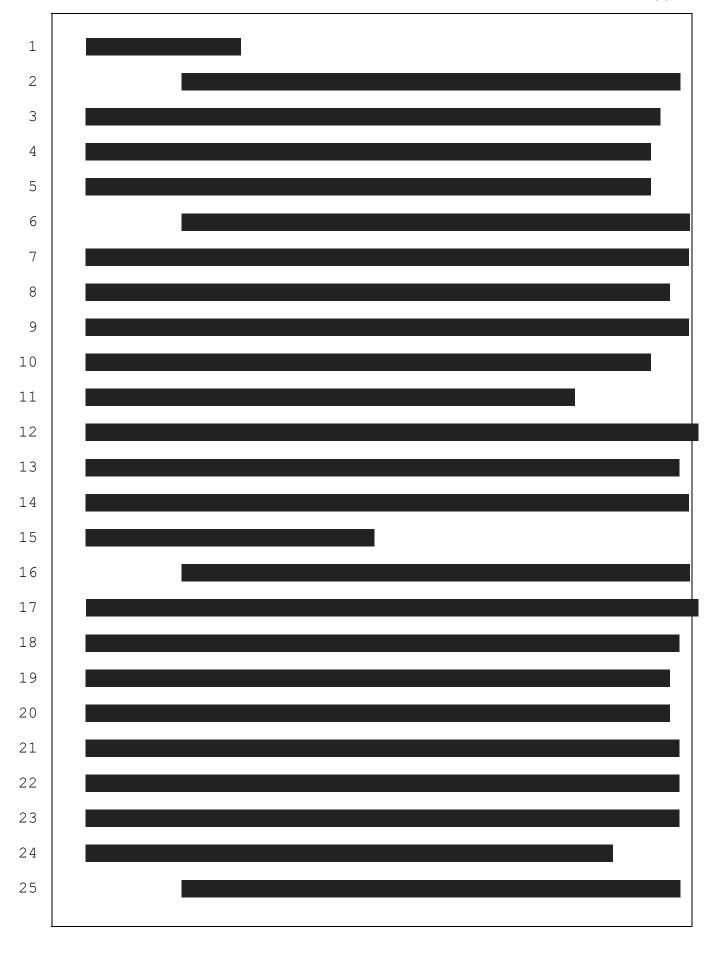


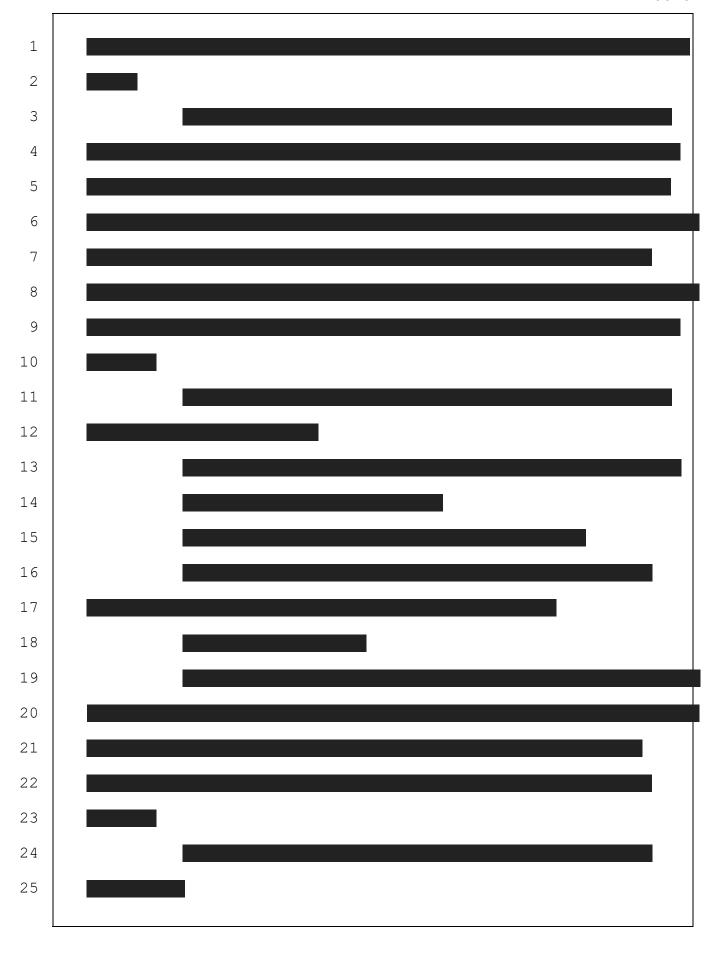


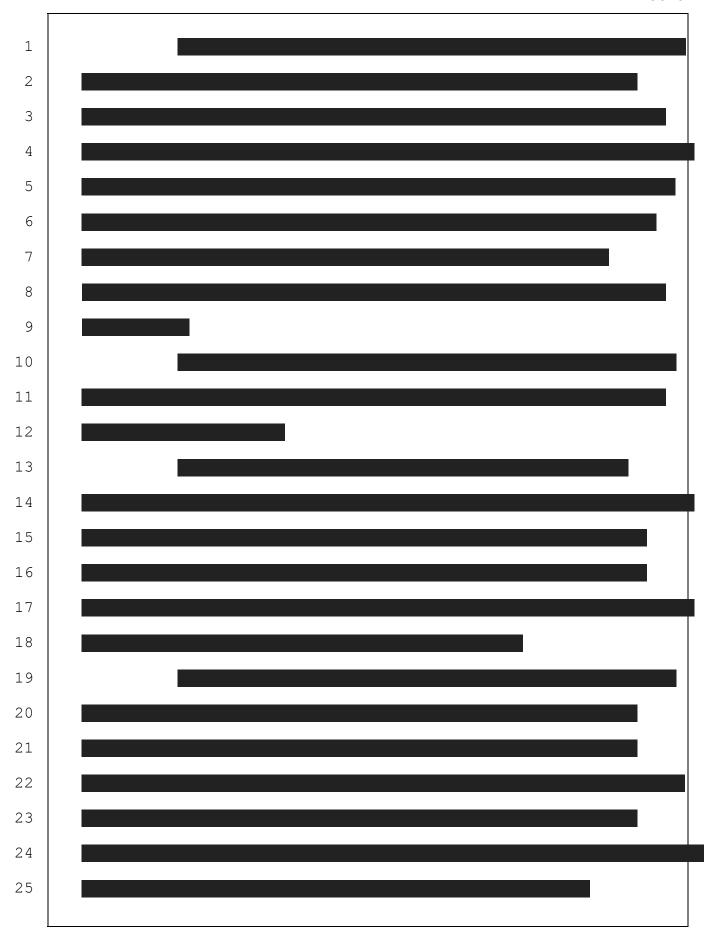


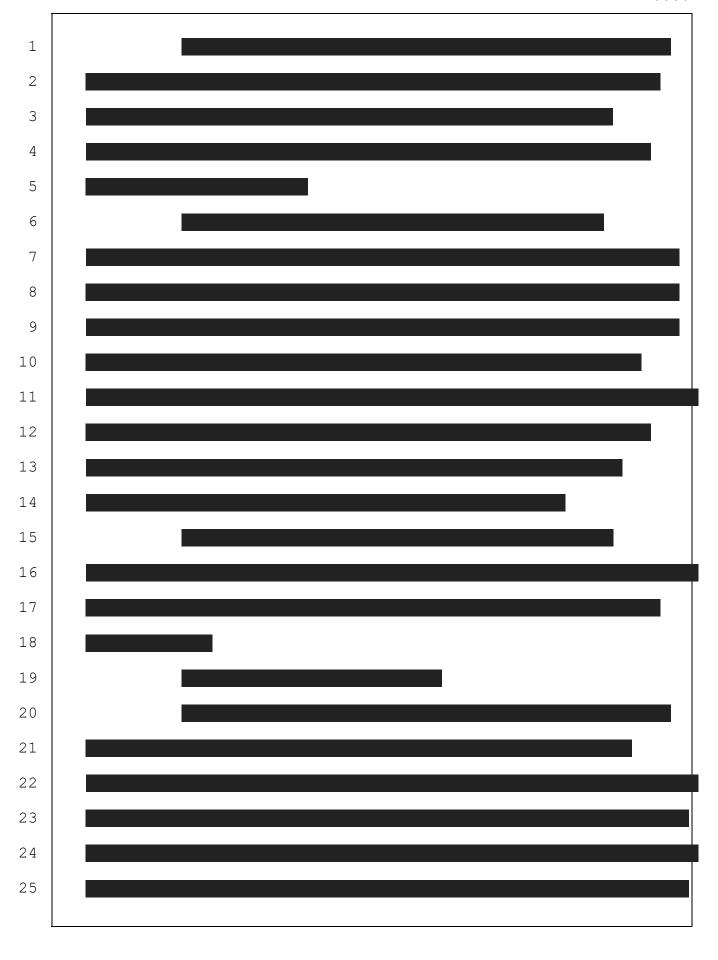


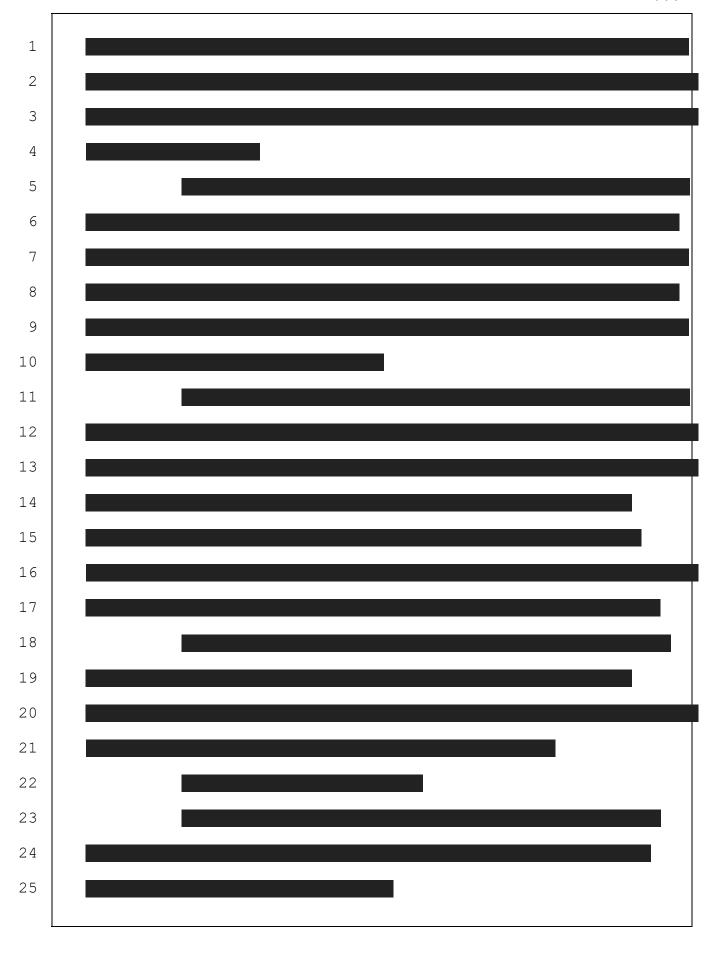


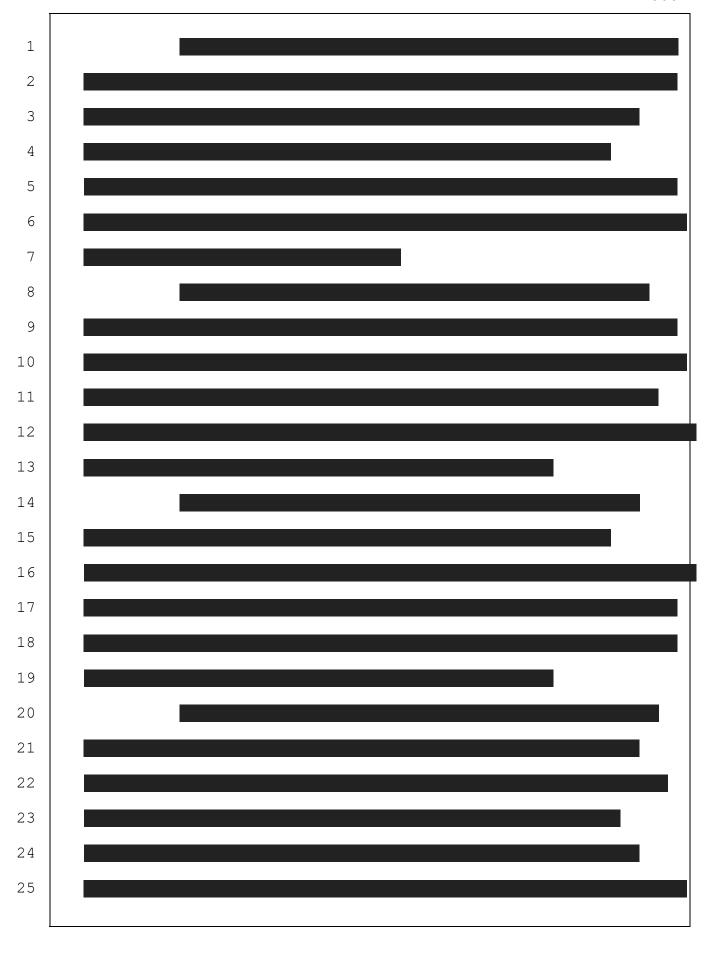


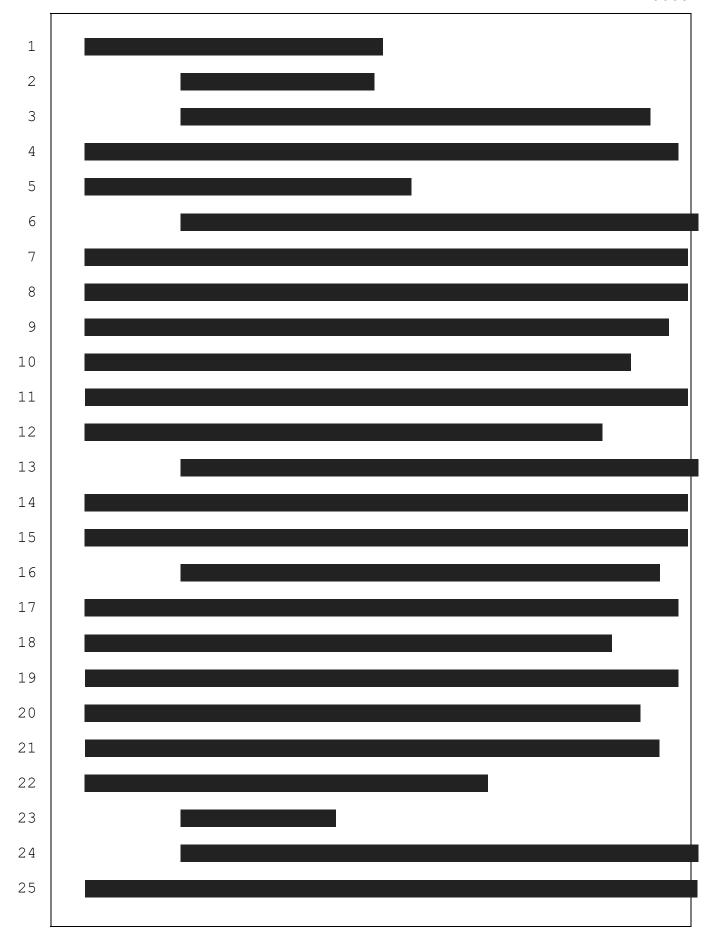


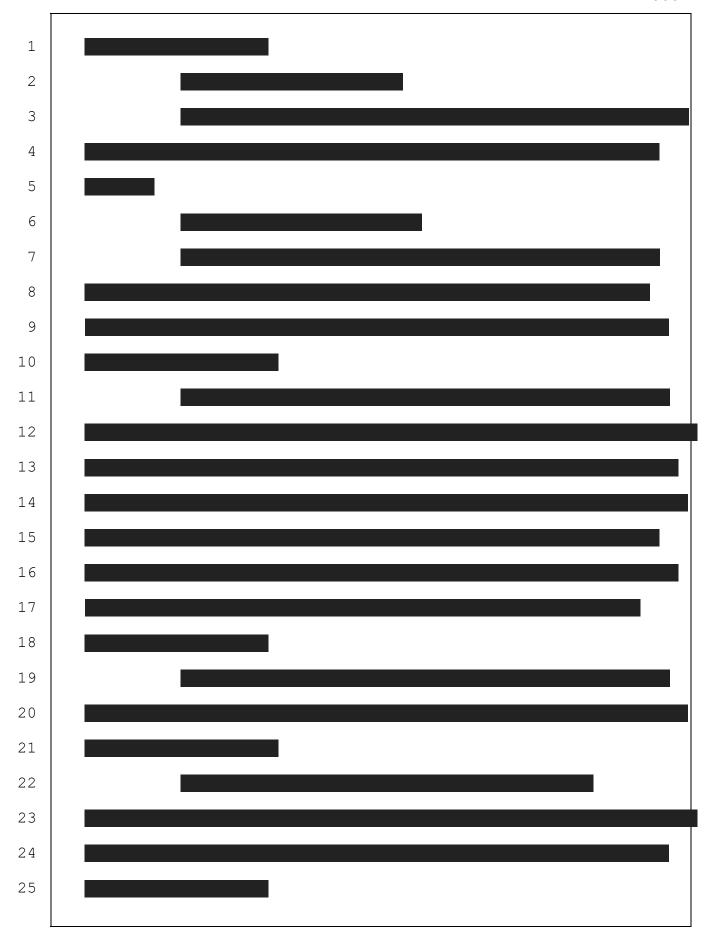


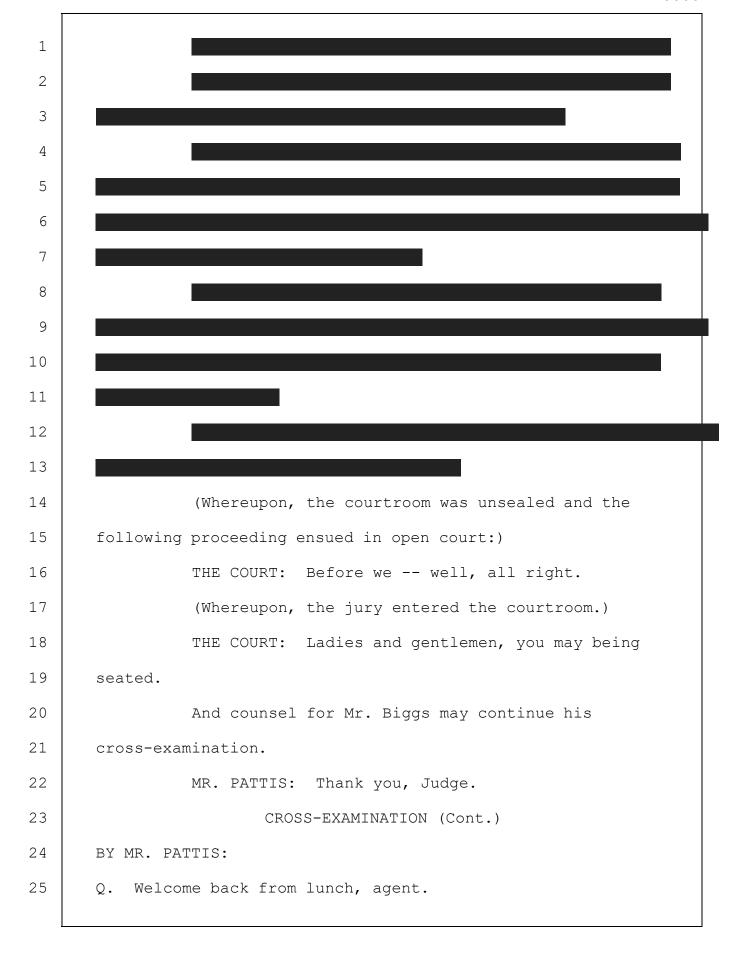












- 1 A. Same to you.
- Q. Now, I want to shift topics, ever so slightly, from where we were before the break.
  - As I understood your testimony -- and I don't want to go through each of the exhibits. We've done that -- there were a certain number of exhibits where messages from discrete chat users were no longer present in the chat, correct?
- 8 A. Yes.

5

6

7

16

- 9 Q. And it was your understanding that those had been deleted, 10 correct?
- 11 A. Yes.
- Q. And so far as you know, they would have been deleted by the sender in -- at least in the group context, correct?
- A. I don't want to get ahead of my skis, but I understand that admins can also delete chats in certain circumstances.
  - Q. So it's a little unclear how or why they were deleted, but from your perspective, some were deleted, correct?
- 18 A. Yes.
- Q. And in circumstances, given what you saw, that led you to conclude that these were not accidental deletions?
- 21 A. I'm sorry. One more time?
- Q. An item getting nuked, that's not an accident because you hit the wrong key and you get the black box?
- 24 A. Yes.
- Q. Okay. And I think you also testified, those are cases in

```
1
       which, at least as far as looking at the Signal intelligence
2
       that you have from Telegram, you're -- there are gaps in the
 3
       evidence that you've been able to assemble and muster for the
 4
       jury; fair enough?
 5
       A. Yes.
 6
       Q. It would be nice to know what that stuff is, but the
 7
       Telegram data doesn't give it to you, correct?
 8
       A. Yes.
 9
       Q. And then I believe you testified earlier today that there
10
       were occasions in which people went to video on Telegram,
11
       correct?
12
       A. Yes.
13
       Q. And they also might have used other telephonic devices,
14
       correct?
15
       A. Yes.
16
       Q. And neither -- those things don't exist, either, in a form
17
       that the FBI can retrieve, correct?
18
       A. Correct.
19
       Q. And so, just by way of example -- Ms. Rohde, may we see
20
       510-5, please?
21
              510-5. I apologize if that was unclear.
22
                 THE COURTROOM DEPUTY: That's not entered.
23
                 MR. PATTIS: It was a question about whether it's in.
```

Well, and can we scroll down, please?

24

25

510-6.

Thank you.

- It's a bad example. I can't read my handwriting.
- 2 BY MR. PATTIS:
- Q. The point is clear, if in 510-6, at 7:32:22, rather than
- 4 there being "LOL," there would be a blank, that would be an
- 5 example of something that was nuked, as it were, correct?
- 6 A. Yes.
- 7 Q. The name wouldn't appear as a random placeholder unless
- 8 initially it was associated with a text message, correct?
- 9 A. That's my understanding.
- 10 Q. Are you sure about that?
- 11 A. Again, this is my understanding. I didn't put these
- 12 together.
- Q. Okay. So, you're basically relying on what you were told?
- 14 A. Yes.
- 15 | Q. You're not here as a forensic expert?
- 16 A. Yes.
- 17 Q. You're doing the best with what you were given?
- 18 A. Yes.
- 19 Q. Now, you testified that with respect to the video chats,
- 20 the FBI was unable to obtain recordings, correct?
- 21 A. Yes.
- 22 Q. Are you familiar with the concept of a confidential human
- 23 source?
- 24 A. Yes.
- 25 Q. That is somebody who is working with the FBI, correct?

- 1 A. A CHS is someone who is providing information to the FBI.
- 2 Q. And it's not uncommon, as an investigative technique, to
- 3 have a reporting person, a CHS, in an organization you're
- 4 investigating, correct?
- 5 A. That's not uncommon, no.
- 6 Q. That can be very useful, correct?
- 7 A. Yes.
- 8 Q. The CHS would have a handler, correct?
- 9 A. Yes.
- 10 Q. A handler would be a person to whom they reported, correct?
- 11 A. The person to whom they provided information.
- 12 Q. Well, in other words, somebody that -- yeah. And the name
- 13 speaks for itself. Somebody that can handle the unique
- 14 stresses in the situation that comes with being a CHS, correct?
- 15 A. Yes.
- 16 Q. Because it's not often the case that people come in and
- 17 | say -- you know, I mean, just to pick an example at random, you
- 18 | know: Mr. Gambino, I'm here with the FBI. Can I help you with
- 19 your laundry? That's usually a one-way ticket to somewhere no
- one wants to go; fair enough?
- 21 A. Fair enough.
- 22 Q. CHSs keep their identities secret, correct?
- 23 A. Yes.
- 24 Q. They provide information to the government, correct?
- 25 A. Yes.

```
1
           And their needs are met through a handler, correct?
       Q.
2
       Α.
           Yes.
 3
           Who receives information from the CHS, correct?
 4
       A. Yes.
 5
       Q. And makes sure it gets to investigators who are handling a
 6
       case, correct?
 7
       A. Yes.
 8
       Q. Now, you know from your review of these Telegram chats,
 9
       that the FBI had CHSs in the Proud Boys at or about the time of
10
       this investigation, correct -- or, at or about the time of the
11
       events that we are here at trial to discuss, correct?
12
       A. Yes.
13
       Q. And do you know how many?
14
       A. No.
15
       Q. You have --
16
                 MR. PATTIS: May I ask, Mr. Mulroe and I agreed that
17
       given the Court's ruling, I would speak to him if I had a
18
       question. May I have your permission?
19
                 THE COURT: Yes, sir. Yes.
20
                 (Off-the-record discussion between counsel.)
21
       BY MR. PATTIS:
22
           As many as 15 CHSs?
23
       Α.
          No.
24
       Q. Okay. Five?
25
           No. I -- I do not know the full scope of CHSs that were --
```

- 1 are in the Proud Boys.
- 2 Q. "That were in the Proud Boys," at least in the run-up to
- 3 January 6, correct?
- 4 A. Yes.
- Q. You know that there were -- there was at least one -- there
- 6 | were at least two -- excuse me. I'm sorry -- there was at
- 7 least two CHSs in the group Boots on the Ground. You're aware
- 8 of that, aren't you?
- 9 A. Yes.
- 10 Q. You're aware that there was at least one CHS in the main
- 11 Ministry of Self-Defense, correct?
- 12 A. Yes.
- Q. You're aware that there was at least one CHS in the
- 14 Ministry of Self-Defense Operations, correct?
- 15 A. Yes.
- 16 | Q. You're aware that there was at least one CHS in the
- 17 Official President's Chat, correct?
- 18 A. Yes.
- 19 Q. And you're aware that there were at least two CHSs that
- 20 were involved in the group chat called Operation D.C. Street
- 21 | Sweepers, correct?
- 22 A. Yes.
- Q. And you know that there was at least one CHS who was
- 24 | pretending to be Mr. Tarrio's friend but was actually working
- 25 for the government. He was in touch with Mr. Tarrio. You were

- 1 aware of that, correct?
- 2 A. I can't agree with your characterization there.
- 3 Q. Okay. It was rhetorical, and I'll take it back.
- 4 You're aware that one CHS was in direct contact with
- 5 Mr. Tarrio?
- 6 A. Yes.
- 7 Q. And you're aware that at least one different CHS was in
- 8 touch with Mr. Tarrio and Mr. Nordean. You're aware of that,
- 9 aren't you?
- 10 A. I am not sure as to Mr. Nordean. Tarrio, yes.
- 11 Q. Would looking at a document refresh your memory?
- 12 A. It would.
- MR. PATTIS: Judge, may I approach the witness?
- 14 THE COURT: You may.
- 15 BY MR. PATTIS:
- Q. Sir, I'm approaching this with the Court's permission. You
- 17 remember this from law school days, right?
- 18 A. Yes.
- 19 Q. I'm asking you to review a document, review the portions
- 20 that I've shown you. Take your time. Review as much of it as
- 21 you like.
- 22 A. Thank you.
- 23 THE COURT: Mr. Pattis, could we just identify that
- 24 for the record, even if it's not --
- MR. PATTIS: I'll make it as Biggs 1. So, it's not

```
1
       for the record because that may or may not implicate other
2
       rulings of the Court.
 3
                 THE COURT: All right.
       BY MR. PATTIS:
 4
 5
       Q. Does that refresh your recollection as to whether there was
 6
       a different CHS than the initial one we talked about who was
 7
       working with Mr. Tarrio? There was a separate fellow -- or, a
 8
       separate person working with both Tarrio and Nordean, correct?
 9
           With communications with them, yes.
10
       Q. Direct messages with them, correct?
11
       A. Yes.
12
                 THE COURTROOM DEPUTY: Mr. Pattis, you said that was
13
       Biggs 1?
14
                 MR. PATTIS: Biggs 1, yes, ma'am.
15
                 THE COURTROOM DEPUTY: I also want to make sure it's
16
       the same as you have here.
17
                 MR. PATTIS: It's Biggs 1A, then.
18
                 THE COURTROOM DEPUTY: 1A? Thank you.
19
       BY MR. PATTIS:
20
       Q. When you told us the FBI was unable to obtain a recording
21
       of the video chat, do you know whether the FBI spoke with the
22
       CHS who was working with Mr. Tarrio?
23
       A. I do not.
24
           Do you know whether the FBI was able to speak to the
25
       confidential human source working with Mr. Nordean and
```

- 1 Mr. Tarrio?
- 2 A. I do not.
- 3 Q. And you don't know just how many confidential human sources
- 4 the FBI had with the Proud Boys, correct?
- 5 A. No.
- Q. Do you know whether the FBI had a confidential human source
- 7 | walking with the Proud Boys down the Mall the morning of
- 8 January 6?
- 9 A. I do not.
- 10 Q. Do you know whether it was a confidential human source that
- 11 told the Washington police department: Tarrio is in town, such
- 12 | that the Washington police department had 10 to 15 people
- waiting for him at the airport?
- 14 A. I do not.
- 15 Q. Wouldn't you think, with all these confidential
- 16 informants -- withdrawn.
- Wouldn't you think, with all these confidential human
- 18 | subjects, if the Proud Boys had a plan to storm the Capitol,
- 19 the FBI might have heard about it before the afternoon of
- 20 January 6?
- 21 A. I have no basis to comment on that.
- Q. Fair to say, though, sir, that you were not handling any
- 23 confidential human sources?
- 24 A. No.
- 25 Q. It is fair to say?

```
1 A. I'm sorry, yes. I was not handling any, yes.
```

- Q. I know it's the double negative thing. That's why people
- 3 | hate we lawyers, right, you know?
- 4 I would like to turn your attention to something a
- 5 little different, if we may.
- 6 May we go to 514-21, please.
- 7 | Captain Trump. Who is that?
- 8 A. That's Zachary Rehl.
- 9 Q. Versace Cowboy. Who is that?
- 10 A. Without looking at further information, I couldn't be able
- 11 to tell you.
- 12 Q. Matthew, the People's Chairman, Walter. Do you know who
- 13 that is?
- 14 A. Yes.
- 15 Q. What chapter was he associated with?
- 16 A. I believe with Nashville.
- Q. And Dan Andsome Handsome. Do you know who that was?
- 18 A. No.
- 19 Q. 506-6, please. No, 505-6. I'm sorry. We did this before.
- 20 I apologize. Old eyes.
- 21 Who is Vidivic? Do you know? Or -- I don't even know
- 22 how to pronounce it. Who is that guy?
- 23 A. Without further information, I couldn't tell you.
- Q. Okay. But you know who Kenny Lizardo is?
- 25 A. Yes.

```
1
       Q. Go on down.
2
              El Chapo, did we talk about him?
 3
       Α.
          No.
 4
       Q. Can we please see 528-1, please?
 5
              528.1, that is a text between Eryka BYO Bank or
 6
       something?
7
           A Telegram chat, yes.
       Q. You know who she is, right?
 8
 9
       A. Yes.
10
       Q. That's Eryka Flores, correct?
11
       A. Yes.
12
       Q. A some-time associate of a man named Samuel Arms, A-R-M-S,
13
       correct.
14
       A. Yes.
15
       Q. Can we took a look at 528-1A?
16
              You learned -- you've offered testimony about this
17
       document, correct?
18
       Α.
           Yes.
19
       Q. Are you or are you not aware of the fact that Mr. Arms has
20
       testified before Congress that he was the author of substantial
21
       portions of this document?
22
                 MR. MULROE: Objection to hearsay.
23
                 THE COURT: Sustained.
24
       BY MR. PATTIS:
25
       Q. Do you know who wrote this document?
```

```
1 A. No.
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- Q. Do you know how it came into Ms. Flores's possession?
- 3 A. No.

- 4 Q. And you don't know whether Mr. Tarrio ever read it,
- 5 correct?
- A. I have no forensic evidence to definitively prove it. But,
- 7 there is circumstantial evidence suggesting that he did.
- 8 Q. That circumstantial evidence is just the use of the term
- 9 Winter Palace, correct?
- 10 A. Which was only used, to my knowledge, after he received
- 11 this document.
- 12 Q. It's used in just about every undergraduate history book
- that talks about the tragic events of 1917, isn't it?
- 14 A. I certainly never learned about it.
- Q. Oh, come on. When the Czar's family was killed as part of
- 16 | the Russian Revolution? You did not know that?
- 17 A. I really did not.
- 18 Q. Now you do.
- 19 Looking at 1776 -- so, is it -- did you make any efforts
- 20 to find out whether any -- any of the five men sitting over
- 21 there --
- 22 Mr. Biggs, stand up for a minute.
- 23 Did he ever see it?
- 24 A. I saw no Telegram chats suggesting so.
- 25 Q. Did he ever read it?

- 1 A. Again, I saw no Telegram chats suggesting so.
- Q. Did he know -- maybe he didn't know what the Winter Palace was either.
  - A. Again, I have no information one way or the other.
- 5 Q. Now, Mr. Smith talked to you about the document. I would
- 6 like to go through it briefly. Take a look at the
- 7 second-to-the-last page. I believe it will be page 8, assuming
- 8 the numerical conventions hold here.
- 9 That is a We, the People page, correct?
- 10 A. That's the title, yes.
- 11 Q. Can you read it for us, please -- or, can you read it for
- 12 us? I'm sorry.

- 13 A. "Our request is simple, constitutional, and nonnegotiable.
- 14 We demand a free and fair election. The evidence of election
- fraud is overwhelming. We demand that on January 20th, a new
- 16 | election is conducted, not a recount. Paper ballots only, no
- electronic voting, no mail-in ballots, no absentee ballots.
- 18 In-person with an ID or no vote, monitored by National Guard.
- "Special mention: Mitch McConnell, Kevin McCarthy,
- 20 Mike Pence, and Bill Gates, we, the people, are watching you.
- 21 Rand Paul and Ron DeSantis, we, the people, love you."
- 22 Q. Were any of these -- to your knowledge, was this document
- 23 reflected in any of the chats?
- A. Not to my knowledge, no.
- 25 Q. And as documents go, this is relatively benign -- or, this

- is benign, is it not? I mean, there's nothing prohibited or suspicious about this.
  - A. About this page, no.
- 4 Q. And you know, again, in law school, that people have a
- 5 right to petition for the redress of grievances. No matter how
- 6 mistaken we may be, we have a right to peacefully assemble and
- 7 | say: Give us what we want, right?
- 8 A. Yes.

- 9 Q. Do you have any idea when this document was written?
- 10 A. No.
- 11 Q. Have you ever tried to find out?
- 12 A. Me, personally, no. I'm not aware of whether or not there
- were separate endeavors to determine that.
- 14 Q. You weren't curious?
- A. I'm certainly curious, but it's outside the scope of my
- 16 investigative work.
- 17 Q. Yeah, but not outside your concerns as a citizen.
- 18 Have you followed the January 6 House Committee at all?
- MR. MULROE: Objection as to relevance.
- 20 THE COURT: Sustained.
- 21 BY MR. PATTIS:
- Q. Go to page 6, if you will, Ms. Rohde. Well, actually, go
- 23 to page 7. Let's go reverse engineer this thing.
- 24 "Patriot Plan Logistics for release to the public. You
- are the revolution. Be a part of history and fight for this

```
1
       country so our children don't have to. It's all or nothing,
2
      patriots. Boldness and bravery is necessary."
 3
              Correct?
      A. That's what it says.
 4
 5
           "Fighting for this country," did you take that to be an
 6
       indication or a predisposition to violence?
 7
      A. I think this document does elicit a use of force, so it
 8
      gets close to that line, yes.
 9
      Q. So, "Be a part of history and fight for this country so our
10
       children don't have to," that's close to the line of violence?
      That line?
11
12
      A. To the extent this document is calling for people to storm
13
      Capitol buildings, yes.
14
      Q. You're familiar with the beloved figure of Alice in
15
      Wonderland, Lewis Carroll's creation, correct?
16
      A. I've seen the Disney movie.
17
      Q. And you've seen her classic confrontation with Humpty
18
      Dumpty, I suspect. Right?
19
      A. I have.
20
      Q. "Must a name mean something," Alice says to Humpty? "When
21
       I use a word," she says, "it means just what I choose it to
22
      mean. Neither more nor less."
23
              I call that the Humpty Dumpty effect. You know, words
24
      have a subtle meaning. You understand that as a journalist,
25
       right?
```

- 1 A. I understand.
- 2 Q. And you were involved in strategic communications. That
- 3 was your focus as a journalist?
- 4 A. Yes.
- 5 Q. The importance of being persuasive, correct?
- 6 A. Yes.
- 7 Q. Using speech that has punch?
- 8 A. Yes.
- 9 Q. That conveys a message?
- 10 A. Yes.
- 11 Q. That is clear?
- 12 A. Yes.
- 13 Q. Unambiguous?
- 14 A. Yes.
- 15 Q. And it's susceptible to only one reasonable meaning,
- 16 | correct?
- 17 A. Ideally.
- 18 | Q. So your view -- I'm taking a real risk here.
- 19 You ever watch University of Notre Dame's football team?
- 20 A. Sorry.
- 21 | Q. If they call them the Fighting Irish, are they planning for
- 22 violence?
- 23 A. No.
- Q. Okay. Of course not. Because context matters, correct?
- 25 A. Yes.

- Q. And this is patriotic gore, this business about the Patriot
- 2 Plan logistics. You're familiar with that expression,
- 3 "patriotic gore"?
- 4 A. Give me a sentence.
- 5 Q. Edmund Wilson wrote a famous book about the vagaries of
- 6 patriotism shortly after writing The Finland Station, that book
- 7 was entitled?
- 8 A. I'm guessing, Patriotic Gore.
- 9 Q. 1 o'clock. "Immediate location 1."
- 10 And we went through this. Among those locations there
- is not the United States Capitol, correct?
- 12 A. Correct.
- 13 Q. 1:22. "Are enough people around," correct?
- 14 A. Correct.
- 15 Q. "Waiting for a signal..." it says there at 1:30, correct?
- 16 A. Yes.
- 17 Q. "...from the lead," correct?
- 18 A. Yes.
- 19 Q. "Storm the building," correct?
- 20 A. Yes.
- Q. And that business of storming, that's the tell for you that
- 22 makes this the -- that transforms this from benign to
- 23 potentially violent, correct?
- 24 A. Yes.
- Q. Now, let's go back to 6. As to each of these locations --

- 1 the Supreme Court, the Russell Senate Office Building, the
- 2 Dirksen Senate Office Building, and I could go on -- there's a
- 3 division of labor, correct?
- 4 A. Yes.
- 5 Q. There's to be a lead person, correct?
- 6 A. Yes.
- 7 Q. A hypeman or person, correct?
- 8 A. Yes.
- 9 Q. A second lead, I presume, correct?
- 10 A. Yes.
- 11 Q. And a recruiter, correct?
- 12 A. Yes.
- 13 Q. And the objective in taking control of these buildings was,
- 14 apparently, to do so without violence, correct?
- 15 A. Is this a reference to the sit-in?
- 16 Q. No.
- 17 A. In order to get in, you're going to need to use some amount
- 18 of force, so I'm not sure I can agree with you there.
- 19 Q. Well, how much force did I just use in walking to the back
- of the room? Some, right?
- 21 A. Some.
- 22 Q. But that's lawful, right?
- 23 A. Yes.
- Q. Read the bottom of the page. "Only pull the fire alarm if
- 25 needed to distract the police."

```
1
              And then it gives locations of fire alarms, I presume,
2
       does it not?
 3
           That's what it appears to be, yes.
 4
          Walmart Supercenter?
       Q.
 5
       A. Yes.
 6
       Q. Residence Inn by the Ford House?
7
       A. Yes.
          The Marriott Hotel location?
 8
       Q.
 9
       A. Yes.
10
       Q. Large hotels?
11
       A. Yes.
12
       Q. Museums?
13
       A. Yes.
14
       Q. Did any of those fire alarms get pulled in Washington,
15
       D.C., to your knowledge, on January 6, 2021?
16
       A. No.
17
           Did you see any Telegram chats that directed people to go
18
       pull the fire alarm?
19
       A. No.
20
       Q. Go back to page 5, please, Ms. Rohde.
21
              There are notes here that explain some of the previous
22
       material, including the sit-in. It tells people to "protect
23
       your identity, " correct?
24
       A. Yes.
25
           "Use COVID compliance in your favor," correct?
```

- 1 A. Yes.
- 2 Q. I presume that meant wearing a mask. Or do you have any
- 3 idea what that means?
- 4 | A. I presume it means wearing a mask to disguise your face.
- 5 Q. Have you ever viewed any of the videos of the day the
- 6 Capitol riot took place?
- 7 A. Yes.
- Q. Did you see anybody wearing a mask?
- 9 A. Here and there, yes.
- 10 Q. And see anybody wearing a COVID mask?
- 11 A. I would have to think about that. But, there are plenty of
- 12 | people who have masks covering their facial features.
- 13 Q. "Have an escape plan for those in charge," correct?
- 14 A. Yes.
- 15 Q. "Choose an HQ."
- 16 Headquarters?
- 17 A. Yes.
- 18 Q. "And make it inside on -- of the captured buildings or a
- 19 nearby hotel."
- 20 Did you see any discussion among the guys on the chat
- groups about where their headquarters would be on January 6?
- 22 A. No.
- 23 Q. "See if you can get anyone with a semi to help you block
- 24 traffic."
- 25 Any indication of that?

```
1 A. No.
```

- Q. "Now is the time to reach out for truckers or bikers for
- 3 Trump for these roadblocks."
- 4 Did you see any roadblocks constructed by vehicles?
- 5 A. No.
- 6 Q. Burning tires?
- 7 A. No.
- 8 Q. Overturned vehicles?
- 9 A. No.
- 10 Q. "With the large caravans, simply have cars block
- 11 intersections."
- 12 You didn't see that either?
- 13 A. No.
- 14 Q. And you saw no discussion of that?
- 15 A. No.
- 16 Q. Going back to page 4.
- "Occupy." That's a term that resonates somewhat, does
- 18 it not?
- 19 A. Yes.
- 20 Q. You were in New York during the Occupy movement, Zuccotti
- 21 Park and so forth. Or was that before your time? I date
- 22 myself.
- 23 A. It was right at the beginning. It's scary to think that
- 24 that was 12 years ago.
- Q. It was more than that. Occupy?

- 1 A. It was my one year, 2000 --
- 2 Q. I thought you said four years ago.
- 3 A. 12. Sorry.
- Q. "Occupy. Present our list of demands, we, the people, page
- 5 of the Patriot Plan."
- And we went through those items, correct?
- 7 A. Yes.
- 8 | Q. "Liberty or death," though. Wow, that sounds like a call
- 9 to violence, to me. How does it sound to you?
- 10 A. I take this list as relative -- they're catchphrases,
- 11 right?
- 12 | Q. Well, I mean, you're not doing the Humpty Dumpty thing that
- Alice and Humpty got in about it, where you're making words
- mean what you want them to mean, are you?
- 15 A. I don't believe I am.
- 16 Q. "Victory or death," that's just more patriotism.
- Did you ever go to a 4th of July parade?
- 18 A. "Liberty or death" is a revolutionary term. It's from the
- 19 Revolutionary War.
- 20 Q. Yeah. And we are a revolutionary country who used to glory
- in our independence, correct?
- 22 A. Yes.
- 23 Q. I mean, who was it that once said, "The tree of liberty
- 24 needs to be refreshed with the blood of patriots from time to
- 25 time"?

- 1 A. I think that's a Thomas Jefferson quote.
- 2 Q. It is. This kind of rhetoric is part of the American
- 3 experience, correct?
- 4 A. Yes.
- 5 Q. It becomes dangerous in incendiary times, inflammatory
- 6 times, correct?
- 7 A. I would agree with that.
- 8 Q. And those are the times in which we now live.
- 9 A. Yes.
- 10 Q. "If necessary," it says in part 3, "distract. Only to be
- done if they won't allow patriots in the building we own."
- 12 You're aware that there was resistance at a series of
- points along the way into the Capitol on January 6?
- 14 A. Yes.
- 15 Q. And we've already talked about pulling fire alarms around
- 16 | the city. It didn't happen, correct?
- 17 A. Correct.
- 18 Q. Doesn't this plan contemplate having people enter the
- building and then let others in?
- 20 A. Yes.
- 21 Q. They have people go in, and they want them to be well
- 22 dressed so as not to call attention to themselves, correct?
- 23 A. I -- that sounds right.
- Q. Any indication that happened on January 6?
- 25 A. No.

- 1 Q. "Have scouts," it says on page 3, "drive around the
- 2 buildings in areas before daylight to check on any roadblocks
- 3 and update plans."
- 4 A. Sorry. Could you point me to where you're --
- 5 Q. Page 3, sir. I apologize.
- 6 A. Oh, I see it.
- 7 Q. "January 6, execution day, overview: Have scouts drive
- 8 around buildings in areas before daylight to check on any
- 9 roadblocks and update plans accordingly, "correct?
- 10 A. Yes.
- 11 Q. "Infiltrate. Have leads and seconds stay inside the
- building until called upon upon execution time. Scope out the
- entrances and exits. If possible, be in the building first
- 14 thing in the morning. Be dressed in suits and unsuspecting.
- 15 Do not look tactical at all."
- 16 See any discussion of that in the text?
- 17 A. No.
- 18 Q. If I were to tell you this plan was largely drafted in the
- summer of 2020 by somebody who was gaming out what could happen
- 20 in 2021, and that that person had nothing to do with the Proud
- Boys, would that surprise you?
- 22 A. I have no information about that one way or the other.
- Q. You talked a little bit about the Proud Boys and violence,
- 24 correct?
- 25 A. Yes.

- Q. You've not spoken to anyone who has thus far testified in this case, correct?

  A. No.
- Q. And when you've met to prepare with the government to testify here today, as you have -- you have met to prepare,
- 6 correct?
- 7 A. Yes.
- Q. -- nobody showed you a transcript of what happened before?
- 9 A. No.
- Q. Nobody said: Don't talk to -- well, nobody said: This is what so and so said, correct?
- 12 A. No.
- 13 Q. Let me ask you the following question:
- Based on your observations of the text, isn't it

  consistent that the texts stand for the proposition: If

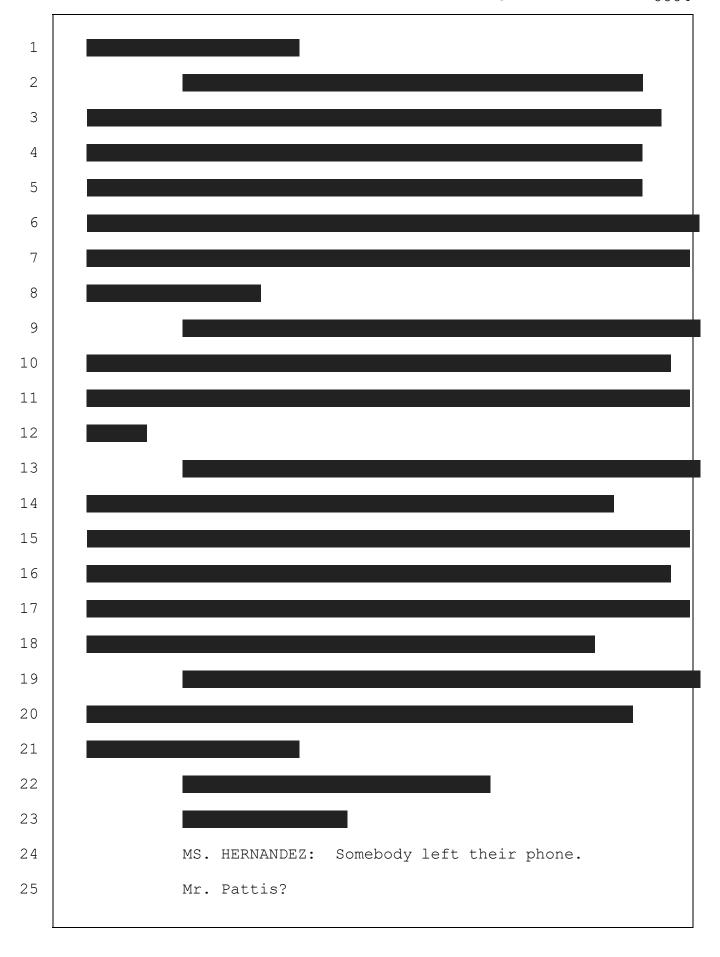
  violence started, you should not back down?
- 17 A. I'm sorry?
- Q. That self-defense theme: If violence is started, you should not back down.
- 20 That's consistent with these texts, is it not?
- 21 A. I think that's a theme that can be read into them.
- Q. And this business of reading themes into things, ultimately, as to a verdict in that case, that is the job that
- belongs to the 12 people who will decide the case, correct?
- 25 A. Absolutely.

```
1
           You're not here to take a position, correct?
       Q.
2
       Α.
          No.
 3
           But you're open to the fact that there are disputes about
       reasonable interpretations of the data that you've provided to
 4
 5
       this jury, correct?
 6
           I recognize that there are gaps in the data that -- yes.
 7
       Q. And not just gaps in the data. Even when you take the data
 8
       as a whole, there are reasonable disputes about what it means,
 9
       isn't there?
10
           I think we certainly disagree.
11
           Okay. And that has nothing to do with by whom you're
12
       employed?
13
           I'm sorry?
       Α.
14
           That has nothing to do with by whom you're employed?
       Q.
15
       Α.
           No.
16
           With your professional ambitions?
       Q.
17
       Α.
           No.
18
           With whatever distaste you may have with the Proud Boys,
19
       for whatever reason?
20
       A. To the extent those exist, no.
21
                 MR. PATTIS: Thank you, sir.
22
                 THE COURT: All right. Before -- Ms. Hernandez,
23
       before we proceed with cross-examination on behalf of Mr. Rehl,
24
       can I have the parties pick up the phones?
```

(Bench discussion:)







```
1
                 MR. PATTIS:
                              Thank you.
2
                            CROSS-EXAMINATION
 3
       BY MS. HERNANDEZ:
       O. Good afternoon.
 4
 5
       A. Afternoon.
 6
       Q. I guess it's been more than a week now.
 7
              So, my name is Carmen Hernandez, and I represent Zachary
       Rehl.
 8
 9
              Do we know each other, by any chance? Just -- I don't
10
       believe we've met, but I -- he looks familiar. I am sorry.
11
              Do we know each other, by any chance?
       A. I do not believe we know each other.
12
13
       Q. Okay. All right. We've never spoken other than, perhaps,
14
       seeing each other in the hall?
15
       A. In passing in the hallways.
16
       Q. Correct. Okay. I just wasn't sure and -- so, let me
17
       start.
18
              I'm going to try to -- again, I'm going to try not to go
19
       over old ground, but you know lawyers.
20
       A. I understand.
21
       Q. So let me start with the 1776 Returns that we've gone over
22
       for a little bit. I'm going to try to lead pretty quickly.
23
              So, this document was sent to Mr. Tarrio by a female
24
       friend, correct?
25
       A. Yes.
```

- Q. And that female friend is a lady named Eryka?
- 2 A. Yes.
- 3 Q. And Ms. Eryka or -- Ms. Eryka has no relationship with
- 4 Mr. Rehl, that you know of?
- 5 A. That I know of, no.
- 6 Q. No Telegram messages?
- 7 A. Correct.
- 8 Q. No phone calls?
- 9 A. Correct.
- 10 Q. No -- nothing that you've seen that indicates that she
- sent, for example, that 1776 Returns to Mr. Rehl?
- 12 A. Correct.
- 13 Q. And you -- I believe you said on direct that Mr. Tarrio did
- 14 not forward that document to any of the defendants.
- 15 A. Not that I saw.
- 16 Q. Okay. And, in fact, you don't even -- you can't even say,
- from the electronic data, that Mr. Tarrio opened or downloaded
- 18 that document.
- 19 A. From the electronic data, no.
- 20 Q. Okay. And that -- I understand you're not the expert on
- 21 | that aspect of it, but, you have, before testifying today,
- 22 reviewed those materials from the -- from Special Agent Cain;
- 23 is that correct?
- 24 A. I've reviewed Examiner Cain's -- I've reviewed those
- 25 extractions.

- 1 Q. Okay.
- 2 A. I'll admit that I don't understand a bench of the technical
- 3 stuff, though.
- 4 Q. No, most of us don't.
- 5 So, no relation to any of these gentleman.
- And -- and you indicated that some of the buildings were
- 7 within the Capitol grounds. I think you said that on direct
- 8 exam -- in your direct examination.
- 9 A. Yes.
- 10 Q. But, the buildings were Senate office buildings, correct?
- 11 A. The Senate and House.
- 12 Q. The Senate and House buildings. And those are actually off
- 13 streets that surround the Capitol?
- 14 A. Yes.
- 15 Q. They're not -- I understand that they may technically be
- 16 the Capitol grounds because, apparently, the Capitol grounds is
- 17 half of Capitol Hill; am I correct?
- 18 A. I'm not sure it's half, but it's surprisingly large.
- 19 Q. "Surprisingly large."
- But, in fact, the Capitol is located on, like, a grassy
- 21 area?
- 22 A. Yes.
- 23 Q. And then there are actual streets where traffic goes back
- 24 and forth?
- 25 A. Yes.

```
1
       Q. And I don't know the street numbers, but I believe it's,
2
       like, First and all sorts of different streets.
 3
              And these office buildings are -- and, by the way, these
       office buildings, the Senate and House office buildings, are
 4
 5
       buildings that house the various senators and House members?
 6
       A. Yes.
 7
       Q. And their staff?
 8
       A. Yes.
 9
           And they actually line -- there are multiple of these
10
       buildings on the Senate side and on the House side?
11
       Α.
           Yes.
12
       Q. And I -- maybe some of these jurors have walked past there.
13
              And, I mean, you've made a lot about what that document
14
       did or did not represent. There's been a lot of discussion
15
       about that.
16
       A. There has.
17
       Q. For example -- but -- let's see if you remember this:
18
       Several years ago, when then-Circuit Judge Kavanaugh was being
19
       nominated to the Supreme Court, a number of women occupied one
20
       of the Senate office buildings.
21
              Do you recall that?
22
                 MR. MULROE: Object to scope and relevance.
23
                 THE COURT: Sustained.
24
                 MS. HERNANDEZ: Trying to see if I can reframe that
25
       to be able to ask the question.
```

```
1
                 Can I just ask him if he recalls that, and then that
2
       might be an easy answer?
 3
                 THE COURT: I'm sorry? Ms. --
                 MS. HERNANDEZ: If I ask him if he -- if he says:
 4
 5
       No, I don't recall that, then that's the end of my arguing over
 6
       it.
 7
                 THE COURT: I've sustained the question.
                 MS. HERNANDEZ: Okay. Thank you, Your Honor.
 8
 9
                 THE COURT: I sustained the objection as to scope and
10
       relevance.
       BY MS. HERNANDEZ:
11
12
           Are you -- are you based in Washington, D.C., now?
       Q.
13
       Α.
           No.
14
          You're still based in New York?
       Q.
15
       A. Yes.
16
           Okay. But, have you been working out of the D.C. Office?
       Q.
17
       Α.
           Yes.
18
           Okay. So -- I'm trying to -- I'm trying to go where, I
       Q.
19
       think, the Judge doesn't want me to go -- or the government
20
       doesn't want me to go. So I'll move on from this.
21
              I'm going to ask you a number of questions about things
22
       you testified to on direct.
23
       A. Okay.
24
           The government produced for you, or the prosecutors
25
       produced for you a shield which, supposedly, was somehow
```

- 1 brought by Mr. Pezzola to someone in North Carolina.
- 2 Does that ring a bell?
- 3 A. Yes.
- 4 Q. And it was actually, like, a wooden shield of some kind?
- 5 A. I'm not 100 percent on the material, but it was a shield.
- 6 Q. It was a large -- it looked like an ornamental-type thing?
- 7 A. Yes.
- Q. And, actually, it looked like the type of thing maybe you
- 9 might find some young children playing with?
- 10 A. It's a bit larger than something for a young child, but --
- 11 Q. Okay. A little older children playing with?
- 12 A. Sure.
- Q. As far as you know, that shield was not brought to D.C. by
- 14 anyone; is that correct?
- 15 A. As far as I know, yes.
- 16 Q. And, I guess, I'm going to stop asking you "as far as you
- 17 know." Any question I'm asking you is only as far as you know.
- 18 | If you don't know, obviously, I don't want you to answer.
- And, so, whatever -- whatever the purpose of that
- shield, it was not brought to D.C. by Mr. Tarrio?
- 21 A. As far as I'm aware, no.
- Q. Or by Mr. Rehl?
- 23 A. No.
- Q. Or by Mr. Pezzola?
- 25 A. No.

```
1
           Or by any other of these defendants?
       Q.
2
       Α.
           No.
 3
           Okay. If -- I'm sorry. If I could enlist the help of
       Ms. Rohde. Could you pull up Government Exhibit 600-51?
 4
 5
              This Parler message, which is supposedly Mr. Pezzola,
 6
       there's no response from Mr. Rehl on this document, correct?
 7
       A. Correct.
 8
       Q. And, again, there's no evidence that he saw this
 9
       photograph?
10
       A. Correct.
11
       Q. Okay. So, let me ask you some questions about this chart
12
       that you've prepared here.
13
              And if the Court will allow me.
14
              So, this chart refers to seven different chat groups; is
15
       that correct? Do you want to see?
16
       A. Yes.
17
       Q. But when you testified, you testified to a number of
18
       other --
19
              Can you take that down, please, the one on the screen?
20
              You testified to a number of other chats from
21
       different -- in fact, I think I have a -- and these appear to
22
       be only Ministry of Self-Defense-related chats; is that
23
       correct?
```

24 A. Yes.

25

Q. But you testified to a number of other chats?

- 1 A. Yes.
- 2 Q. For example, you testified about a chat called -- let me
- 3 back up.
- 4 You testified that you had -- did I hear you right, you
- 5 had reviewed nearly half a million messages?
- 6 A. Yes.
- 7 Q. Do you remember all of them?
- 8 A. No.
- 9 Q. Okay. Just curious; how long did it take you to look at
- 10 half a million messages?
- 11 A. I mean, the entirety of my time on this case has been
- 12 | spent, essentially, reviewing digital evidence.
- Q. Okay. And when we're talking about these chat -- these
- chat groups -- is that what they're called, chat groups?
- 15 A. Sure.
- Q. So, you have -- for example, let's look at the Ministry of
- 17 | Self-Defense, which is the top one here (indicating).
- 18 A. Uh-huh.
- 19 Q. And that's got, I guess, seven little photographs, plus
- 20 four.
- 21 A. Yes.
- 22 Q. Do you know, for example, how many messages were in that
- 23 particular chat group?
- 24 A. Not off the top of my head. But, I could tell you by
- 25 looking at the extraction of that chat.

- Q. Would that be a difficult thing for you to do now or...
  - A. If the extraction is available.
  - Q. Maybe we'll come back to it.
- 4 Do you have any ballpark figure of how many messages
- 5 were sent on there?

2

3

- 6 A. In the leader chats?
- Q. If you have memory of any one of them, I'll be happy to
- 8 take your answer on that one.
- 9 A. Okay. I can -- I do not know off the top of my head. I
- 10 | could reverse engineer it, but I would be reaching.
- 11 Q. But you can give me a ballpark figure? I'm not looking for
- 12 precise numbers. Are we talking about --
- 13 A. It's in the thousands.
- 14 Q. It's in the thousands?
- 15 A. Yes.
- 16 Q. Okay. And these have the starting dates, is that correct,
- 17 on this chart?
- 18 A. Yeah, the dates they were created.
- 19 Q. The dates they were created. And how far out -- did you --
- 20 did you cut off the date when you looked at them, or how far
- 21 out do they go?
- 22 A. I mean, they go as far as the chats existed on the devices.
- 23 So for some of these -- yeah, so for some of these, they were
- 24 | nuked before January 6, so they just stop. But, then, certain
- other ones go into, you know, mid -- it depends on when the

- 1 phone was seized.
- 2 Q. So you say, "as to some individual chats."
- 3 You're talking about thousands of messages just on one of these individual chats?
- 5 A. Yes.

6

7

15

- Q. And off the top of your head -- let me take out that phrase, "off the top of your head."
- And these chats were -- some of these chats were going on at the same time?
- 10 A. Yes.
- Q. Would you agree with me that a lot of these messages were not responded to?
- A. I'm not sure I'm in a position to agree with that. I don't have forensic data about responses.
  - Q. You don't?
- But, at the same time, you cannot sit there and tell me
  they were all responded -- and when I say "responded to," then
  if a chat went out, that everyone in that chat group would have
  responded to?
- 20 A. Yes, I can -- I'm not going to say that, no.
- 21 Q. Right.
- 22 A. Yeah.
- Q. And given the number of messages that you're describing in some of these chats, it probably stands to reason that a number of these documents were not -- these messages were not answered

- 1 by any particular person?
- 2 A. Sure.
- 3 Q. So, it might be that one person responds, and then that's
- 4 the end of it, or it could be that it's a particular topic that
- 5 everybody responds to?
- A. Yeah. It's a group text, so people are coming in and out
- 7 of the conversation over time.
- 8 Q. I'm trying to analogize these group chats to something that
- 9 the jury and maybe some of us are more familiar with.
- 10 A. Uh-huh.
- 11 Q. Is this like a -- would you say it's like a Facebook page,
- 12 | where you might have someone post a message and then your
- friends would respond, or not? Is that that type of thing? Is
- 14 that what these message groups are like?
- 15 A. I, personally, view these as being iMessage, basically.
- 16 It's just the text in your phone; it's just on Telegram.
- 17 Q. I'm sorry. You said?
- 18 A. I'm sorry. Texts on your phone, basically, just on
- 19 Telegram. It's iMessage in a different form.
- 20 Q. Okay. So it's a message that goes out. Let's -- maybe
- 21 | some of us -- well, "some of us," defense counsel in this -- in
- 22 this case have texted each other, maybe at the end of the court
- 23 day or whatever.
- 24 A. Uh-huh.
- Q. Some of us answer, religiously, and others rarely do.

```
1
       But -- so, it's not -- there's no standard to whether people
2
       will respond or not. Would you agree with me with that?
 3
          No standard, no.
       Α.
           So it's not, like, if you sent one other person a message,
 4
 5
       you would anticipate that that person would respond to you?
           In a one-on-one, yes.
 6
       Α.
 7
           Right. Or even one-on-two or something like that, correct?
       Q.
          Yes.
 8
       Α.
 9
           But when you've got multiple people on a chat, there's
10
       more likelihood that you don't get that -- either a quick
11
       response or an individual response all the time?
12
           Sure.
       Α.
       Q. And that's consistent with what you saw when you reviewed
13
14
       these?
           I think, in some of the larger chats especially, there's
15
16
       sometimes several conversations going on. I understand your
17
       point. But, especially in the leadership chats, where it's a
18
       relatively smaller number of people, I'm less -- I'm less
19
       confident to give you that answer.
20
       Q. Okay. And the Ministry of Self-Defense, the main -- did I
21
       hear you say that there may have been 80 to 100 people in that?
22
       A. My recollection is that Boots had about 75, that Main, at
```

its height, had something in the mid-60s. But I would want to

look at the extractions, which would give you the exact

23

24

25

numbers.

- Q. And so Boots on the Ground is this one that's formed
- 2 January 5th?
- 3 A. Yes.
- 4 Q. And Boots on the Ground is a chat that was formed -- at
- 5 least the reason provided was that these were people who were
- 6 going to be on the ground, in D.C., on January 6?
- 7 A. Yes.
- 8 Q. Did that come to bear? Is it true that everyone in that
- 9 chat, you think, arrived in D.C. on January 6, or do you know
- 10 now?
- 11 A. I don't know.
- 12 Q. Okay. But at least in theory, that's what these -- they
- were supposed to be Boots on the Ground?
- 14 A. Yes.
- 15 Q. And the Boots on the Ground, they were necessarily -- or
- 16 were they the people that were for the Ministry of
- 17 | Self-Defense?
- 18 A. When you look, sort of when you make a Venn diagram of
- 19 these chats, many members of the Ministry of Self-Defense main
- 20 group do migrate into the Boots on the Ground group. But,
- 21 | there are also individuals in that Boots on the Ground chat who
- 22 were not in the MoSD chats.
- Q. Okay. So let me go back to some of the other chats. You
- don't have listed on here -- and let me back off.
- So, next to each of these groups you have -- like, for

- 1 example, Ministry of Self-Defense, the top group on the
- 2 left-hand side, has Government Exhibit 501?
- 3 A. Yes.
- 4 Q. So, that means that every exhibit that was introduced
- 5 through you that related to that particular chat has -- the
- 6 first three digits are 501?
- 7 A. Yes.
- 8 Q. So, essentially, the prosecutors gave a different -- the
- 9 | prefix -- the three-digit prefix is unique to the particular
- 10 | chat group, correct?
- 11 A. Yes.
- 12 Q. Okay. So, in this little chart that was provided, and this
- big chart over here -- which I put this up here so that defense
- 14 counsel can look at it -- you do not have Elders -- the Elders
- 15 Chat?
- 16 A. Not on this, no.
- 17 Q. And can you describe for me what the Elders Chat was?
- 18 A. Sure. The Elders Chat was a small chat -- it's the Skull
- and Bones Chat that I talked about in my direct, which
- comprised the Proud Boys's Elders, the -- they were among the
- 21 senior leaders of the organization.
- 22 Q. Okay. So, are you saying that the Elders Chat is the same
- 23 | thing as Skull and Bones? I thought there may have been two
- 24 different chat groups.
- 25 A. So -- yes. Thank you for pointing that out.

```
1
                 So, I, colloquially, refer to the Skull and Bones as
       the "Elders Chat" because it is what it is. But after
2
 3
       Mr. Tarrio's arrest, there was a new chat created in response
       to the concerns of, you know, the nuking charts that we've
 4
 5
             That one was labeled "Elders."
 6
       Q. I see. So it was originally Skull and Bones, and it became
7
       Elders.
 8
              And my understanding is the Skull and Bones is
 9
       Exhibit 500?
10
          Frankly, I would want to double check. But, yes.
11
       Q. Do you have a -- when you say you have to double check, is
12
       there some document you could look at to double check?
13
           Really, truly, any exhibit in that set.
14
       Q. Okay. We'll get back to that.
15
              How about the Elders? That's a different -- so you
16
       don't -- I'll have to show you an exhibit for you to tell me.
17
       Okay.
18
              Can you tell me from your memory, Mr. Rehl was not in
19
       either the Elders or Skull and Bones; is that correct?
20
       A. That's correct.
21
       Q. So -- and are you saying that the Elders and Skull and
22
       Bones were the top leadership in the Proud Boys?
23
       A. I think the Elders were the senior leadership, yes.
24
       Q. And they were from different locations in the
25
       United States?
```

- 1 A. Yes.
- 2 Q. They weren't limited to, like, D.C. or Florida, or
- 3 | something like that?
- 4 A. That's right.
- 5 Q. Okay. But I just -- just to be clear, Mr. Rehl was not in
- 6 that -- in either of those chats.
- 7 A. Yes.
- 8 Q. And that was a relatively small number of people, eight to
- 9 ten; is that correct?
- 10 A. That sounds right.
- 11 Q. Okay. And then there were -- you also introduced some text
- messages that were either -- perhaps, maybe, Mr. Tarrio with
- one other person --
- 14 A. Yes.
- 15 Q. -- correct?
- 16 Or, for example, Mr. Tarrio with Eryka?
- 17 | A. Yes.
- 18 Q. That was not a group -- that was not a group chat in the
- 19 sense that it didn't involve Mr. Rehl or the other defendants,
- 20 correct?
- 21 A. Correct.
- 22 | Q. And there were at least three different female
- 23 acquaintances of Mr. Tarrio that you introduced these text
- 24 messages?
- 25 A. Yes.

- 1 Q. That was more of a one-on-one messaging situation?
- 2 A. Yes. I think one was an SMS, one was a Telegram chat, yes.
- 3 Q. Okay. One was a what? MSM what?
- 4 A. Just a standard text messaging.
- 5 Q. Okay.
- 6 A. And then I think the other two were Telegram.
- 7 Q. Okay. And then you also introduced -- so let me ask you --
- I should probably go through some of these before I go through
- 9 some of those.
- 10 The conspiracy in this case, according to the charging
- 11 document, began on December 19th, correct?
- MR. MULROE: Objection. Misstates.
- 13 THE COURT: Sustained.
- 14 BY MS. HERNANDEZ:
- Q. December 19th is the date when President Trump is alleged,
- 16 or -- or, sent a text message or a -- I'm sorry, placed a
- 17 | Twit -- placed a message on Twitter?
- 18 A. Yes.
- 19 Q. Placed a message on Twitter in which he invited people to
- 20 | come to D.C. on January 6?
- 21 A. He announced the January 6 event, yes.
- 22 Q. He announced that there would be a rally in D.C. on
- 23 January 6?
- 24 A. Yes.
- 25 Q. And the text said something to the effect: Be there. It

- 1 | will be wild?
- 2 A. Yes.
- 3 | Q. Or words to that effect?
- 4 A. Yes.
- Q. Okay. And -- but you introduced a whole lot of text
- 6 messages from before that day.
- 7 A. Yes.
- Q. Or, you didn't introduce. The prosecutors introduced
- 9 through you.
- 10 And some of -- I think the earliest set of text messages
- in bulk were those around the September debate -- presidential
- debate, September, I believe. Some date in September, when
- there was a debate between then-Vice President Biden (sic) and
- 14 then-President Trump, correct?
- 15 A. Correct.
- 16 Q. And I think you've already gone through this: At that
- 17 time, some of those text messages, it was clear -- I'm sorry.
- 18 Let me strike that.
- 19 It was clear that there were -- at least persons who
- 20 were messaging around that time, it appeared were watching the
- 21 debate?
- 22 A. Yes.
- 23 Q. And, in fact, the -- I think the first message was
- Mr. Stewart, and it appears that he's -- his first message is
- at the earlier stages of the debate, rather than after the

- 1 president -- then-President Trump makes a statement about the
- 2 Proud Boys; is that -- do you agree with me on that?
- 3 A. Yes.
- 4 Q. Because -- and, in fact, Mr. Stewart seems to be a critic
- of what's happening at the debate.
- 6 A. Yes.
- 7 Q. He seems to say something like -- I don't remember the
- 8 exact word, but it was -- it was a derogatory term for how
- 9 things were proceeding?
- 10 A. Yes.
- 11 Q. And it appeared that he was talking about how the debate
- was going for Mr. Trump -- or, for President Trump?
- 13 A. He appeared to be providing a critique of performance. I
- don't think he used a name for -- -
- 15 Q. He didn't use a name, but he was critical of what he was
- 16 | watching?
- 17 A. Yes.
- 18 Q. And it didn't appear that he was happy -- let me back up.
- 19 Mr. Stewart is a Trump supporter, John Stewart?
- 20 A. I have no --
- 21 Q. You don't know. Okay.
- 22 A. Yeah.
- Q. But a number of those messages preceded the moment when
- 24 Mr. Trump said -- mentioned the -- when the moderator asked
- 25 about the -- moderator asked a question, and then Mr. Trump

```
1
       mentioned the Proud Boys, correct?
2
       A. My recollection is those were the only two messages that
 3
       were before. And, I think, slide 2 then moved into after.
 4
           I see. Okay.
 5
                 THE COURT: Ms. Hernandez, is now a good time just to
       take a brief break for the court reporter, since we've been
 6
 7
       going for two hours?
 8
                 MS. HERNANDEZ: Sure.
 9
                 THE COURT: Ladies and gentlemen, we'll take a brief
10
       ten-minute break. We will be back and continue after that.
11
                 (Whereupon the jurors leave the courtroom.)
12
                 THE COURT: Sir, you may step down.
13
                 Madam Court Reporter, you hanging in? I'm sorry
14
       about that. We'll take ten minutes.
15
                 (Recess.)
16
                 THE COURTROOM DEPUTY: We're back on the record in
17
       criminal matter 21-175, United States of America versus Ethan
18
       Nordean, et al.
19
                 THE COURT: All right.
20
                 MS. HERNANDEZ: Your Honor, two things. I'm sorry.
21
                 THE COURT: Sure. Go ahead.
22
                 MS. HERNANDEZ: So, Mr. Mulroe objected when I said
23
       the -- as charged, the indictment dates to December 19th, 2020.
24
       Paragraph 29 of the third superseding indictment, the first act
25
       in furtherance of the conspiracy -- the first act in
```

1 furtherance of the conspiracy alleged is on December 19th, 2 2020. I know the Court sustained it. 3 THE COURT: I mean, yeah. I would still -- I would still sustain it. He's not here to testify as to when -- legal 4 5 conclusions or about whatever the indictment says about when the conspiracy began or didn't begin. 6 7 MS. HERNANDEZ: Well, that's fine. But, I think 8 Mr. Mulroe's objection was misstates the evidence. So, 9 that's -- that's why I brought it up, because that's a 10 different objection from -- and that's -- if you're sustaining 11 that, that may sound different to the jury than "that's not what he's here for." 12 13 THE COURT: Well, the indictment, of course, is not 14 evidence. So, I don't know that the evidence does reflect 15 that, what you're saying as of right now in this trial. 16 MS. HERNANDEZ: I think my question was: As charged, 17 the first -- but, anyway, I -- so, that was my concern. I 18 would like to be able to correct it, but I'll move on. 19 The Court sustained an objection to the questions 20 about the takeover by women during the Kavanaugh hearings of 21 various Senate office buildings. And the only reason I was 22 bringing it up was because there was -- maybe contention is not 23 the correct description, but there were questions asked of the 24 witness about what night -- what the 1776 document related with

respect to occupation and sit-ins of buildings, and whether

25

that was peaceful or not peaceful.

And, also, I mean, he -- in his original testimony, he noted that these -- that the buildings on the 1776 return map were within the Capitol grounds. And I just -- I mean, I will tell the Court, there are multiple -- that's all I wanted to show, is that there are multiple newspaper articles from the Kavanaugh hearings showing women -- and I can just show it for the Court.

This is from a USA Today. It's a USA Today article, and it refers to unfurled banners inside the Senate office building, block the Senate elevator. This document, again, from USA Today, reflects that the women took over the Senate Dirksen Office Building.

So, I just wanted to -- I'm not -- I'm not going into any kind of comparison or anything. I just wanted to show that, in fact, the occupation of these House and Senate office buildings is an ordinary -- ordinary manner in which peaceful protests are conducted in Washington, D.C.

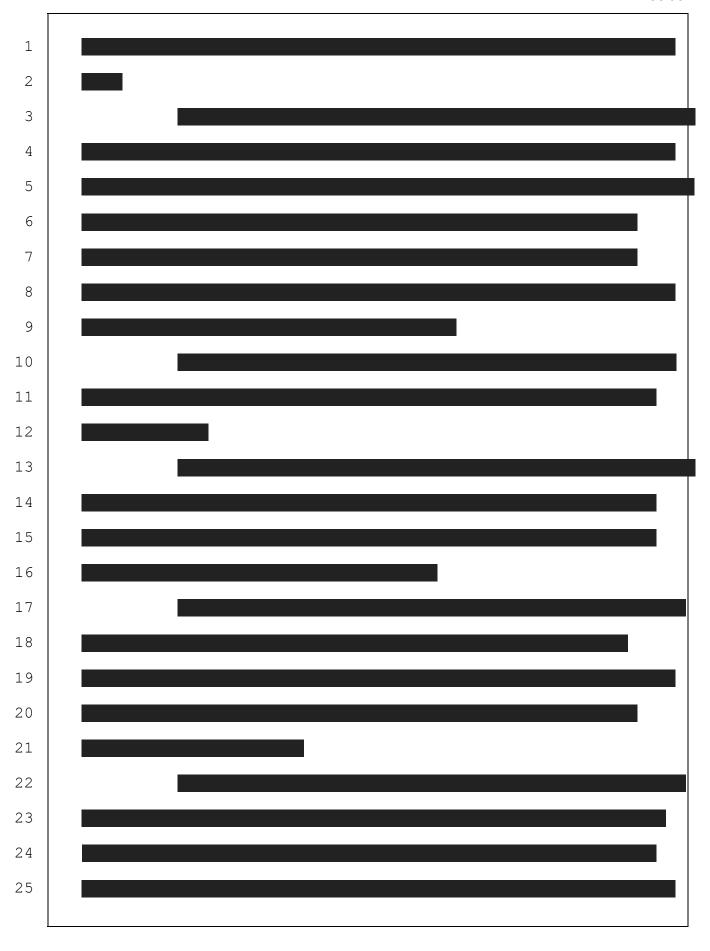
This one is from an article which shows -- which states: More than 300 people were taken into custody by police on Capitol Hill after descending on a pair of Senate office buildings --

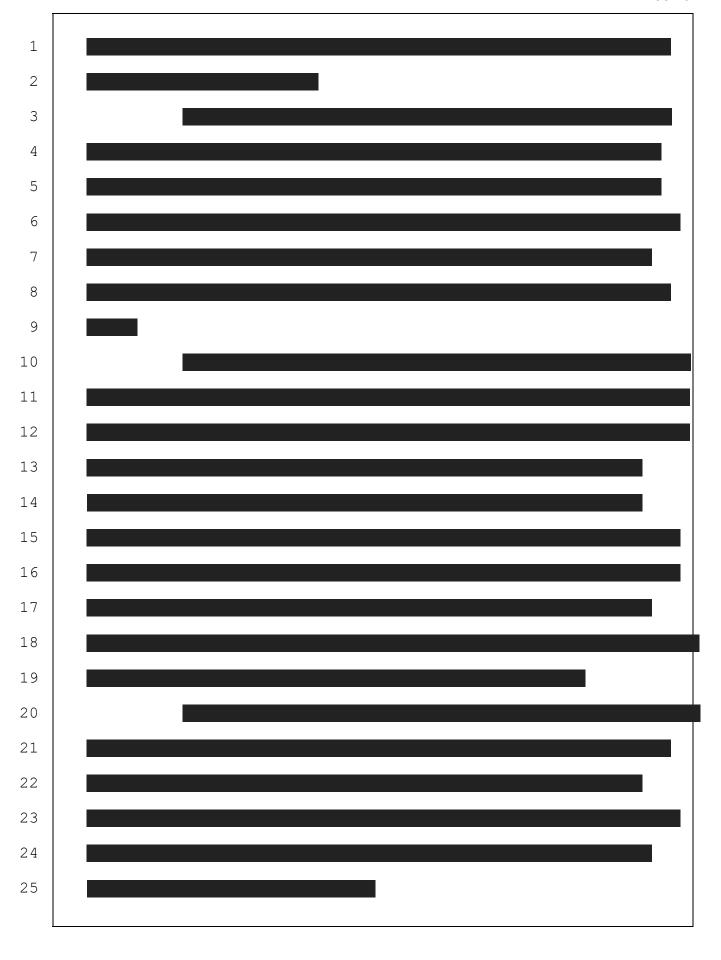
THE COURT: Ms. Hernandez, the microphone is definitely not -- unfortunately.

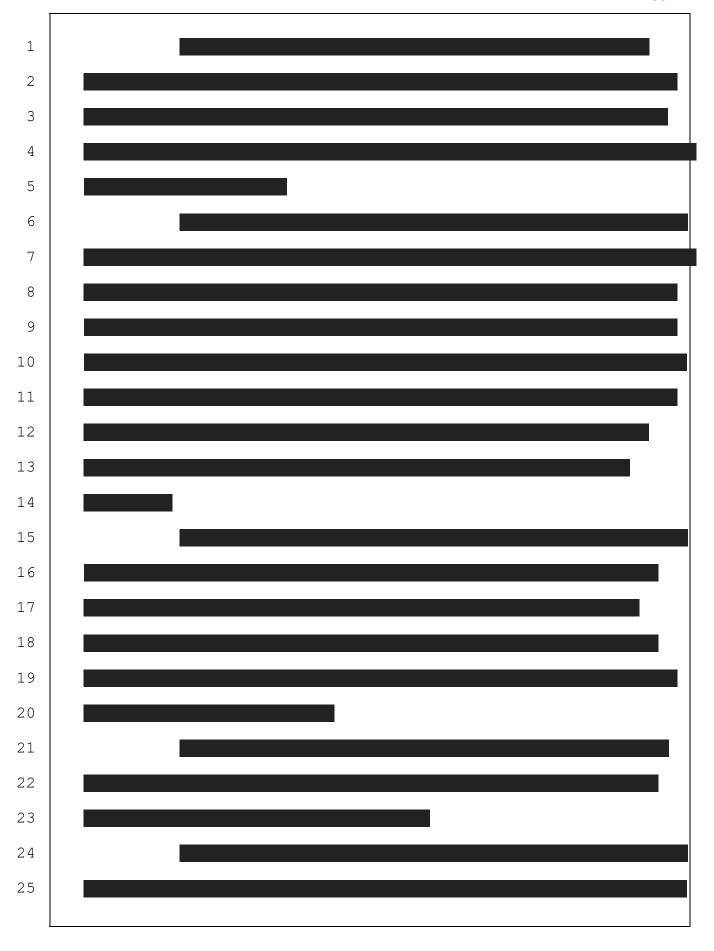
MS. HERNANDEZ: So, this document, again, it's from

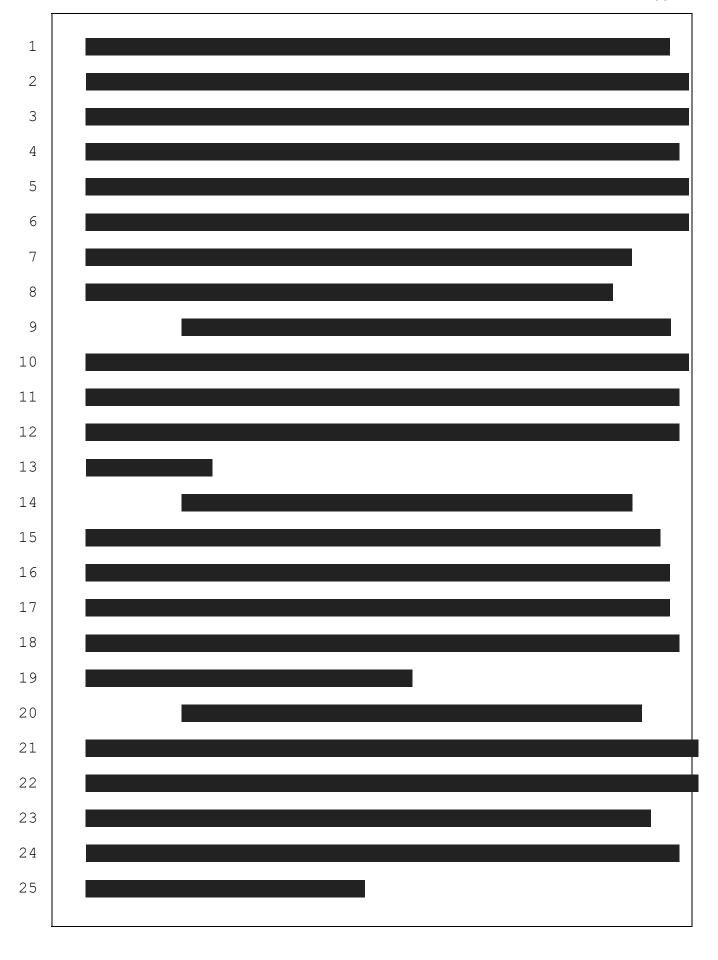
```
1
       the Hill. More than -- the caption is: More than 300 people
2
       were taken into custody by police on Capitol Hill after
 3
       descending on a pair of Senate office buildings Thursday
 4
       afternoon to protest the confirmation process of Brett
 5
       Kavanaugh, President Trump's Superior Court nominee.
 6
                 So I would just like to just introduce those.
 7
       if not, just make it part of the record -- make them part of
       the record as I'm doing now.
 8
 9
                 THE COURT: Well, I sustained the objection. And I
10
       would sustain it again as beyond the scope of his direct.
11
                 MR. ROOTS: Your Honor, could I make a brief
12
       statement?
13
                 THE COURT: Mr. Roots, I can't hear every defendant
14
       about every other defendant's cross-examination. I just -- I
15
       just literally cannot. So if you want to make a similar
16
       argument during your cross, we'll get to it.
17
                 MR. ROOTS: Well, my point was it impeaches this
18
       witness, because the voting inside the Capitol --
19
                 THE COURT: Mr. Roots, I just said I would not hear
20
       you on Ms. Hernandez's cross.
21
                 Ms. Hernandez, you may continue. Is there anything
22
       else?
23
                 MS. HERNANDEZ: No.
                                      The government had asked me a
24
       question about something, and I answered him. I think I'm
25
       fine.
```

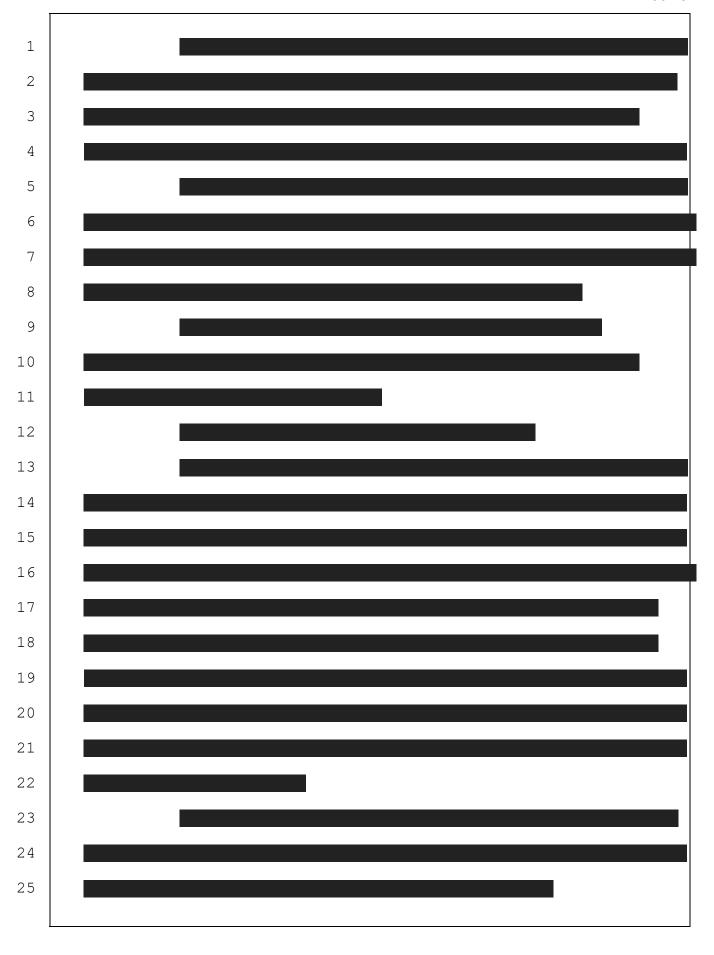
```
1
                 THE COURT: Is there -- is there a -- is there a --
2
       do the parties think it would be helpful to go -- I mean, to go
 3
       to sidebar on the under seal matter? I just -- I --
 4
                 MS. HERNANDEZ: Whatever the Court wants. I went off
 5
       on a different tangent just to accommodate the situation.
 6
                 THE COURT: I know, and I thank you. And the reason
7
       is, I'm sure we'll get to it before we wrap for the day -- I
 8
       assume we will -- and it may -- it may hopefully -- again, in
 9
       the spirit of trying to have you just be able to complete your
10
       direct without -- your cross without interruption, why don't I
       have you, Ms. Hernandez, just pick up the phone on this.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
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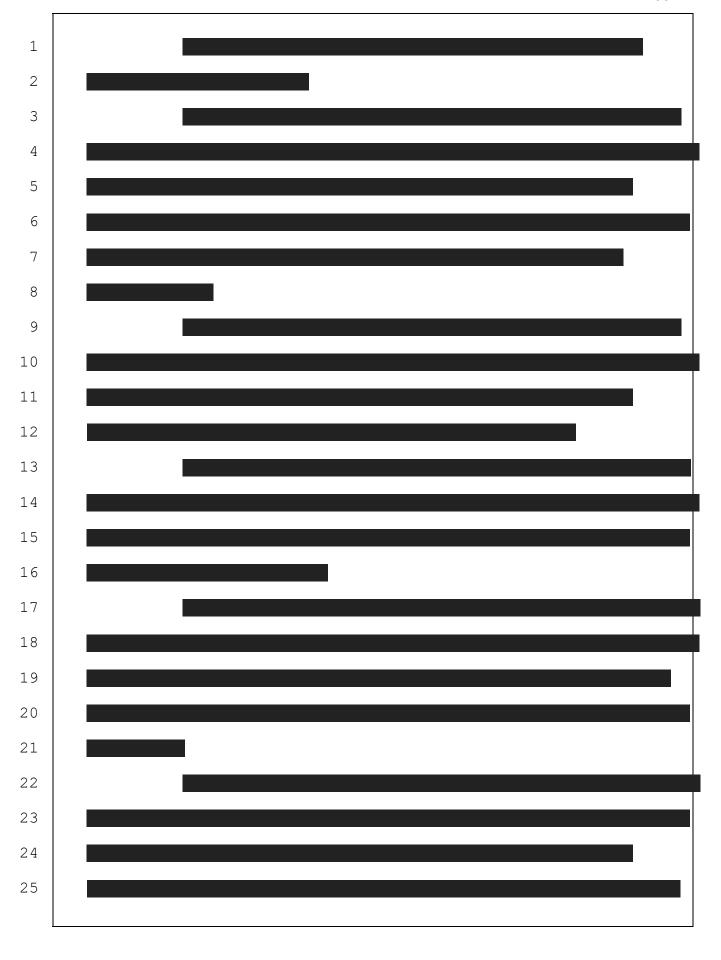




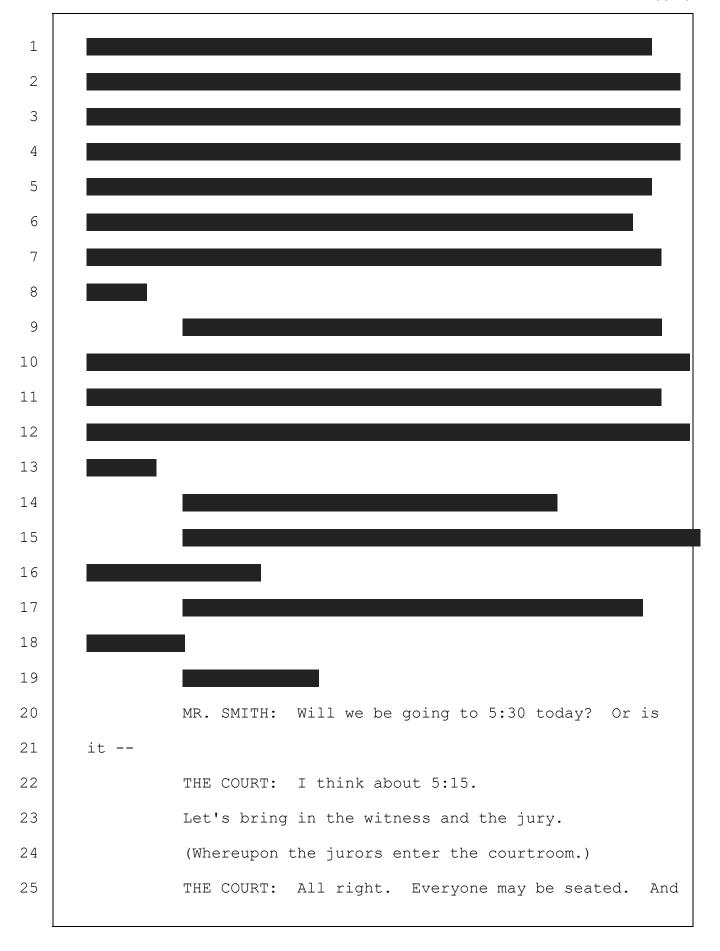












```
1
       counsel may proceed.
2
                 MS. HERNANDEZ: Thank you, Your Honor.
 3
                 Ms. Harris, can you --
                 I'm sorry, Your Honor.
 4
 5
                 (Off-the-record discussion between attorneys
 6
       Hernandez and Mulroe.)
 7
                 MS. HERNANDEZ: Your Honor, I'm going to play for --
                 (Off-the-record discussion between attorneys
 8
 9
       Hernandez and Mulroe.)
10
                 MS. HERNANDEZ: I would like to show the witness -- I
11
       thought we had an agreement. We apparently don't. So I would
12
       like to just show the witness the first page of -- let me back
13
       up.
14
       BY MS. HERNANDEZ:
15
       Q. Special Agent, you testified during your direct as to
16
       various segments from a Zoom video from December 30th, 2020.
17
       Do you recall that?
18
       A. Yes.
19
       Q. And that was a Zoom video involving, I believe, Mr. Tarrio,
20
       Mr. Rehl, Mr. Biggs, and other members -- I think, Mr. Bertino,
21
       and Mr. Stewart and other members of the Proud Boys. Do you
22
       remember that?
23
       A. Yes.
24
       Q. I'm going to show you --
25
              And this is just for him, please.
```

```
1
              -- a copy of two pages of a transcript of that video.
2
       Α.
           Okay.
 3
       Q. That's the first page.
 4
                 THE COURTROOM DEPUTY: Do you have an exhibit number,
 5
       Ms. Hernandez?
 6
                 MS. HERNANDEZ: I'm sorry. I'll have that Defendant
7
       Rehl Exhibit 40.
                 THE COURTROOM DEPUTY: You have a 40 already.
 8
 9
                 MS. HERNANDEZ: 41?
10
                 THE COURTROOM DEPUTY: Okay.
       BY MS. HERNANDEZ:
11
12
       Q. And then this is the second page of the video -- the second
13
       page of the transcript of that video, and I've just highlighted
14
       a sentence in that transcript.
15
       A. Yes.
16
          Okay. Do you remember this part of the video?
       Q.
17
          Um --
       Α.
18
           Do you want me to play it for you?
       Q.
19
           It looks like the very beginning; is that right?
       Α.
20
       Q. Yes.
21
       A. Yes.
22
          Do you remember those -- that?
       Q.
23
       A. Generally, yes.
24
       Q. Okay.
25
                 MS. HERNANDEZ: Your Honor, this is a certified
```

```
1
       transcript of a -- from a court reporting agency. It's -- the
2
       transcript is signed --
 3
                 MR. MULROE: Your Honor, I apologize. We wouldn't
       object to a portion of the video playing.
 4
 5
                 THE COURT: All right.
 6
                 THE COURTROOM DEPUTY: Which exhibit is this video?
 7
                 MS. HERNANDEZ: I'm sorry. This is the MoSD,
      December 30th, video.
 8
 9
                 THE COURTROOM DEPUTY: What's the exhibit number?
10
                 MS. HERNANDEZ: I believe it's Rehl Exhibit 11.
                 THE COURTROOM DEPUTY: 11?
11
12
                 No.
13
                 MS. HERNANDEZ: 10? MoSD video?
14
                 THE COURTROOM DEPUTY: Ministry of Self-Defense
15
      video?
16
                 MS. HERNANDEZ: Yes.
17
                 THE COURTROOM DEPUTY: That's Rehl Exhibit 27.
                 MS. HERNANDEZ: Rehl Exhibit 27.
18
      BY MS. HERNANDEZ:
19
20
      Q. And I'm going to play it starting at about the 18-second
21
      mark. I may have to go back, but for now, I'll play it at the
22
      18-second mark and go to about the 29-second.
23
              And, first, do you recognize these people on the screen?
24
      A. Yes.
25
       Q. And that's -- is that showing --
```

```
1
              Could you please show --
2
                MS. HERNANDEZ: The government is not objecting, Your
 3
      Honor.
 4
                THE COURT: Very well. The government does not
 5
       object. Is this -- I'm sorry. Are these passages from this
 6
      exhibit already in evidence?
 7
                MS. HERNANDEZ: No. This is the very beginning of
      the video.
 8
 9
                 THE COURT: All right. And with no objection from
10
      the government, it can be published.
11
                MR. MULROE: Your Honor, yes. Just to be clear, we
12
      don't object to this portion of the video coming in. We think
13
       the entire video is not coming in.
14
                 THE COURT: I understand. It's 18 seconds to --
      Ms. Hernandez, can you just give a sense, again, for the
15
16
      record, what the end point is?
17
                MS. HERNANDEZ: I said I'm going to stop it around
18
      the 29 or 30 seconds. So it's a very short --
19
                 THE COURT: Please.
20
      BY MS. HERNANDEZ:
21
      Q. And just for the jury, the -- the top left-hand photograph
22
      is NobleB, Mr. Tarrio?
      A. Yes.
23
      Q. And Mr. Biggs, apparently, is The Hated One?
24
25
       A. Yes.
```

```
1
           And then on the bottom left hand, that's Aaron Wolkind, who
       we've heard a lot about him?
2
 3
       A. Yes.
 4
       Q. And then on the bottom right, that is Mr. Bertino?
 5
       A. Yes.
 6
       Q. Okay. So I'm going to try to play it and hope it plays.
 7
              (Video played.)
 8
              Okay. So let me go back to the ELMO and show you
 9
       that -- the transcript. And Mr. Bertino says something like:
10
       Hmm, you got to update it. I just had -- and Mr. Wolkind types
11
       in: That's Danny Mack; is that correct?
12
       A. Yes.
13
       Q. Okay.
14
                 MS. HERNANDEZ: So I just want to introduce that
       20-second clip, Your Honor.
15
16
                 MR. MULROE: Your Honor, could we be heard at
17
       sidebar, briefly?
18
                 THE COURT: Yes.
19
                 (Bench discussion:)
20
                 MR. MULROE: Judge, pursuant to Rule 106, we would
21
       ask that if this clip is coming in, that the following several
       lines of the transcript come in as well.
22
23
                 THE COURT: Just to be clear, the transcript or the
24
       video itself?
25
                 MR. MULROE: So, the next portion of the video
```

```
1
       corresponding with the transcript up to line 21. So, up to
      Mr. Tarrio saying: Don't lock me out of this app, you fuck.
2
 3
                 THE COURT: Is there any objection, Ms. Hernandez?
                 MS. HERNANDEZ: Sorry. I don't have the transcript
 4
 5
       in front of me, so I'm not sure exactly what we're looking at.
 6
                 THE COURT: All right. I'm just going to give you
 7
       one moment to confer. And, Ms. Hernandez, you let me know if
       there's an objection.
 8
 9
                 (Pause.)
10
                 MS. HERNANDEZ: So the government apparently -- I'm
       sorry. I don't want to do this to the Court. Let me -- if
11
12
      Ms. -- if Ms. Harris -- so the Court can see what we're talking
13
       about. Hold on.
14
                 Ms. Harris, if you can show this to the Court and not
      to the jury.
15
16
                 THE COURTROOM DEPUTY: Say that again?
17
                 MS. HERNANDEZ: Just to the Court and not to --
18
                 So, the government wants -- so, apparently, the
19
      government wants to go down to that lovely word "fuck." I
20
      don't think it's necessary, I don't think it adds anything, but
21
      whatever the Court wants to do.
22
                 THE COURT: All right. Given it does, at least,
23
      provide the context of --
24
                 Mr. Mulroe, why don't you articulate the context.
25
                 MR. MULROE: Your Honor, I think it does provide
```

```
1
       important context for whether or not they are actually noticing
2
       that Danny Mack is in here, or if this is a joke and just
 3
       setting up their access and determining who is in and who is
 4
      out and who can access and who can't.
 5
                 MS. HERNANDEZ: I thought the use of the expletive
 6
      wasn't necessary. But I'm fine, Your Honor.
 7
                 THE COURT: All right. Very well. We'll proceed
 8
       that way.
 9
                 (Open court:)
10
                 MS. HERNANDEZ: I don't know if I can control the
11
      video to that point. I think it will be fine just to show the
12
       jury the next two sentences that the government wants to
13
       introduce at the same time, Your Honor.
14
                 Is that fine? Or do you want the video --
15
                 MR. MULROE: Video.
16
                 MS. HERNANDEZ: So just to --
17
                 THE COURT: Do you want to just back it up to 18
18
       seconds, Ms. Hernandez?
19
                 MS. HERNANDEZ: Yes, Your Honor.
20
                 So the Court wants to play that for the jury?
21
                 THE COURT: Play the whole clip.
22
                 MS. HERNANDEZ: All right. Okay. So I'm going to
23
      back it up to 17 seconds. I think that will be...
24
                 (Video played.)
25
                 THE COURT: Okay. I can just see from the jurors
```

```
1
       that they could not hear that because it was particularly -- it
       was low. I had trouble hearing. So if there's a way to replay
2
       that with the sound up higher, without --
 3
 4
                 MS. HERNANDEZ: It's at the highest. What I would
 5
       propose, Your Honor, is just play the -- look -- show the
 6
       transcript through that -- through that -- what I would propose
 7
       is show the transcript through, that point.
                 MR. MULROE: Ms. Hernandez --
 8
 9
                 THE COURT: Ms. Hernandez, the government is just
10
       offering to just play it through there, which is louder.
11
                 But, just don't blow our ears off, please.
12
                 MS. HERNANDEZ: You really are asking a lot, Your
13
       Honor.
14
                 THE COURT: I was instructing them, not you,
       Ms. Hernandez, about blowing our ears out.
15
16
                 MS. HERNANDEZ: I'm joking. And I'm sorry for the
17
       court reporter, in particular.
18
                 So let's see how this plays. I hope it's not too
19
       loud.
20
                 (Video played.)
21
                 MR. MULROE: Just note for the record, Your Honor,
22
       that was 10 seconds to 42 seconds.
23
                 THE COURT: Okay.
24
                 MS. HERNANDEZ: And just so the jury can see -- I'm
       not sure how well the sound was -- this is the corresponding
25
```

```
1
       transcript from the court-certified transcript, Your Honor, and
2
       it goes to line 21.
 3
                 Maybe I should ask the witness to read it.
                 MR. MULROE: Objection. Best evidence rule.
 4
 5
                 THE COURT: We all just heard --
 6
                 MS. HERNANDEZ: We've had this witness testify for
7
       two days.
 8
                 THE COURT: I mean, all right. The witness may
 9
       respond to the question.
10
       BY MS. HERNANDEZ:
       Q. I'm sorry -- I'm sorry for making you do this, but read
11
12
       from, like, line 6 to line 21, please.
13
       A. Sure.
14
       Q. And this is being shown -- I'm sorry. Could you show this
15
       to the jury?
16
                 MR. MULROE: Your Honor, we object that the
17
       transcript is incomplete and inaccurate.
18
                 THE COURT: The witness can read the document.
19
                 MS. HERNANDEZ: Your Honor, I'm sorry. This is a
20
       court-certified transcript.
                 THE COURT: We just had -- if you -- we just had
21
22
       the -- we just had the video played, and if the witness would
23
       like to read this, that's fine.
24
                 MS. HERNANDEZ: Could we have a sidebar, Your Honor?
25
                 THE COURT: Okay.
```

(Bench discussion:)

MS. HERNANDEZ: Your Honor, the government has played videos which are probably hearsay, has put up a transcript, has played the video, has had people read the transcript. This is a court-certified document by a person, and the last page says:

I, Roberta Pattas, do hereby certify that the following transcript represents a complete, true, and accurate transcription of the electronic recording furnished to me in the above-entitled matter to the best of my knowledge, skill, and ability.

And this copy is from Jones & Fuller Reporting company, which is a reporting company from Massachusetts. So, I would like to have the jury -- I understand that it was -- I would like the jury to be able to see the transcript at the same time that the witness reads the few pages. He has been reading text messages for the past two days that have been up on the -- for the jury to see, and he's been reading them.

THE COURT: All right.

Mr. Mulroe?

MR. MULROE: I think you've already ruled and told her she can do it. I would note that if she had flagged it for us earlier than this morning, we would have been able to look at it earlier. I do think the transcript is inaccurate, but we can address it on redirect.

MS. HERNANDEZ: Your Honor, I provided this

```
1
       transcript to the government on February 6th.
2
                 THE COURT: Right. All right. Ms. Hernandez, you
 3
      may put it up on the screen and the witness will read it.
 4
                 (Open court:)
 5
      BY MS. HERNANDEZ:
 6
      Q. I hope this will be the end of this questioning.
 7
              So, Special Agent Dubrowski --
 8
      A. Yes.
 9
      Q. -- if you would, please, if you would read from line 6 on
10
      page 2 to line 21? Which is -- corresponds to the video clip
11
      that we just played for the jury.
12
      A. "MR. TARRIO: Hold on. I got to -- I got to fucking -- my
13
       Telegram is not working, so I have to email shit to myself.
14
                 "MR. BERTINO: Why is your Telegram not working?
15
                 "MR. TARRIO:" --
16
                 MR. MULROE: Your Honor, I object to the exhibit
17
      being published, an exhibit not in evidence.
18
                 THE COURT: I thought -- the witness may continue to
19
       read.
20
      A. -- "on my desktop. I don't know why.
21
                 "MR. BERTINO: Hmm, you got to update it. I just
22
      had --
23
                 "MR. WOLKIND: That's Danny Mack.
24
                 "MR. TARRIO: Danny Maggot. Danny Maggot is coming
25
       in.
```

```
1
                 "MR. BIGGS: And a whole bunch of people on Telegram,
2
       so it got blocked.
 3
                 "MR. TARRIO: Don't lock me out of this app. Now
       open link, you fuck."
 4
 5
                 MS. HERNANDEZ: Thank you.
                 And that transcript will be Mr. Rehl Exhibit --
 6
 7
                 THE COURTROOM DEPUTY: You can make it 41.
 8
                 MS. HERNANDEZ: Thank you.
 9
       BY MS. HERNANDEZ:
10
       Q. Now, Special Agent Dubrowski, do you know that name, Danny
11
       Mack?
12
       A. I do not.
13
       Q. You said you reviewed a number of -- all the Telegram chats
14
       for these particular -- for these particular Telegram chat
15
       groups, correct?
16
       A. Yes.
17
       Q. As well as a number of other Telegram chat groups which you
18
       introduced, correct?
19
       A. Yes.
20
       Q. And you never saw the name Danny Mack?
21
       A. I may have seen it. If you want to show me something.
22
       But, I don't have information about him in the top of my head.
23
       Q. Okay. So you don't know that he was or is -- was the
24
       president of the New Jersey Proud Boys?
25
       A. I didn't have that information on the top of my head, no.
```

```
1
           Okay. I will -- I will move on for -- so as not -- so as
2
      not to bore everyone. And I may come back to this, if I still
 3
      have cross-examination.
 4
              Well, let me ask you one last question. So, you may not
 5
       know his name. Do you know his -- do you know -- did you see
 6
       anything -- anyone admitting that he was a -- this gentleman,
 7
       Danny Mack, that he was a government informant -- a federal
 8
      government informant?
 9
                 MR. MULROE: Objection. Prior ruling.
10
                 THE COURT: Sustained.
11
                 MS. HERNANDEZ: We'll get back to that.
12
      BY MS. HERNANDEZ:
13
      Q. Now, the government introduced a MoSD chapter application
14
      form?
15
      A. Yes.
16
      Q. And I'm not sure what government exhibit number it was, but
17
      you remember reviewing it and that it was admitted, correct?
18
      A. Yes.
19
      Q. And it's a three-page document?
20
      A. Yes.
21
      Q. Ms. Rohde, can you pull up that document, please, MoSD
22
      application form?
23
                 MR. MULROE: It's Exhibit 614.
24
                 MS. HERNANDEZ: Government Exhibit 614.
25
       BY MS. HERNANDEZ:
```

- 1 Q. So, that's the document you mentioned?
- 2 A. Yes.
- 3 Q. In reviewing the Telegram messages, did you see -- and the
- 4 other documents -- this is 614, so this doesn't come from a
- 5 Telegram message, right?
- 6 A. Right.
- 7 Q. It comes from -- do you know where it comes from?
- 8 A. I believe this was a Google form.
- 9 Q. Okay. But you reviewed it in preparation for your
- 10 testimony?
- 11 A. Yes.
- 12 Q. Did you also review a spreadsheet relating to the MoSD
- 13 chapter application form --
- 14 A. I did not.
- 15 Q. -- that identified all the different people who were
- 16 | brought into the MoSD by the different defendants?
- 17 A. No, I did not.
- 18 Q. Okay. Are you aware that Mr. Rehl brought some people into
- 19 the MoSD?
- 20 A. Yes.
- Q. And let me give you some names and see if they ring a bell
- 22 to you.
- A gentleman by the name of Isaiah Giddings?
- 24 A. I remember that name.
- 25 Q. And he's a Philadelphia -- he's a Proud Boy from

- 1 | Philadelphia?
- 2 A. I do not know that.
- 3 Q. Okay. But you remember the name?
- 4 A. Yes.
- 5 Q. You remember the name as a member of the MoSD that was
- 6 brought in by Mr. Rehl?
- 7 A. I remember the name.
- 8 Q. How about a gentleman by the name of Brian Healion?
- 9 A. That name is unfamiliar to me.
- 10 Q. How about a gentleman by the name of Freedom Vye?
- 11 A. What was the second?
- 12 Q. Freedom is his first name.
- 13 A. Uh-huh.
- Q. And do you think, if I showed you this spreadsheet with the
- different MoSD persons who were brought into the different --
- 16 into the MoSD by different people, that would refresh your
- 17 recollection?
- 18 A. I'm happy to take a look at it.
- 19 Q. Okay.
- 20 MS. HERNANDEZ: Your Honor, if the Court will allow
- 21 me, I want to show the witness five pages.
- 22 (Hands document to witness.)
- 23 A. Thank you.
- 24 BY MS. HERNANDEZ:
- 25 Q. Does that refresh your recollection to having seen this

```
1
       document in the past?
2
           I may have seen this document before. I will admit, I am
 3
      unfamiliar with it.
 4
      Q. Okay. All right. I will move on, then.
 5
              Well, Government Exhibit 614, I believe, that
 6
       required --
 7
              Is it 614?
                 MR. MULROE: (Nods head.)
 8
 9
      BY MS. HERNANDEZ:
10
      Q. -- that required --
              And is it up on -- it's been admitted. Okay.
11
12
              So, that required this application form. And the person
13
      who was being brought into the MoSD had to give their Telegram
14
      handle?
15
      A. Yes.
16
      Q. And the second question is: Who referred you?
17
      A. Yes.
      Q. And that would be which -- Mr. Rehl, for example, was the
18
19
      person who would have referred Mr. Giddings to the MoSD,
20
      correct?
21
      A. Yes.
22
      Q. Okay. And then it also asks: What's your home chapter?
23
      A. Yes.
24
      Q. Then the next series of questions is: What is your degree?
25
              And that's degree within the Proud Boys?
```

```
1
           Yes.
       Α.
2
       Q. Okay.
 3
                 MS. HERNANDEZ: And then are you controlling it or am
 4
       I?
 5
                 MS. ROHDE: I am.
 6
                 MS. HERNANDEZ: Okay.
7
       BY MS. HERNANDEZ:
       Q. And, so, the second page of this document, says --
 8
 9
              I'm sorry. Can we go to the second page? Okay.
10
              So, "What is your home chapter," correct, is here?
11
       Α.
          Yes.
12
       Q. The degree?
13
       A. Yes.
14
           "How long have you been a Proud Boy?"
       Q.
15
       Α.
          Yes.
16
           "What events have you attended with the Boys?"
       Q.
17
       A. Yes.
18
          And your understanding of "what events have you attended"
19
       is what other rallies have you attended, correct?
20
           That's my understanding.
       Α.
21
       Q. Okay. And, then, the next -- further down.
22
              And then it has a code of conduct, correct?
23
       A. Yes.
24
       Q. And it requires the person: "Do you affirm that you will
25
       not be using drugs or alcohol during any event, unless it's
```

```
1
       sanctioned?"
2
       Α.
           Yes.
 3
           And then the next question is the secrecy, "Everything that
       is spoken within this chapter will remain private. Screenshots
 4
 5
       or forwarding of messages are grounds for instant removal.
 6
       you agree to this?"
 7
       Α.
           Yes.
           And then down here, "This chapter will need your full
 8
 9
       cooperation with leadership for the safety of our brothers" --
10
       Α.
           Yes.
11
           Oops. So, that didn't work. That's not a highlighter.
              -- "for the safety of our brothers. Is this something
12
13
       you're willing to do?"
14
           Yes.
       Α.
15
           So the -- from the MoSD video and other documents, there
16
       was concern -- MoSD was created in the aftermath of
17
       Mr. Bertino's stabbing; is that correct?
18
           It was created after Mr. Bertino was stabbed, yes.
       Α.
19
           Mr. Bertino and three other Proud Boys in Washington, D.C.,
20
       were stabbed during a -- after -- during an "after rally"?
21
           "An after rally" on the evening of December 12th, yes.
       Α.
22
           On the evening of December 12th, there had been a rally
23
       earlier in the day. And in the evening the Proud Boys
24
       sometimes, or often, go out again; is that correct?
25
       A. Yes.
```

- Q. And on the evening of December 12th, Mr. Bertino had been
- 2 stabbed.

- A. Yes.
- 4 Q. And he was stabbed fairly seriously? Is that your
- 5 understanding?
- 6 A. My understanding, yes.
- 7 Q. Yes. And in the aftermath of that, the MoSD -- Mr. Tarrio
- 8 creates MoSD?
- 9 A. Yes, afterwards.
- 10 Q. Okay. And he, in fact, in that video that you showed and
- some of the clips that were introduced, they expressed that
- concern for the safety of the membership?
- 13 A. Concern for safety is definitely discussed, yes.
- 14 | Q. Right. And, in fact, Mr. Bertino participates in some of
- 15 those discussions and mentions that he was stabbed, and they
- 16 | kind of -- is that correct?
- 17 | A. Yes.
- 18 Q. And they sort of give him a little bit of ribbing for
- 19 having been stabbed, correct?
- 20 A. Yes.
- 21 Q. Okay. And then the -- this next paragraph down here --
- 22 | Can you bring it up a little, please?
- 23 -- says, "I will always act in self-defense," correct?
- 24 A. Yes.
- 25 Q. -- and "I will never initiate a confrontation."

- 1 A. Yes.
- 2 Q. "Is this something you can agree on?"
- 3 A. Yes.
- 4 Q. Not you, but that's what's written on this form, correct?
- 5 A. Yes.
- Q. And then as I'm want to do, they finish it off with their
- 7 "fit in or fuck off," correct?
- 8 A. Yes.
- 9 Q. They do like their curse words; would you agree with me?
- 10 A. There are a lot of curse words in the chats.
- 11 Q. Okay. And as you understand, these forms were -- I
- 12 | don't -- do you know who created this question -- this
- three-page form with these questions?
- 14 A. My recollection from the chats is that Tarrio circulates a
- draft for comment in the Leaders Chat.
- 16 | Q. And this is what comes out of it?
- 17 A. Yes.
- 18 Q. And, in fact, there are -- at least one of the -- one of
- 19 the chat groups is a Tarrio -- or, a MoSD vetting chat?
- 20 A. I've seen that chat, yes.
- Q. And that appears to be Tarrio's chat. In other words, it's
- 22 | not -- not everybody in the MoSD is in that particular chat?
- 23 A. That's my recollection.
- Q. And have you seen -- you said you may have seen that
- spreadsheet that I showed you, but you're not 100 percent sure.

- 1 Have you seen any of these completed forms?
- 2 A. Forms? No.
  - Q. You never saw any of these completed forms?
- 4 A. No.

- 5 Q. Okay. At least on its face, this document states that:
- 6 The purpose of these rules is to -- is for the purpose of the
- 7 safety of your brothers. Being the members of the MoSD who
- 8 participate in these rallies?
- 9 A. I agree that that's in here.
- 10 Q. On its face?
- 11 A. Yes.
- 12 Q. Right. And on its face it states that they will act --
- they are agreeing that they will act in self-defense?
- 14 A. On its face, yes.
- Q. On it face, always. And when we say "on its face," its
- 16 just that those are the words on the page.
- 17 | A. Yes.
- 18 Q. Okay. And I understand -- I'll keep my comment to myself.
- And on its face, it says: I will never initiate a
- 20 confrontation.
- 21 A. Yes.
- 22 Q. Okay. And you have not seen any of these, but you have no
- 23 | reason to -- there will be other witnesses who -- I'm sure
- Mr. Bertino will be here, Mr. Giddings will be here, and other
- 25 witnesses whom we can ask whether they completed this form.

```
1
           Okay.
       Α.
2
       Q. But that's not your task today.
 3
       A. Yes.
 4
       Q. I got it. You're here for the -- for the Telegram chats.
 5
       Okay. I would like to go through some of those Telegram chats,
 6
       then.
 7
              So, before I go there, these are some of the --
              Sorry. Can you bring up 500-2?
 8
 9
              This is Government Exhibit 500-2, which was introduced
10
       through you earlier today -- or, in the last few days.
11
       A. Yes.
12
       Q. And this is the Skull and Bones chat group that we spoke of
13
       earlier?
14
       A. Yes.
15
       Q. And according to this little thing up here (indicating),
16
       there are 11 members of this chat group?
17
       A. Yes.
18
       Q. So, those are nine, Mr. Tarrio, and Mr. Nordean.
19
              But, this particular -- Mr. Rehl is not a member of this
20
       chat?
21
       A. Correct.
22
       Q. Okay. And this is the group that you described as were
23
       elders -- or, at least that's how they identify themselves,
24
       correct?
```

A. Yes.

```
1
       Q. And these are national leaders?
2
       A. Yes.
 3
          Okay. So, again, there's a series -- this was
 4
       introduced --
 5
              And can you scroll down, please?
 6
              And none of these -- and you will not find Mr. Rehl's
7
       commenting on this at all?
       A. Correct.
 8
 9
       Q. Or responding to it?
10
       A. Correct.
       Q. Because he's not a member.
11
12
       A. Correct.
13
       Q. So, even if he wanted to, he has no ability to respond to
14
       any of these chats on the Skull and Bones, correct?
15
           Right. He's not in the chat.
       Α.
16
       Q. Okay. And then -- and this one is also from September of
17
       2020, so this chat is from around the time of the presidential
18
       debate?
19
       A. Yes.
20
       Q. And then 500-2, please.
              Or, this was 500-2. How about 500-3?
21
22
              And, again, this is --
23
              500-3. I'm sorry.
24
              Okay. This is, again, another Skull and Bones?
25
       A. Yes.
```

- Q. And this is, again, from September 29th, 2020?
- 2 A. Yes.
- 3 Q. Which is the date of the debate.
- 4 A. Yes.
- 5 Q. And whatever is being said on here, Mr. Rehl is not privy
- 6 to what is being said because he's not a member of this chat?
- 7 A. Yes.
- 8 Q. Okay.
- 9 And then 500-5, please.
- 10 Again, these are Skull and Bones, the national leaders,
- 11 | September 30th, 2020. So -- and this is -- it's September 30th
- 12 because it's right after midnight.
- 13 A. Yes.
- Q. So it's the same -- it's the night of the debate, but after
- midnight.
- 16 A. Yes.
- 17 Q. And, again, these gentleman appear to be talking about the
- 18 | message that the -- President Trump sent out: Standby and
- 19 stand down, or whatever it was he said?
- 20 A. I believe this series of messages is about what Mr. Biggs
- 21 had said after that.
- 22 Q. So, again, we're talking about -- Mr. Biggs, I think they
- refer to him as The Hated One?
- 24 A. I think he may have named himself that in that video.
- Q. But, there appears to be this theme through a lot of these

```
1
       messages where people say -- they show displeasure for
2
       Mr. Biggs.
 3
       Α.
           Yes.
 4
           Okay. So, this wasn't about the president. This was about
 5
       Mr. Biggs.
 6
              So we'll go to 500-6, please.
 7
              And this is, again, Skull and Bones?
 8
       A. Yes.
 9
       Q. And it appears, again, we're talking about Mr. Biggs, and
10
       Mr. Tarrio seems to be standing up for him or saying -- when he
       says "I'm not dumping on my boy," he's talking about Mr. Biggs?
11
12
       A. Yes.
13
       Q. Okay. And 500-8.
14
              So, it appears there are two points of preoccupation for
15
       the Proud Boys. One is President Trump's statement to them at
16
       the debate?
17
           In this message, yes.
       Α.
18
       Q. And the second one appears to be Mr. Biggs.
19
       A. Yes.
20
           They, again, have -- are worried about having to explain
21
       Joe Biggs.
22
              And do you know, is Mr. Biggs a little bit rough around
23
       the edges, would you say?
```

A. Based on the messages I reviewed, I think that's a fair

24

25

characterization.

- 1 Q. Okay. And he's a former Marine?
- 2 A. Yes.
- 3 | Q. Who wears it on his sleeve?
- 4 A. I'm not sure I'm in a position to comment on that.
- Q. Do you know he's actually a veteran? He actually served
- 6 tours in Afghanistan and -- Afghanistan and -- I'm sorry, not
- 7 Marine. He's an Army person who served in Afghanistan and
- 8 Iraq.
- 9 MR. MULROE: Object to scope.
- 10 THE COURT: The witness can answer.
- 11 A. I did not know that.
- 12 BY MS. HERNANDEZ:
- Q. Okay. I know you indicated you are in the reserves?
- 14 A. Yes.
- Q. Is there something about servicemen -- perhaps not you --
- 16 | they like to sort of curse and drink and do other things that
- other -- that many of us may look down on?
- 18 A. I'm not willing to make that characterization about people
- 19 | I've worked with.
- 20 Q. Okay. All right. You have to go back and serve with your
- 21 fellow reservists.
- Okay. How about 500-40, please.
- 23 And, again, this is the Skull and Bones. Mr. Rehl is
- 24 not in these. This is from November 20th, 2020.
- 25 A. Yes.

- Q. And at this point, while they have become possibly a little bit notorious because of the comments that the president made at the debate -- President Trump made at the debate, this idea that a rally will be held on January 6 has not come -- has not been put forth yet?
  - A. Correct.
  - Q. Okay. And then 500-66.

Apparently, now, we're December 19th, 2020. That appears to be -- the first message on here appears to be a reference to possibly the president's Tweet on December 19th.

It says: Trump is calling for Proud Boys to show up on the 6th.

12 A. Yes.

6

7

8

9

10

11

13

14

15

17

18

19

20

21

22

23

24

- Q. And, again, Mr. Rehl is not a participant in this chat, so he has no way of knowing what's being said.
- A. Yes, he's not in this chat.
- 16 Q. Okay. 500-69.

And, again, this is Skull and Bones, the Elders,

December 26, 2020. So it's a week after the president's Tweet.

And Mr. Tarrio -- do you know whether this is the first time he mentions this notion of creating a chapter -- a specific chapter?

- A. This isn't the first message about it. This is part of the conversation where he presents it for a vote to the Elders.
- Q. And he's presenting it to the Elders?
- 25 A. Yes.

- Q. Okay. And do you know, from your review of these text
  messages, what role these Elders play in what the Proud Boys do
  or don't do, if any role?

  A. Yes. I -- I'm sure it's not a complete picture, but from
  - my review of the chats, one of their core functions was to approve the creation of new chapters and to sort of provide advice on chapter business on a wide-ranging --
- Q. So, would you -- and I'm asking. I don't know the answer to this. Probably a bad thing to do -- but, these Elders give advice. They don't have a final word. Or do they?
- 11 A. From my review of the chats, it does not appear that they
  12 have the final word. Mr. Tarrio tends to get his way.
- Q. Okay. So, going down, this gentleman, Angel Valentine, do you know who he is, by any chance?
- A. Yes. He's an elder from, I believe, the United Kingdom, who is a regular participant in the Elders Chat.
- 17 Q. So they're an international organization?
- 18 A. Yes.

23

24

25

5

6

- Q. And, so, he wants -- he has a question: Who's going to select these people and who will be president and vice president?
  - And Enrique Tarrio says: We meet the seven-member minimum. We have not disavowed or removed members.
  - And then Mr. Valentine comes back to that favorite topic: Because I can see you getting a load of pushback and

- drama if you stick Biggs near those positions.
- 2 Again, we're talking about the lovely Mr. Biggs,
- 3 correct?
- 4 A. Yes.
- Q. Okay. And, so, Mr. Tarrio explains who he thinks this sort
- 6 of leadership group is?
- 7 A. Yes.
- 8 Q. And he labels them "Marketing," and he identifies the
- 9 Marketing Group as himself, Mr. Biggs, and Mr. Rufio -- or
- 10 Rufio?
- 11 A. Yes.
- 12 Q. And that's -- that's Mr. Nordean?
- 13 A. Rufio is Ethan Nordean.
- 14 Q. And then he -- so, those three are at the top of the
- 15 pyramid --
- 16 A. Yes.
- 17 Q. -- in terms of the power structure?
- 18 A. Yes. Marketing is above Operations.
- 19 Q. Okay. Which -- and, so, the next level is Johnny
- 20 Blackbeard, who -- he's the president of Harrisburg,
- 21 Pennsylvania, and that's John Stewart?
- 22 A. John Stewart.
- Q. Okay. And then Zach, that's Mr. Rehl?
- 24 A. Yes.
- Q. And then: Rex Ferg, President of South Sound.

```
1
              Is that Puget Sound somewhere, or on the West Coast?
2
       Α.
           On the West Coast.
           There isn't a lot of -- there aren't a lot of texts by
 3
       Mr. Ferg; am I correct?
 4
 5
           That's correct.
       Α.
       Q. Okay. So, at 3:33 Mr. Enrique says something like:
 6
                                                                 I know
 7
       that. Do you think he's responding back to the Biggs
       reference?
 8
 9
          Based on context, it looks like he's responding to Angel
10
       Valentine, yes.
11
       Q. Okay. And, again, he stands up for him.
              So 500-72.
12
13
              Sorry, Mr. Biggs.
14
              Again, Mr. Biggs seems to be a topic of conversation.
15
       Do have any idea what Mr. Biggs had done to deserve such love
16
       or enmity from his fellow Proud Boys?
17
           In September, it was about a Parler post suggesting that
18
       the president's comment had green-lighted violence against
19
       antifa. I do not know, in this particular case, if there was a
20
       particular inciting comment, no.
21
       Q. I'm sorry. In September, he did what? What was the
22
       concern? That the president -- the president's "standby, stand
       down" comment had what?
23
24
       A. Apologies. In September, Mr. Biggs posted on Parler a
25
       message to the effect of: The president just said go out and
```

- 1 attack antifa.
- 2 Q. I see.
- 3 A. And that was -- I think we showed that chat in my direct.
- 4 Q. And that was rejected by the Elders?
- 5 A. Yes.
- 6 Q. So on December 26, 2020 --
- 7 | 500-74, please. 500-74.
- 8 -- Mr. Tarrio says: Whispers, 1776.
- 9 A. Yes.
- 10 Q. Now, the 1776 document that we've spoken about that was
- 11 sent to Mr. Tarrio by Eryka --
- 12 A. Yes.
- Q. -- that was sent in December -- on December 29th, was it
- 14 not?
- 15 A. Yes.
- Q. So this statement, "1776, whispers," is not a result of
- 17 that document.
- 18 A. He has not yet received the document, no.
- 19 Q. And, in fact, Mr. Tarrio has -- or had -- I'm not sure if
- 20 he still has it -- an online store which, I believe, was --
- 21 | had -- the 1776 was the name of the store, or 1776 was part of
- 22 the title of the store?
- 23 A. Yes.
- Q. So it's a brand that he uses, 1776?
- 25 A. At some point it was, yes.

- Q. And this was long before -- or at least -- the website has
- been up for months? Years?
- 3 A. Which website?
- 4 Q. The 1776, the online store.
- 5 A. Oh, I don't know when it went up. I'm sorry.
- 6 Q. But it was up before the -- these text messages that we're
- 7 reviewing, correct?
- 8 A. Yes.
- 9 Q. Okay. And so it was up -- he's using 1776 as a rallying
- 10 cry unrelated to this document that has been introduced, the
- 11 | 1776 Returns?
- 12 A. Yes.
- Q. Okay. And then 500-81, that's from January 4th, 2021. And
- 14 this, I guess, is a reference to when he gets arrested in D.C.
- 15 A. Mr. Tarrio, yes.
- 16 Q. Yes. Because -- and Will Carless is some sort of reporter
- or person who writes?
- 18 A. It would appear that way.
- 19 Q. Okay. So, again, that's January 4, 2021. Okay.
- So, I had earlier asked you about the Skull and Bones,
- 21 | the exhibit number that the government gave to the Skull and
- Bones -- to the Skull and Bones chat. And can you now agree
- with me that the three-digit prefix that the government gives
- 24 to the Skull and Bones chat is the 500s?
- 25 A. Yes.

```
1
           But you don't have that chat on your chart?
       Q.
2
       Α.
          No.
       Q. And is that because -- why is that?
 3
 4
       A. My understanding is the purpose of this chart is to show
 5
       the MoSD chats.
 6
       Q. So is MoSD more -- has -- carries a different significance
7
       than the Skull and Bones, for example?
                 MR. MULROE: Objection. Calls for an opinion on
 8
 9
       "significance."
10
                 THE COURT: Sustained.
       BY MS. HERNANDEZ:
11
12
       Q. But, in any event, this chart leaves out the Skull and
13
       Bones Telegram chat which you -- which a number of individual
14
       chat threads were introduced, correct?
15
       A. Yes.
16
       Q. Okay. So I am going to -- I just put a sticky note that
       reads: "Skull and Bones" and "500 exhibits."
17
18
              And I'm just going to stick it on here. It's removable,
19
       but -- okay?
20
       A. Okay.
21
       Q. Thank you.
22
              Oh, one more thing. "Rehl not member."
23
              So I wrote on it: Rehl is not a member.
24
              And the Elders, they still were, apparently,
25
       functioning.
```

- 1 I'm sorry. Can you bring up 508-1?
- 2 And this is the Elders, and it appears that they're
- 3 using 508-1 as the exhibit number for the Elders?
- 4 A. Yes.
- 5 Q. And, again, Mr. Rehl is not a member of the Elders?
- 6 A. Yes.
- 7 Q. So he has no way of knowing what is being said on this
- 8 chat?
- 9 A. Yeah, he's not in this chat.
- 10 Q. He's not in this chat. And, so, this was -- whether he
- responds or doesn't respond has no significance.
- 12 A. Yes, he's not in the chat.
- 13 Q. I know you don't want to give me, but it's not -- let's put
- 14 it this way: Even if he had learned of what was said on here,
- 15 he has no way of responding; am I correct?
- 16 A. Yes.
- 17 Q. Because these chats are controlled by whoever got invited
- 18 | into it; am I correct?
- 19 A. They're controlled by the chat administrator, I believe.
- 20 Q. Okay. But if you're not -- if you have not been -- if the
- 21 administrator has not admitted you into the chat, there's no
- 22 | way you can post on it?
- 23 A. If it's a private chat, yes.
- 24 | Q. Are these private chats?
- 25 A. To my understanding, yes.

```
1
           So -- and, then, 508-2.
       Q.
2
              And, again, this is a Elders private chat and --
 3
              508-2.
                 MR. MULROE: I don't believe we offered it.
 4
 5
                 THE COURTROOM DEPUTY: It's not entered.
 6
                 MS. HERNANDEZ: Oh, okay.
7
       BY MS. HERNANDEZ:
 8
       Q. Anyway, 508-1. And I've got another little sticker.
 9
       Elders 508.
10
              I'm sorry. So here's -- the government introduced what
11
       they -- another chat group -- another private chat group, and
12
       it's called OG Pickleback Crew.
13
       A. Yes.
14
       Q. And that is 515-3, please.
15
              And this is from September 29th, 2020?
16
       Α.
          Yes.
           So this is from the date of the debate?
17
       Q.
18
       A. Yes.
19
       Q. And, again, Mr. Rehl is not a member of this?
20
       A. Yes.
21
          So, again -- and I know I'm repeating myself -- Mr. Rehl
22
       has no way of responding -- there's no indication that he read
23
       this, and he has no way of responding, even if he had read it?
24
       A. Yes.
25
       Q. And the prefix given by the government to this particular
```

- 1 chat group is the 515?
- 2 A. Yes.
- 3 Q. Okay. And then 517-1, please.
- 4 And this is Space Force Chat?
- 5 A. Yes.
- 6 Q. Do you know, is this in reference to the -- President
- 7 Trump's creation of the Space Force?
- 8 A. I don't know why this chat was named this chat.
- 9 Q. Okay. Do you know that this chat is made up of members
- 10 | from Central Florida, by any chance?
- 11 | A. I do not know. I know it's a Proud Boys chat. I don't
- 12 know about the geographic bounds of it.
- Q. Mr. Biggs is from Florida?
- 14 A. Yes.
- 15 Q. And so is Mr. Tarrio?
- 16 A. Yes.
- Q. Okay. And this is from December 20th, 2020. And, again,
- 18 | there's some discussion about getting tickets for the 6th.
- 19 A. Yes.
- 20 Q. And then 517-3.
- 21 And this particular one, Mr. Biggs mentions that: No
- 22 | club colors at all.
- 23 A. Yes.
- 24 | Q. And do you know, is this the first time that -- and this is
- 25 from December 24th, 2020?

- 1 A. Yes.
- Q. Okay. So the Space Force chat, it's exhibit numbers 517,
- 3 and Mr. Rehl is not a member.
- 4 A. Correct.
- 5 Q. So, again, whatever is said or not said on here, you would
- 6 | agree, Space Force chat -- I know that you testified that --
- 7 or, you were asked whether you had some -- you testified that a
- 8 number of -- a number of the defendants did not respond to, or
- 9 answer, a number of Telegram chats, correct?
- 10 A. Yes.
- 11 Q. So -- but, at least as to these particular ones that I've
- 12 been putting stickies on -- which is likely driving the
- prosecutors a little bit unhappy -- Mr. Rehl had no ability to
- 14 respond?
- 15 A. Yes.
- 16 Q. Okay. So, then you also introduced a number of chats
- 17 between particular individuals, correct?
- 18 A. Yes.
- 19 Q. And you didn't introduce any chats that involved Mr. Rehl
- 20 with Mr. Tarrio alone, like, one-to-one with Mr. Tarrio,
- 21 correct?
- 22 A. Correct.
- 23 Q. Okay. But -- 518-1.
- 24 And this appears to be a group text. And according to
- 25 | the little icons that you have up here, it only contains three

```
1
      people?
2
      A. Yes.
3
          Okay. And these three people would be Tarrio, Biggs, and
4
      Nordean?
5
      A. Yes.
6
      Q. And this is December 19th, 2020. That's the date of the
7
      Trump Tweet?
8
      A. Yes.
9
```

- Q. Okay. So, again, you don't have the document in front of 10 you that tells you when this particular chat group was created, 11 do you?
- 12 A. When this -- no. I would need to see the full extraction 13 to get the start date of this thread.
- 14 O. But, in any event, this particular chat group includes 15 these three people, and these are the three people who were at 16 the top of the MoSD pyramid?
- 17 Yes. These three individuals become the marketing team.
- 18 Q. Okay. And at least on this, Mr. Biggs -- apparently, 19 nobody is criticizing Mr. Biggs in this particular text. So, 20 this is just a group text chat -- a group chat with Tarrio, 21 Biggs, and Nordean, and this is Exhibit 518.
- 22 And Mr. Rehl is not a member of this chat group?
- 23 A. Yes.
- 24 Q. I was never a teacher, but I did have children.
- 25 So, now we're going to have -- you introduced a chat

```
8955
1
       between -- or, two chats between Mr. Tarrio and Reaper 1st.
2
              Do you know if Reaper 1st is a member from Upstate
 3
       New York?
 4
         Based on the context of the messages, yes.
 5
       Q. Okay. And 522-1.
 6
              And, again, Mr. Rehl was not a member?
 7
       A. Yes.
       Q. And, again, whatever was said on here, Mr. Rehl had no
 8
 9
       opportunity to respond, object, approve, or whatever?
10
       A. Yes.
       Q. And these are Exhibit 522.
11
12
              And there's also -- that's 522-1 and 522-2, correct?
13
          That sounds right, yes.
14
       Q. And then there's also a 521-1. This is from December 29th,
15
       2020, and this is a chat between Mr. Tarrio and Pezzola?
16
       A. Yes.
17
       Q. And there does not appear to be a response by Mr. Tarrio;
18
       is that correct?
19
       A. Yes.
20
       Q. And is it accurate to say that Mr. Tarrio had thousands of
21
       Telegram messages sent to him?
22
       A. Yes.
```

Q. And do you know whether -- would you agree with me, he

didn't answer many of them?

23

24

25

A. Yes.

```
1
           This is Tarrio-Pezzola Exhibit 521, and Mr. Rehl is not a
2
       member.
 3
              So with this particular one, 521-1, you have -- you
 4
       don't know whether Mr. Tarrio ever responded to this?
 5
       A. Yes.
 6
       Q. Okay.
 7
                 MS. HERNANDEZ: I can go on. I have more of these.
 8
                 I'm sorry.
 9
       BY MS. HERNANDEZ:
10
           There are a number of text messages between Mr. Tarrio and
11
       Mr. Biggs that were introduced through you, and the exhibit
12
       numbers are 525. Does that ring a bell?
13
       A. Yes.
14
                 MR. MULROE: Your Honor, I would object. Rule 403.
15
       Waste of time, if we're going to do this exercise for every
       exhibit.
16
17
                 THE COURT: Why don't I hear counsel at sidebar.
18
                 (Bench discussion:)
19
                 THE COURT: Ms. Hernandez, normally I give counsel
20
       all the time they need to make their points. And, usually, my
21
       theory is also, in part, that this is self-regulating, that the
22
       lawyer will recognize that the jury is being board.
23
                 But, so, how much more do you have on this?
24
                 MS. HERNANDEZ: Just a couple of them, Your Honor.
25
       But, the point is that the government introduced all these
```

exhibits. They elicited from this witness that the defendants did not respond. That, you know, that meant as sent. And many -- most of these, M. Rehl is not a member, has no opportunity to respond.

And I know it's a little tedious, but, we also thought it was a little tedious when they had this -- and I'm not having him read every single text. I'm just trying to introduce these particular ones. And I'm just posting it up there because they chose to select out all these message groups that my client had no participation in, and just, you know, make a big chart of the ones where he was involved. So, I think I'm entitled to do this.

And decorum, Your Honor, he just said I was wasting time. I take it personally.

THE COURT: All right. He did cite, literally the -literally, it is part of the rule. Ms. Hernandez, I'm going to
give you another five minutes of this. But, I mean, you know,
you could have -- I get the point you're making, but the point
can be made with a few quick questions about how he's not a
part of these chats. So, you get five more minutes.

MS. HERNANDEZ: Thank you, Your Honor. But, again, I felt that I was compelled to do it because the -- I don't know if you recall, I asked if they identified my client was not a member, and they did not do it.

THE COURT: No. No. I recall them doing it on

```
1
       numerous occasions.
2
                 MS. HERNANDEZ: They did it once, then they stopped
 3
       doing it.
 4
                 THE COURT: That's what cross is for, but that's --
 5
       what we're doing here -- what we're doing here is well beyond
 6
       that. You get five more minutes and then you have to move on.
 7
                 MS. HERNANDEZ: Thank you, Your Honor.
 8
                 (Open court:)
 9
                 MS. HERNANDEZ: I apologize, ladies and gentlemen of
10
       the jury, but --
       BY MS. HERNANDEZ:
11
       Q. So, Tarrio and Biggs' messages are Government Exhibit 525.
12
13
              Can you please bring up 525?
14
              And, again, I'm not going to read these, but the 525
15
       exhibits involve text messages between Tarrio and Biggs. My
16
       client is not involved in those, so he has no ability to
17
       respond, correct?
18
       A. Yes.
19
          Okay. And then Exhibit 526-2, that's messages between
20
       Tarrio and Nordean?
21
       A. Yes.
22
       Q. And, again, my client, Mr. Rehl, has no ability -- is not a
23
       member and has no ability to respond?
24
       A. Yes.
25
       Q. And then, I believe, this is the last -- maybe not.
```

1 The 550 numbers are Tarrio and Bertino? 2 A. Yes. 3 O. And the same -- the 530-1 and others are Tarrio and 4 Bertino. My client, Mr. Rehl, is not a member of these and, 5 therefore, has no ability to respond, which means that his 6 failure to respond doesn't mean that he agrees or consents, 7 correct? 8 A. Yes. 9 Q. Thank you. 10 And then the ones that are left, I believe, are the ones 11 between Mr. Tarrio and the -- Eryka and the two other women, 12 right? 13 A. Yes. 14 Q. And, again, that's -- I'm not even going to mention those 15 numbers, but Mr. Rehl is not part of that and, therefore, no 16 ability to respond? A. Yes. 17 18 MS. HERNANDEZ: I think that's it for these, Your 19 Honor. 20 BY MS. HERNANDEZ: 21 Q. And, again, I -- so I've put up ten little stickies which 22 relate to ten separate chat groups in which my client, 23 Mr. Rehl, was not a participant so he had no ability to 24 respond.

25

A. Yes.

- Q. And his failure to respond doesn't show that he agreed to anything?
  - A. Yes.

- Q. I want to talk a little bit about the internet. See if you
- 5 agree with me on this: Where we are these days and back in
- 6 2020, there's some literature out there that says: The tone of
- 7 the internet is outrage. Do you agree with that?
- 8 A. I haven't read that literature, but I understand the thrust of the statement.
- 10 Q. And would you say that is a little bit consistent with a
- 11 number of messages that you read in the Telegram messages that
- 12 you read?
- 13 A. There was a lot of anger in the Telegram messages I read.
- 14 | O. But, there's this sort of undercurrent in Twitter, in
- 15 Telegram, in Parler, in a number of these, in Facebook, and
- 16 | particularly in the lead-up to the elections and since, maybe  $-\frac{1}{2}$
- I don't know, maybe since the 2016 Hillary Clinton email thing,
- 18 | there's this expression of outrage by people on the internet?
- 19 MR. MULROE: Object to scope and foundation.
- 20 THE COURT: Sustained.
- 21 BY MS. HERNANDEZ:
- 22 Q. In the Telegram messages and in the -- and you didn't just
- 23 look at Telegram messages. You also introduced some Parler
- 24 messages?
- 25 A. Yes. I was asked to review some Parler messages.

- 8961 1 Were you also asked to review 134 Facebook messages? Q. 2 Α. No. 3 But, there was Facebook posting by some people in this; if 4 you know? 5 A. I don't know. 6 Q. But, we agree that there is an element of outrage in the 7 way people post on the internet? 8 MR. MULROE: Object to scope and foundation. 9 THE COURT: Sustained. 10 BY MS. HERNANDEZ: Q. There were a number of text messages that you introduced 11 12 relate -- that were posted -- and I don't know when these --13 when I'm saying "text messaging," we're talking about Telegram 14 messages? 15 A. Yes. 16 Q. I don't know if that's the correct --17 A. Understood. 18 A number of the messages were posted by Mr. Bertino? Q. 19 A. Yes. 20 Q. And a number by Mr. Wolkind? 21 A. Yes. 22 Q. Aaron Wolkind? 23 A. Yes.
- 24 Q. And Mr. Stewart?
- 25 A. Yes.

```
1
           And a number of -- the tenor those three particular men was
2
       fairly provocative?
 3
           I would agree, they were particularly aggressive members.
 4
       Q. And are you aware that, as it happens, all three of them
 5
       were not here on January 6th, when all of the -- all the -- I
 6
       believe Mr. -- let me back up.
 7
              Mr. Wolkind, I believe, arrived in D.C., like, around
 8
       6 p.m., correct?
 9
           That's my understanding.
10
           But by that time, the Capitol had been -- everyone had been
11
       evacuated, or all the -- all the demonstrators had been ushered
12
       out of the Capitol?
13
                 MR. MULROE: Object to scope.
14
                 THE COURT: Sustained.
15
                 MS. HERNANDEZ: It's about Mr. Wolkind, Your Honor.
16
       I'm just trying to establish that he wasn't here on January 6th.
17
                 THE COURT: The witness can respond, if he knows.
18
                 MS. HERNANDEZ: Thank you.
19
       A. My understanding was that Mr. Wolkind was not present in
20
       D.C. on the morning of January 6.
21
       BY MS. HERNANDEZ:
22
           Or, the -- when the thick of the events that --
       Ο.
23
           He wasn't there at the riot, yes.
       Α.
24
           Okay. I'll let -- I'll give you that one.
```

So, Bertino, Wolkind, Stewart, you said they were

```
1
      particularly -- what was the term you used? "Aggressive"?
2
      A. Yes.
 3
      Q. So, let me -- let me see if you agree with this: There is
 4
       a -- another aspect of the internet is this notion of -- you
 5
       know, this keyboard gangsters, keyboard warriors, where people
 6
       appear to be -- feel free to be aggressive because they're --
7
       they don't have to face you face-to-face?
 8
                 MR. MULROE: Object to scope. Foundation.
 9
                 THE COURT: Sustained.
10
      BY MS. HERNANDEZ:
11
      Q. Can you agree -- in reviewing these --
12
              As an FBI agent, in your investigations and just in your
13
      everyday life, do you agree with --
14
              Are you familiar with the Urban Dictionary?
15
      A. As a website?
16
      Q. Yeah.
17
      A. Yes.
18
      Q. And they sort of give definitions for, sort of, modern
19
       terminology?
20
      A. Yes.
21
      Q. Maybe that's not a proper way to describe it. But -- and
22
       some -- would you -- there's this notion -- there is this term
       on Urban Dictionary. Keyboard gangsters mostly attack on group
23
24
       chats?
25
                 MR. MULROE: Object to the relevance of "Urban
```

```
1
       Dictionary." And calls for hearsay.
2
                 THE COURT: Sustained.
 3
       BY MS. HERNANDEZ:
 4
           Okay. So, in addition to all these chat groups where
 5
       Mr. Rehl was not present and, therefore, could not respond, and
 6
       so his silence cannot be interpreted to mean that he agreed
7
       with whatever people were posting, correct? That's one aspect
       of what we've gone through?
 8
 9
           We did just go through that, perhaps.
10
       Q. Boringly, perhaps. Or meticulously.
11
              There are other reasons people would remain silent;
12
       would you agree with me?
13
           Other reasons, just generally?
       Α.
14
           Why people would remain silent in a chat group.
       Q.
15
           Sure. Yes.
       Α.
16
           And one is that they didn't read the text?
       Q.
17
       Α.
           Yes.
18
       Q. One is they read, but maybe were out the door and decided:
19
       Oh, there's 78 other people posting, so I won't post?
20
           Yes.
       Α.
21
           One is -- Will Rogers is said to have said: Never miss a
22
       good chance to just shut up, right?
23
           I've never heard that, but --
       Α.
```

And, Muhammad Ali is said to have said: Silence is golden

when you can't think of a good answer.

24

25

- 1 A. Again, I haven't heard that, but, got it.
- 2 Q. And, another writer said: Sometimes silence is not always
- 3 implied consent. Sometimes it simply means that the silent one
- 4 had opted out of a discussion with idiots.
- 5 MR. MULROE: Objection. Relevance. Hearsay.
- 6 Cumulative. Waste of time.
- 7 THE COURT: Sustained.
- 8 BY MS. HERNANDEZ:
- 9 Q. There is -- there are times, would you agree with me, that
- 10 people don't respond on chat groups or Facebook or Telegram
- 11 because the conversation is idiotic?
- 12 A. Yes.
- Q. Outrageous?
- 14 A. Yes.
- 15 Q. Give me another -- another word for: I'm not going to
- 16 | answer this because I'm just -- doesn't warrant my time or
- 17 energy.
- 18 A. I understand.
- 19 Q. Agree?
- 20 A. Yes.
- 21 | Q. Okay. And, in fact -- not -- I don't mean to say this, but
- 22 you are -- in this case, there's a number of agents and
- 23 prosecutors, correct?
- 24 A. Yes.
- Q. And these aren't group chats, but you do sometimes receive

```
1
       emails that are sent, perhaps you are copied on it, you're not
      the recipient?
2
 3
      A. Yes.
 4
      Q. But you're copied. You're one of three, four, ten, I don't
 5
       know how many people might be on an email thread?
 6
      A. Yes.
 7
      Q. And, sometimes, you won't answer, either because it's not
 8
      your place to answer --
 9
                 MR. MULROE: Objection to relevance of the agent's
10
      personal practice. And objection, cumulative.
                 MS. HERNANDEZ: I think it fills --
11
12
                 THE COURT: It's sustained as to that. And given the
13
      time, I'm going to --
14
                 MS. HERNANDEZ: I've made my point. I'm at the
15
      beating a dead horse. I like horses, though.
16
                 I'll stop here.
17
                 THE COURT: Is your cross-examination complete,
18
      Ms. Hernandez, or not?
19
                 MS. HERNANDEZ: No. There's a little bit more on a
20
      different topic altogether, Your Honor.
21
                 THE COURT: All right.
22
                 Ladies and gentlemen, we're going to break for the
23
       day. We will see you back here tomorrow at 9 o'clock.
24
                 MS. HERNANDEZ: Thank you, Your Honor, for your
25
      patience.
```

```
1
                 (Whereupon the jurors leave the courtroom.)
2
                 THE COURT: You may step down.
 3
                 You all may be seated.
                 All right. I'll see everyone here at 9 o'clock
 4
 5
       tomorrow morning.
 6
                 Is there -- does any -- Mr. Smith?
 7
                 MR. SMITH: Thank you, Your Honor.
 8
                 Last Friday the government provided its list of
 9
       witnesses for this week, and we've been trying to obtain the
10
       list of the witnesses that will follow in the next 36 hours,
       pursuant to the trial court's order, from the government.
11
12
       Today we sent a couple of emails just letting the Court know
13
       that we haven't managed to get a response, but the defense
14
       would be grateful to know who the next three witnesses are this
15
       week, following Agent Dubrowski.
16
                 THE COURT: All right. I honestly can't remember
17
       exactly when this information is -- my orders -- when my orders
18
       require this to be provided.
19
                 MR. SMITH: It's 36 hours, Your Honor.
20
                 THE COURT: Okay. Who from the government would like
21
       to respond? Is --
22
                 MR. MULROE: Your Honor, we will get back to the
23
       office and then send over our anticipated next witnesses. I
24
       will say that some of the cross-examination of Agent Dubrowski
25
       was actually more abbreviated than we anticipated, so we have
```

```
1
       to adjust based on timing. But, we'll get that over to them
2
       promptly.
 3
                 THE COURT: All right. Let's -- what time do you
 4
       think -- would you expect you'll be able to get it over?
5
                 MR. McCULLOUGH: Your Honor, within the hour of
 6
       getting back to the office we will be able to send it over. I
7
       think we're just trying to -- trying to manage the, kind of,
       witness availability against length of cross and when people
 8
 9
       will go next, so --
10
                 THE COURT: Understood. All right. So, the quicker
       you'll get out of here the quicker you'll get that information.
11
12
                 We'll see you tomorrow at 9 o'clock.
13
14
15
16
17
18
19
20
21
22
23
24
25
```

1	CERTIFICATE OF OFFICIAL
2	
3	I, JANICE DICKMAN, do hereby certify that the above and
4	foregoing constitutes a true and accurate transcript of my
5	stenographic notes and is a full, true and complete transcript
6	of the proceedings to the best of my ability.
7	Dated this 14th day of February, 2023
8	
9	
10	
11	Janice E. Dickman, CRR, CMR, CCR Official court reporter
12	Room 6523 333 Constitution Avenue, N.W.
13	Washington, D.C. 20001
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