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A P P E A R A N C E S

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Thursday

August 23, 2018

This case began on this date, Thursday, 23rd day of August, 2018, at 8:36 a.m., when and where evidence was introduced and proceedings were had as follows:

* * *

THE COURT: All right. Who will our next witness be?

MS. FLOYD: Plaintiff calls Reverend Elaine Blanchard.

THE COURT: All right. Come forward and raise your right hand, please.

DIRECT EXAMINATION OF E. BLANCHARD

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* * *

ELAINE BLANCHARD,

was called as a witness and having first been duly sworn testified as follows:

DIRECT EXAMINATION

BY MS. FLOYD:

Q. Good morning.

A. Good morning.

Q. Could you please state your name and spell it for the record.

A. Elaine Blanchard. E-L-A-I-N-E, B-L-A-N-C-H-A-R-D.

Q. And what is your -- can you tell us a little bit about your professional background?

A. I'm a minister and a playwright and a professional storyteller.

Q. All right. And tell us a little bit about you. How long -- have you lived in Memphis?

A. I moved here in June of '94.

Q. Great. And are you affiliated with any particular congregation or faith right now?

A. I am ordained in the United Church of Christ. I was ordained at First Congregational Church here in Memphis and I currently am a member at St. Mary's Episcopal Cathedral.

Q. Great. And tell us what kind of community work do you

DIRECT EXAMINATION OF E. BLANCHARD

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1 provide in the city of Memphis?

2 A. I work with incarcerated people and ex-felons,
3 streetwalkers, and I get them to tell their stories and
4 then create theater from that so that the general public
5 can hear more of what happens with people in our community
6 than just the crimes they commit or the things that get
7 them into trouble.

8 Q. Is that the extent of your community work? Since
9 1994, have you done any other work in the community other
10 than what you've just described?

11 A. Right. I've worked as a nurse in the city. I'm a
12 registered nurse. And I've worked with Thistle and Bee,
13 which is an organization that helps prostitutes to find
14 another way to make a living, and I worked with Friends for
15 Life.

16 Q. And what involvement did you have with the events at
17 Graceland in August of 2016?

18 A. What involvement did I have? I went to Graceland on
19 that evening because the bridge incident had happened not
20 long before that. And so there were a group of us who are
21 clergy who were called together, and people from Black
22 Lives Matter met with us and talked with us, and Floridaia
23 Jackson said to us, you liberal white people don't show up
24 when we get together because you're afraid you'll get hurt.
25 You see us on the bridge and you think, oh, that's danger.

DIRECT EXAMINATION OF E. BLANCHARD

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1 And it spoke to me. I realize what she said was true
2 because the night that I was sitting on my couch in my home
3 and saw the people on the bridge, I thought, woo, I
4 wouldn't want to be down there. So it convicted me.

5 And I made a resolve within myself that the next time
6 I heard that Black Lives Matter was doing something I was
7 going to show up. It was a personal challenge kind of a
8 thing.

9 And so the night that people went to Graceland, I
10 parked on the north end of Graceland because I could see a
11 lot of blue lights and I wasn't sure what would happen with
12 my car if I kept going forward. So I parked in a bank
13 parking lot and started walking. And first I came to a row
14 of SWAT team members and a tank and I walked on past that,
15 and there was an SUV, a black SUV to my right, and an
16 officer got out of the car and opened the back of it and it
17 was boxes full of boxes that said ammunition. And I
18 thought this is a very different situation for me.

19 And so I kept walking and I didn't see any of my Black
20 Lives Matter friends. And I went all the way to the south
21 end of Graceland, and there in a corral, like you would put
22 for cattle, were about four of my social justice friends.
23 And I said is this our protest, and they said, yeah, this
24 is us. And I said, well, am I supposed to get in there
25 with you? And they said, yeah, they said this is where

DIRECT EXAMINATION OF E. BLANCHARD

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1 we're supposed to protest.

2 So I got inside the corral, and it seemed ridiculous
3 because there were lots of police and another tank at that
4 end of Graceland and just a few of us in this corral.

5 Then within an hour there were more people who came,
6 maybe 75 to 100 people. And it was more than that little
7 corral could hold so people began to spill out. And the
8 police made a wall of themselves across Elvis Presley
9 Boulevard. And if you wanted to go and hold a candle for
10 Elvis, you needed to get past them if you were coming from
11 the south. And if you were white, they were letting people
12 by. Black people were not allowed to get by. And they had
13 seen me, so when I pushed to get by, they pushed me back.

14 So I was there maybe an hour and a half, and it was
15 dinnertime and I was hungry and I couldn't see that
16 anything different or -- I had shown up. I had done what I
17 had said I was going to do. And so I said to the person
18 next to me, I'm going home, and I'm leaving. And so I went
19 back into the corral and hoisted myself up and threw my leg
20 over the railing that the police had put, and the police
21 could see me. I was in full view, and I thought they would
22 yell and I was just going to ran. That was my plan.

23 But instead, nobody said anything. Nobody said, hey
24 you. Nothing. I just climbed over their barrier, and a
25 Graceland security guard said can I help you, ma'am, and

DIRECT EXAMINATION OF E. BLANCHARD

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1 gave me his arm, and I climbed over the barrier and started
2 walking back toward my car.

3 When I got to my car, I got my phone out and posted on
4 Facebook. Wow, this is not theoretical. I just
5 experienced blatant racism. White people can get by.
6 White people can climb over the barrier but black people
7 can't get by to get close to Graceland.

8 So I drove home and went in the kitchen door, and my
9 wife said, well, how did it go, and I said well -- as we
10 started talking about it and we went in the living room to
11 sit down and we're talking about what had just happened,
12 and this light came across our living room. And I said
13 what was that? And we got up and looked out the front
14 window, and it was a police car shining their searchlight
15 into our house back and forth. And so we wondered what
16 that was.

17 The next morning I got a call from Lee Harris's
18 office, asking me if I would be part of a press conference,
19 and so Pruell Walker, an African-American woman who was
20 there at the night before, and I told our stories for a
21 press conference.

22 Q. At that time were you -- you weren't -- were you
23 regularly involved in large public protests in Memphis?

24 A. No.

25 Q. Okay. So -- sorry, Your Honor. We're waiting for

DIRECT EXAMINATION OF E. BLANCHARD

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1 exhibit.

2 Okay. Okay. Why do you -- so at a certain point did
3 it come to your attention that you had been placed on a
4 list about -- placed on a list?

5 A. Yes.

6 Q. And tell us about that discovery.

7 A. We were at the theater and I had turned my phone off
8 while we were at the theater one Saturday night, and we got
9 in the car and I turned my phone on and it started ding
10 ding ding ding, like I had a lot of Facebook private
11 messages. And so I looked and there were comments about
12 what, Elaine Blanchard a security threat to the city of
13 Memphis?

14 And so when I got home, I got on my computer and asked
15 some of my friends what are you talking about. And one of
16 my friends, Jane said oh, you're in trouble. I said for
17 what? She said I thought you knew. I said knew what?

18 And then Chris Davis a friend of mine sent me a screen
19 shot of a list and my name was on this list. And
20 apparently if your name was on this list you couldn't go in
21 City Hall without a police escort. And I was shocked.
22 Like what? How could -- you know, I reviewed anything I
23 had done trying to figure how I became a threat. This was
24 several months after Graceland so it wasn't an immediate
25 connection.

DIRECT EXAMINATION OF E. BLANCHARD

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1 And so my name was on the list. And then that night,
2 you know, there were a lot of messages back and forth from
3 friends, and I began to understand that this was a list
4 that the City had created to try to keep City Hall safe
5 from us.

6 So the next morning, my boss called.

7 Q. And where is your boss at that time?

8 A. Here in Memphis.

9 Q. What organization?

10 A. Thistle and Bee.

11 Q. Okay.

12 A. She called and she said how are you. I said I'm fine
13 and she said, well, I'm not.

14 **THE COURT:** I'm sorry, I didn't get the name of
15 the company.

16 **THE WITNESS:** Thistle and Bee.

17 **THE COURT:** And that's actually a 501c3. And I
18 heard you say earlier what they do. Sure.

19 **THE WITNESS:** At that point they were a very new
20 nonprofit, and so she asked me how are you. I said I'm
21 fine. And she said well I'm not. I'm very uncomfortable.

22 **MR. LAURENZI:** Pardon me, Your Honor. I'm going
23 to object to the hearsay.

24 **THE COURT:** Objection sustained. We'll have to
25 strike the comments about -- who was your employer. Who is

DIRECT EXAMINATION OF E. BLANCHARD

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1 the boss?

2 **THE WITNESS:** Eileen Farmer.

3 **THE COURT:** Okay. Eileen Farmer. Eileen Farmer
4 is an Episcopal priest, is that right?

5 **THE WITNESS:** Uh-huh, she is.

6 **THE COURT:** And she is now at which church?

7 **THE WITNESS:** She's retired now.

8 **THE COURT:** Retired.

9 **THE WITNESS:** She's doing some part-time work at
10 Holy Communion.

11 **THE COURT:** Holy Communion, okay. But we can't
12 hear what she had to say. That was the objection. It's a
13 proper objection. We can hear what you said.

14 **THE WITNESS:** Yeah. I said -- well, I expressed
15 surprise that she was upset about it and anxious.

16 BY MS. FLOYD:

17 Q. Without telling us exactly her words, were there
18 negative consequences for you that arose out of the black
19 list?

20 A. Yes. I had a contract and it was new at the time that
21 my name showed up, a year contract to be the program
22 director. And when that contract ran out, I wasn't
23 renewed, because it's an important thing to be connected
24 positively with the city and the police department in that
25 organization.

DIRECT EXAMINATION OF E. BLANCHARD

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1 Q. And are you aware of why your contract wasn't renewed?

2 A. Am I aware of why it wasn't renewed? They hired a
3 licensed clinical social worker.

4 Q. Were you aware of -- was there a connection to your
5 placement on the black list?

6 A. I feel like there was.

7 Q. Okay.

8 A. I feel like I would still be working there if I hadn't
9 become a threat to the good will of the organization.

10 Q. And was that made clear to you?

11 A. When my name first got on the list, it was. At a
12 certain point -- let's see how do I say this without saying
13 what she said? At a certain point, I was told -- let's
14 see.

15 **MR. LAURENZI:** Your Honor again, I'm going to
16 object.

17 **THE COURT:** Objection is sustained. If we were
18 going to hear that, we would hear it from Reverend Farmer.

19 **THE WITNESS:** From Eileen.

20 **THE COURT:** Right.

21 BY MS. FLOYD:

22 Q. And if there's not a way to say it -- if you can't
23 think of a way to say that without drawing the objection
24 again, then we can move on.

25 A. Okay. That's fine.

DIRECT EXAMINATION OF E. BLANCHARD

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1 Q. And did you participate in a -- in any Memphis Police
2 Department training academy?

3 A. Yeah. I was a member of the Police Department's
4 Clergy Police Academy. It's a program that's eight weeks
5 long, and it's where clergy learn who the police are and
6 what the departments are and kind of the history. And so,
7 yeah, it's a connection kind -- an educational program.

8 Q. And what -- did something happen during your
9 participation related to protests and protesting?

10 A. Right. After the Graceland incident and I had already
11 completed and graduated from the Clergy Police Academy, the
12 Director of the Police Department Rallings called all of us
13 who were alumni of the program together, and basically that
14 meeting was we heard that --

15 **THE COURT:** And this may be confusing. Because
16 the City is a defendant, you can actually say what a
17 manager for the City said. So I didn't want you to be
18 confused about that.

19 **THE WITNESS:** Thank you.

20 **THE COURT:** You can actually -- well, that's the
21 rule. But you're welcome.

22 **THE WITNESS:** Okay. So we were altogether, and
23 Director Rallings -- the purpose of the meeting was to tell
24 us that these protests that people were having around town
25 were making it difficult for him to meet budget, and that

DIRECT EXAMINATION OF E. BLANCHARD

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1 it was important for him to keep the police work within
2 budget, and he was feeling stressed because these people
3 who were protesting were using up a lot of his manpower and
4 resources, and if he was over budget it was because people
5 were protesting and he was having to send people out to
6 respond to all of this.

7 BY MS. FLOYD:

8 Q. And what was -- what were your impressions from that
9 meeting? What was your impression that -- what was your
10 impression from that meeting?

11 A. Yeah. I felt intimidated and afraid. Seemed like he
12 talked about Graceland a lot in particular and looked at
13 me. And so I felt very uncomfortable.

14 Q. And was this -- just to orient it in time, was this
15 before or after the black list became public?

16 A. I'm not sure.

17 Q. Okay.

18 A. No, I am sure. It was before the black list became
19 public, yes.

20 **MR. LAURENZI:** Your Honor, I'm going to object to
21 it being referred to as a black list. It was never written
22 as a black list. It was an AOA.

23 **THE COURT:** I don't tell people how to do their
24 examination. I think we understand the documents being
25 referred to. I'm going to overrule that objection,

DIRECT EXAMINATION OF E. BLANCHARD

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1 although I agree it is whatever it is. It is whatever is
2 properly named. We probably better use that just so we
3 know the right document. It's always better to be
4 specific.

5 **MS. FLOYD:** Thank you, Your Honor.

6 **THE COURT:** We can, but I'm not going to tell
7 people how to speak generally unless it's confusing. If we
8 had a jury, I would probably have to change that and we
9 would have to be very precise.

10 **MS. FLOYD:** Thank you, Your Honor.

11 **THE COURT:** Sure.

12 **MS. FLOYD:** All right. And I'm going to admit an
13 exhibit. It is -- it was the attachment document 173 to
14 the summary judgment. I am not sure what the pretrial
15 number for that is, but it is the AOA list. It's the full
16 list.

17 **THE COURT:** All right. I'm sorry, that's to be
18 marked as the next-numbered exhibit, is that correct? It's
19 145. I've got that part. Thank you.

20 (WHEREUPON, the above-mentioned document was
21 marked as Exhibit Number 145.)

22 **THE COURT:** All right. Marked and received as
23 145. We need to get the official when you put it up.

24 **MS. FLOYD:** Thank you.

25 BY MS. FLOYD:

DIRECT EXAMINATION OF E. BLANCHARD

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1 Q. And this is the first page of that document. It's
2 the -- titled the Memphis Police Department listing of
3 persons barred from the premises. And is this the document
4 that I just had on the screen? Does that look familiar to
5 you?

6 A. Yes.

7 Q. And what is it?

8 A. It's a list of people who are not allowed City Hall
9 without a police escort.

10 Q. And is this your name here?

11 A. That's my name.

12 Q. And how has this experience with the Memphis Police
13 Department impacted you?

14 A. It's made me feel paranoid in some ways, certainly
15 about social media, and I'm much more careful now about
16 when and what I put on social media. It has been a regular
17 question to myself to get rid of Facebook, but that's the
18 way I put pictures of my grandson up and talk with him
19 face-to-face on the Facebook message thing. So it has
20 value to me, even though it makes me nervous.

21 Q. And why are you nervous specifically?

22 A. Well, because I do support the work of Black Lives
23 Matter and social justice activity, and I don't want to
24 become a target again of the police department. I may need
25 the police department some time to help me. So it's an

CROSS-EXAMINATION OF E. BLANCHARD

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1 uncomfortable situation to feel like I may be antagonizing
2 the people I would need to protect me if something
3 happened.

4 **MS. FLOYD:** I think that's all my questions.

5 **THE COURT:** Cross-examination?

6 **MR. LAURENZI:** Thank you, Your Honor.

7 **CROSS-EXAMINATION**

8 **BY MR. LAURENZI:**

9 Q. Good morning, Ms. Blanchard. How are you?

10 A. Fine.

11 Q. If I could get a copy of the last exhibit,
12 Exhibit 145.

13 **THE COURT:** Let's get the mic over to the tie.
14 It's a test on hearing. Can we move the mic over to the
15 tie?

16 BY MR. LAURENZI:

17 Q. I think you were shown what was Exhibit 145. And in
18 fact your name is on this particular sheet; is that
19 correct?

20 A. That's correct.

21 Q. And can you tell us, do you know what this is that you
22 are looking at?

23 A. I am looking at a list of people who are not allowed
24 to go into City Hall without a police escort.

25 Q. Does it say anywhere on this particular list that you

1 have to be escorted into City Hall?

2 A. It was my understanding that that's what this list was
3 intended for.

4 Q. Back to my question, though.

5 Is there anything on this list that says that you are
6 to be escorted in City Hall?

7 A. I do not know.

8 Q. Okay. And you said that you've seen it. And are you
9 aware that this particular document relates to the Mayor's
10 residence? Are you aware of that?

11 A. No.

12 Q. Okay. Have you studied this document at all?

13 A. Have I studied it? I've seen my name on it.

14 Q. Okay. And are you further aware that -- and of course
15 Jim Strickland signed this as a citizen; is that correct?

16 A. Pardon me.

17 Q. Jim Strickland signed this, is that correct?

18 A. Jim Strickland signed this.

19 Q. And he signed it for his residence. Are you aware of
20 that?

21 A. I'm not aware of that.

22 Q. Are you aware that to effectuate this list that a
23 person would have to notify you of its existence?

24 **THE COURT:** Would you go to the last page of the
25 document, just for a second, just so we can -- is there a

CROSS-EXAMINATION OF E. BLANCHARD

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1 second page? Right. It just had other signature on it.

2 Yeah. That's fine. Thank you.

3 BY MR. LAURENZI:

4 Q. It states that the following individuals have by
5 personal communication from me or someone. Did you ever
6 receive any personal communication to stay off of the
7 Mayor's property?

8 A. No.

9 Q. Did you ever receive any personal communication by
10 anyone to stay out of City Hall?

11 A. No.

12 Q. Did you receive any personal communication that you
13 were to be escorted in City Hall?

14 A. No.

15 Q. Can you tell me were you ever escorted in City Hall?

16 A. No.

17 Q. Now, immediately after this -- when you became
18 aware -- and I think you said you became aware of it at the
19 theater; is that correct?

20 A. Uh-huh, on the way home one Saturday night.

21 Q. Correct.

22 And can you tell me, after that event, you let the
23 City know how you felt, did you not, about being on that
24 list? Did you hold a protest in front of City Hall about
25 it?

1 A. I had joined others for a weigh-in in front of City
2 Hall, yes.

3 Q. Okay. And how long did the protest last in front of
4 City Hall?

5 A. Maybe an hour.

6 Q. All right. And were you allowed to protest in front
7 of City Hall?

8 A. We were allowed and we were watched.

9 Q. Okay. Can you tell me, in fact you had an A with you;
10 is that correct?

11 A. Pardon me.

12 Q. An A? You made an A --

13 A. Right.

14 Q. -- out of Nathaniel Hawthorne's book?

15 A. Right, a scarlet letter.

16 Q. In fact, you dawned the scarlet letter, is that right?

17 A. That's correct.

18 Q. So it definitely did not chill your speech; is that
19 correct?

20 A. As long as I felt surrounded by people who support me
21 I did not feel uncomfortable, but in private or in driving
22 my car, I feel uncomfortable.

23 Q. Well, not only did you -- did you dawn a scarlet
24 letter, you gave yourself a scarlet letter, but in fact you
25 drew posters; correct?

CROSS-EXAMINATION OF E. BLANCHARD

911

1 A. Yes.

2 Q. Okay. And what were those posters supposed to
3 reflect?

4 A. We created posters to show the ridiculousness of
5 having people's weight and height recorded beside the fact
6 that these people were a threat to the city.

7 Q. Okay.

8 A. I think. I don't -- I don't really remember what the
9 posters were.

10 Q. And but again, that didn't chill your speech. In
11 fact, did you make some of those posters?

12 A. I don't think I did, no.

13 Q. Okay. All right. And those posters were put up on
14 City Hall?

15 A. Uh-huh, yes.

16 Q. Did anybody stop you from City Hall from doing that?

17 A. No. We did not enter City Hall. We were just on the
18 sidewalk outside.

19 Q. Now, since that time -- now you know the Director of
20 Memphis Police Department; is that correct?

21 A. Yes.

22 **THE COURT:** To be a little more precise, if we
23 can have the witness tell the date or approximate date of
24 the event.

25 **MR. LAURENZI:** I'm not going to even introduce

CROSS-EXAMINATION OF E. BLANCHARD

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1 it, Your Honor.

2 **THE COURT:** I'm asking a different question.

3 Can you tell me the approximate date of the
4 weigh-in near City Hall.

5 **THE WITNESS:** It was the Tuesday following when
6 we all found out about it.

7 **THE COURT:** Okay.

8 BY MR. LAURENZI:

9 Q. You've seen that picture?

10 A. Yes.

11 Q. And do you know where that picture came from?

12 A. That picture came from fellowship hall at Shady Grove
13 Presbyterian. I was the interim pastor there, and the
14 police department came for an evening when the Muslim
15 community met with us.

16 Q. And Director Rallings was there?

17 A. Yes. Director Rallings was there.

18 Q. And you and Director Rallings interacted?

19 A. Yes.

20 Q. Okay. And do you know when this event was?

21 A. Well, it would have been more than a year ago,
22 probably about January of '17, maybe.

23 Q. Around January of '17?

24 A. Uh-huh.

25 **MS. FLOYD:** Your Honor, can that be admitted for

CROSS-EXAMINATION OF E. BLANCHARD

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1 identification?

2 **THE COURT:** Sure.

3 **MR. LAURENZI:** Be happy to.

4 **THE COURT:** Marked for identification as 146.
5 146.

6 (WHEREUPON, the above-mentioned document was
7 marked as Exhibit Number 146.)

8 BY MR. LAURENZI:

9 Q. Now also after this time you even gave yourself a
10 nickname; is that correct?

11 A. Yes.

12 Q. What was your nickname?

13 A. Gangsta grammie.

14 Q. All right. Did you make that up yourself?

15 A. I think my friend Rodney Rastall made that up.

16 Q. Now at no time were you escorted, is that correct?

17 A. That's correct.

18 Q. And at no time were you told to keep off anybody's
19 lawn? You weren't told to keep off the Mayor's lawn?

20 A. Right. I've never been to the Mayor's lawn.

21 Q. I understand that. I understand.

22 That means that you were not involved in the die-in,
23 correct?

24 A. Correct.

25 Q. Have you seen pictures of the die-in?

1 A. No.

2 Q. You never watched it?

3 A. No.

4 Q. But you did go, did you not, you went to Graceland?

5 A. Yes.

6 Q. And I think the date was the 15th of August?

7 A. Yes.

8 Q. Okay. And can you tell me, were you involved at all
9 in helping organize the event at Graceland?

10 A. No.

11 Q. Can you tell me, did you know what period of time this
12 15th day -- did that have any significance to Graceland?

13 A. It was during the Elvis Week.

14 Q. Okay.

15 A. The vigil.

16 Q. And did it bother you at all that this protest was
17 going to occur at Graceland during Elvis Week?

18 A. Did it bother me negatively?

19 Q. Did it bother you?

20 A. No. It did not bother me.

21 Q. Okay. Now Graceland is private property; is that
22 correct?

23 A. I suppose.

24 Q. All right. And in fact, you knew that a lot of people
25 from out of town were going to be coming to come to

1 Graceland; is that right?

2 A. I suppose.

3 Q. And wasn't in fact this date picked so it could
4 disrupt Elvis Week at Graceland?

5 A. I do not know why the date was picked or even why the
6 event happened. I'm telling the truth when I say I went as
7 a personal challenge to stand up with my friends in Black
8 Lives Matter because they were doing something somewhere.

9 Q. And I understand that.

10 You have very strong views, and you were one that very
11 much wants to get those views out; is that correct?

12 A. I'm not sure I understand the question.

13 Q. Okay. Do you have strong views?

14 A. I suppose.

15 Q. Do you have strong opinions on Black Lives Matter?

16 A. I do.

17 Q. Okay. And do you feel that it is important to get
18 that -- those views out?

19 A. I do.

20 Q. Okay. And in fact, that's why you were participating
21 at the event at Graceland; is that correct?

22 A. That's correct.

23 Q. All right. But again, you knew this was being done
24 during Elvis Week?

25 A. Yes.

CROSS-EXAMINATION OF E. BLANCHARD

916

1 Q. And you knew that it was a very busy time?

2 A. Yes.

3 Q. And you also knew that it was probably going to be
4 disruptive to what was going on at Graceland?

5 A. No.

6 Q. Were there any discussions about the fact that people
7 were going to be arrested?

8 A. No.

9 Q. Now, I think you indicated that when you got there,
10 there was a section where protesters could go; is that
11 correct?

12 A. When I got there, there was a corral, and my friend
13 said this is where we've been told to stand.

14 Q. And is that where you stood?

15 A. So I went and stood with them.

16 Q. Did you ever go stand in front of the gates of
17 Graceland?

18 A. No.

19 Q. Can you tell me were protesters staying in front of
20 Graceland?

21 A. No.

22 Q. Were there protesters who were slow walking in the
23 street?

24 A. You mean like where the police were standing, were
25 they walking?

1 Q. Yes.

2 A. Yes.

3 Q. Okay. And were you there when people were arrested?

4 A. I heard that people were arrested. I didn't see
5 anything.

6 Q. You were not there when it happened?

7 A. It may have been happening at one place. I don't
8 know. I heard that people were arrested.

9 Q. All right. Back to my question. Were you there when
10 people were arrested?

11 A. I didn't see anyone being arrested.

12 Q. Okay. Did you hear anyone being arrested while you
13 were there?

14 A. I did not.

15 Q. You have a Facebook account; is that correct?

16 A. Yes.

17 Q. And you said that you -- have you had feelings about
18 your Facebook account?

19 A. Yes.

20 Q. But it is still open to the public?

21 A. Yes.

22 **MR. LAURENZI:** That's all the questions I have,
23 Your Honor.

24 **THE COURT:** Redirect?

25 **MS. FLOYD:** All right. I'm going to grab the

REDIRECT EXAMINATION OF E. BLANCHARD

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1 photo for identification.

2 **THE COURT:** I'm sorry. Are you speaking or are
3 you engaging in a self-reflective moment?

4 **MS. FLOYD:** I was speaking to Mr. Sample about
5 which exhibit I needed. Thank you, Your Honor. I'll speak
6 up.

7 **THE COURT:** That's all right.

8 **REDIRECT EXAMINATION**

9 **BY MS. FLOYD:**

10 Q. This is the picture that the defense just had you look
11 at. I want to give you an opportunity to look at the
12 entire post. And what -- what is this?

13 A. Oh, now that you pull it back, I see what that is.

14 David Waters with the Commercial Appeal did a piece
15 about the AOA, and he pulled that from my Facebook page
16 from some time before.

17 Q. And when you say he pulled that?

18 A. He asked me if he could use that picture from a
19 previous post.

20 Q. Okay. And so was the photo taken before you found
21 out --

22 A. Yes.

23 Q. -- about the escort list?

24 A. Right.

25 **MS. FLOYD:** Okay. And I think that is my only

DIRECT EXAMINATION OF E. FISHER

919

1 question.

2 **THE COURT:** Well, thanks very much. We'll let
3 you step down, certainly.

4 (Witness excused.)

5 **THE COURT:** Who is our next witness going to be?

6 **MR. CASTELLI:** Your Honor, the Plaintiff calls
7 Pastor Earle Fisher.

8 **THE COURT:** Certainly.

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DIRECT EXAMINATION OF E. FISHER

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EARLE FISHER,

was called as a witness and having first been duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. CASTELLI:

Q. Good morning.

A. Good morning.

Q. Could you state and then spell your name for the record, please?

A. Earle Fisher, E-A-R-L-E, F-I-S-H-E-R.

Q. And could you tell us what your current occupation is?

A. I'm a pastor of Abyssinian Baptist Church in Whitehaven.

Q. And, pastor Fisher, how long have you been a resident of Memphis?

A. I came to Memphis in 1999, from Benton Harbor, Michigan, and I've been here ever since.

Q. Have you been -- have you been a pastor your entire time here in Memphis?

A. No, no.

Q. Tell us a little bit about your background here in the City?

A. Sure. So I got here in '99 on a basketball scholarship to Lemoyne-Owen College. Studied computer

DIRECT EXAMINATION OF E. FISHER

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1 science at Lemoyne-Owen and graduated in 2003 with bachelor
2 of science in computer science. I accepted a call of
3 ministry in spring of 2003 and started seminary at Memphis
4 Theological Seminary in the fall of 2004.

5 I was on staff at one of the local churches from 2005
6 to 2007. I finished the Master's of Divinity program at
7 Memphis Theological Seminary in 2008 and started religious
8 studies at Lemoyne-Owen in the fall of 2008. I started a
9 campus ministry while I was there and really engaged with a
10 lot of college students and people out in the community.
11 In summer of 2010, I started teaching religion and
12 humanities at Strayer University. In the fall of 2011, I
13 started teaching religious studies at Rhodes college. And
14 in the fall of 2014 I entered the Ph.D. program at the
15 University of Memphis where I am a Ph.D. candidate in
16 communication department.

17 In the spring of 2011 I got called to Abyssinian
18 Baptist church and have been pastoring ever since, trying
19 to connect us to not only a historical legacy of justice
20 and liberation but community issues and service to the
21 people in the City of Memphis.

22 Q. So has your church ever served as the host for any
23 kind of public event discussing the social justice issues?

24 A. Absolutely. I mean, I think we have been very open to
25 trying to engage our community and provide them with

DIRECT EXAMINATION OF E. FISHER

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1 relevant information, and so one of the events that we
2 hosted I think it's pertinent to us being here today was a
3 social justice organizational fair which was part of a
4 weekend of events that were intended to honor the life of
5 Darrius Stewart.

6 And so in the -- August of 2015, myself and Tami
7 Sawyer started the Memphis Grass Roots Organizations
8 Coalition, and we have been doing a lot of work in the
9 community with a lot of different organizations and
10 individuals at good will, and we seen that a lot of people
11 were disconnected in terms of the efforts, but the
12 challenges that so many of the citizens of the City of
13 Memphis faced were comprehensive and interconnected.

14 So we wanted to take some time and get our
15 organizations and individuals to together on the same page
16 to work toward justice together. And so we planned a
17 weekend of events honoring the life of Darrius Stewart. We
18 had a tree planting service at the location where he was
19 killed. And that Saturday we had a Social Justice
20 Organizational Fair asking all of the organizations that
21 were connected to the Memphis Grass Roots Organizations
22 Coalition to be represented there because a lot of people
23 in the community had been asking how and where they could
24 get involved.

25 And so we wanted to provide them with access to some

DIRECT EXAMINATION OF E. FISHER

923

1 of the organizations that were providing some wonderful
2 services to the City of Memphis and to the greater Memphis
3 area. And people gathered there, and there was a panel
4 discussion discussing criminal justice reform that was
5 hosted by the official Black Lives Matter Memphis chapter
6 that afternoon, and then that Sunday we had a Memorial
7 service for Darrius Stewart.

8 Q. And were you ever -- do you have any contact with
9 police about these events occurring at your church?

10 A. Not directly. At some point I was informed that
11 Saturday that there was some -- I think Paul Garner told me
12 that.

13 **MR. GLOVER:** Your Honor, I'm going to object to
14 hearsay if he's going to say what Mr. Garner said.

15 **THE COURT:** Right. Objection sustained as to
16 hearsay. You can obviously tell us if, for example,
17 Director Rallings said something because they are the --
18 the City is a defendant but not as to what someone else
19 said.

20 **THE WITNESS:** Thank you.

21 **THE COURT:** And the reason is that that person
22 would need to tell us what they said.

23 **THE WITNESS:** I understand.

24 **MR. CASTELLI:** So let me ask you questions so we
25 can avoid that.

1 **THE COURT:** Sure, go right ahead.

2 BY MR. CASTELLI:

3 Q. What I'm interested in is whether you had any contact
4 with the Memphis Police Department about any kind of public
5 safety issues for your events?

6 A. No, I did not.

7 Q. Have you ever had that in any of the events you've put
8 on at your church?

9 A. Regarding public safety, I would say no.

10 Q. Threats to people who might be angry at the topics
11 that you were presenting?

12 A. No.

13 Q. Okay. Pastor Fisher, are you familiar with an event
14 that occurred in front of the Commercial Appeal's offices?

15 A. I am.

16 Q. How are you familiar with that event?

17 A. I'm familiar because I helped organize a demonstration
18 in front of the Commercial Appeal middle of July of 2016.

19 I was the night before a guest on a radio show. And when I
20 walked out of the radio station in the lobby I seen a

21 Commercial Appeal article. Well I seen the Commercial
22 Appeal newspaper. And on the front page there was a

23 picture with the headlines "Gunman Targets Whites" and I
24 think it was intended to communicate I guess among other

25 things the events that had happened I believe it was in

DIRECT EXAMINATION OF E. FISHER

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1 Dallas the night before.

2 And several people in the community had taken issue
3 with the ways in which the Commercial Appeal had
4 portrayed -- had portrayed some of the critical issues that
5 had happened, not only in the country but especially in the
6 city.

7 And when I saw that image, I was disturbed. I was fed
8 up. And so I got on social media and asked a couple of
9 people to meet me at -- well, I asked anybody who was
10 willing to meet me in front of the Commercial Appeal that
11 Wednesday, saying that we would demand a meeting with the
12 executive team at the Commercial Appeal, and would ask that
13 they explain the rationale for why that particular image
14 was portrayed and the way that it was and that we wanted to
15 do more to ensure that they had more equitable and fair
16 representation, especially people of color, from that
17 particular newspaper.

18 And so we demonstrated out in front of the Commercial
19 Appeal. The press was there. It was open to everybody.
20 This was not a protest, at least not from my vantage point.
21 We never called it a protest. We called it a
22 demonstration. We were demanding a meeting. We had a
23 meeting with the executive team and came out and made a
24 report to the press afterward.

25 Q. Did the Commercial Appeal -- were you on Commercial

DIRECT EXAMINATION OF E. FISHER

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1 Appeal's property when you were demonstrating?

2 A. I guess you could say yes and no. I mean certain --
3 many people were on the street, and as I understand it,
4 that would have been public property, but then some of us
5 were on the lawn as well. So that's a -- I'm not sure.

6 Q. But did anybody from the Commercial Appeal ever come
7 and ask you to leave?

8 A. No. Some of the people from the Commercial Appeal
9 were actually out there with us before and after.

10 Obviously after because we made the report back to the
11 media with members of the Commercial Appeal, and I do
12 believe -- I think it was some reporters out there or
13 something like that at the time.

14 Q. Was there any other event that went on during that
15 demonstration?

16 A. Yeah.

17 Mary Stewart's attorney, I believe, they were making
18 an announcement about some development in the case with
19 regards to Darrius Stewart, which was not directly
20 connected to our demonstration, but they did get wind that
21 we were going to be out there, and I think they decided to
22 have the press conference immediately after we had ours.

23 Q. Did you -- while you were there at your demonstration
24 did you observe a police presence?

25 A. Well, not -- I can't say a direct police presence

1 other than there was a helicopter that kept circling over
2 the Commercial Appeal, but I don't recall it having like
3 any Memphis Police Department insignia or anything like
4 that.

5 No officers approached me at any point saying anything
6 about the demonstration that evening or anything like that,
7 so no.

8 Q. So were you --

9 **MR. CASTELLI:** Actually, those are my questions,
10 Your Honor.

11 **THE COURT:** Cross-examination?

12 **CROSS-EXAMINATION**

13 **BY MR. GLOVER:**

14 Q. Good morning, Reverend Fisher.

15 A. Good morning.

16 Q. So if I understood your testimony, you did not observe
17 any particular police presence at the Commercial Appeal
18 event that you just described; is that correct?

19 A. Not that I can recall.

20 Q. Unless the helicopter was a police copter?

21 A. Right.

22 Q. And did anyone contact you as the organizer of the
23 event from the Memphis Police Department to urge you not to
24 hold the event?

25 A. No.

CROSS-EXAMINATION OF E. FISHER

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1 Q. Did they contact you at all from the police
2 department?

3 A. Not that I'm aware of.

4 Q. And was the date of that event July 13th?

5 A. I'm not sure.

6 Q. You indicated perhaps mid July?

7 A. Yes.

8 Q. Do you remember was it in proximity to the event where
9 a number of people gathered on the Interstate 40 bridge?

10 Was it close in time to that?

11 A. Close in time?

12 Q. Right.

13 A. Yes.

14 Q. Do you have any knowledge one way or another about
15 whether the Commercial Appeal contacted the Memphis Police
16 about providing security in connection with the rally that
17 occurred on the sidewalk and on their property in mid July?

18 A. I don't believe so, but I do think it's important to
19 know the event of the demonstration was planned prior to
20 anything that happened on the day that the bridge
21 demonstration took place. So this was not directly
22 connected to that.

23 Q. All right. So it had been planned prior to July 10th?

24 A. Right. Because the day that I did the radio interview
25 was Saturday.

1 Q. Right.

2 A. And I think that was the day before the demonstration.
3 So I called the demonstration at the Commercial Appeal that
4 Saturday evening.

5 Q. Right.

6 A. And, yeah, I think the bridge demonstration took place
7 the next day.

8 Q. Okay. You had indicated in some testimony about your
9 church or at least that being the location of an event to
10 honor the life of Darrius Stewart?

11 A. Uh-huh.

12 Q. Do you recall approximately when that occurred in
13 time?

14 A. Of the Darrius Stewart memorial?

15 Q. Yes, sir.

16 A. The following weekend. So if the bridge demonstration
17 took place on Sunday, I think it was the following weekend.
18 But again that, too, that actually had been -- that weekend
19 had been planned probably months in advance before the
20 bridge demonstration.

21 Q. Understood.

22 And you indicated there was -- I'm sure there were a
23 number of things, but including a tree planting in memory
24 of Mr. Stewart?

25 A. Correct.

CROSS-EXAMINATION OF E. FISHER

930

1 Q. And was that tree planting done on the property of the
2 church?

3 A. Yes, with the permission of the pastor.

4 Q. Sure. And so did anyone -- obviously you had
5 permission from the pastor.

6 Did anyone from the Memphis Police Department try to
7 prevent you from doing the planting?

8 A. I'm not sure why they would prevent us from doing
9 that. Could I ask that question?

10 Q. I'm just -- if they did or they didn't.

11 **THE COURT:** He's just asking did somebody say you
12 shouldn't do it?

13 How did the tree planting go? Let's ask it that
14 way? Did the tree get planted?

15 **THE WITNESS:** Yes. The treat did get planted.

16 **THE COURT:** How is the tree doing?

17 **THE WITNESS:** Hadn't seen it in a while but I
18 should go back and the check, but the purpose that we
19 planted the tree was to represent life --

20 **THE COURT:** Right.

21 **THE WITNESS:** -- in the same space where we
22 knew --

23 **THE COURT:** That's actually a tradition to do
24 that.

25 **THE WITNESS:** Correct.

1 **THE COURT:** Absolutely. And you organized that?
2 Did the church organize that or did you?

3 **THE WITNESS:** No. The Memphis Grass Roots
4 Organization Coalition in support of Ms. Mary Stewart and
5 the family organized that.

6 **THE COURT:** Okay. Okay. And you participated in
7 it as a pastor?

8 **THE WITNESS:** Yes.

9 **THE COURT:** Okay.

10 BY MR. GLOVER:

11 Q. And the reason I'm asking this question, I'm trying to
12 understand the import of your testimony here. Did the
13 police to your knowledge interfere in any way with the
14 carrying on of that memorial service or the tree planting?

15 A. I think I would have to ask you to define interfere.

16 Q. Did they prevent it?

17 **THE COURT:** Let's do a couple of things because I
18 understand what's being asked. I don't even know. Was
19 there a police presence at this event?

20 **THE WITNESS:** Yes. I do think the police were
21 present.

22 **THE COURT:** Okay. And then it will make more
23 sense now, Mr. Glover, if you'll follow that up.

24 **THE WITNESS:** Okay.

25 BY MR. GLOVER:

CROSS-EXAMINATION OF E. FISHER

932

1 Q. What police presence did you observe?

2 A. I don't necessarily recall exactly. And the police
3 presence at several of the demonstrations I've been
4 involved in has been noteworthy.

5 Q. Well, I'm trying to take note of this particular event
6 at the moment.

7 A. Right. And I'm trying to gauge that in proximity to
8 some of the other events, in comparison to some of the
9 other ones. They were there.

10 Q. And did you see a police officer present at that
11 event?

12 A. Yes, I believe so.

13 Q. Was it a uniformed officer?

14 A. Yes.

15 Q. And was there one officer or more?

16 A. I don't recall.

17 Q. With or without a police car?

18 A. I do think there was a police car present. I'm pretty
19 sure it was a police car present.

20 Q. Was it on the property of the church or elsewhere?

21 A. I don't recall.

22 Q. Okay. Did you have any communication with anybody
23 from the Memphis Police Department that you may have seen
24 present at the time?

25 A. I don't recall.

CROSS-EXAMINATION OF E. FISHER

933

1 Q. Okay. So I assume that means you don't recall them
2 attempting to interfere and get involved in the program?

3 A. I'm trying to recall if there was some discussion at
4 the beginning of the program, but again, that would be -- I
5 don't recall.

6 Q. You have been involved in a number of events, and
7 perhaps they run together sometimes in terms of social
8 justice issues and as well as memorial services and things
9 of that type; is that correct?

10 A. Correct.

11 Q. And so as we sit here now some years later, is it your
12 testimony you don't have an absolutely clear recollection
13 of the precise events that surrounded all of that service?

14 A. Some more than others.

15 Q. Okay. We had talked a little bit about the time that
16 that event occurred and the time that the Graceland event
17 occurred. Have you continued to become -- to be active in
18 issues of justice and liberation as you indicated in your
19 testimony in Memphis after that time?

20 A. I don't recall saying anything about Graceland today,
21 but beyond that, yes, I do believe I've been active in a
22 lot of those issues.

23 Q. Okay. I think I may -- if I said Graceland, I
24 probably misspoke.

25 A. It's running together for you, too.

1 Q. It is running together for me too. You're right.

2 But if you had been -- continued to be active in the
3 community in speaking out for issues of justice and
4 liberation and encouraging others to be engaged in that
5 way, have you experienced interference from the Memphis
6 Police Department in those efforts?

7 A. I've experienced some encounters that I think where --
8 can be interpreted as intended to discourage me from
9 speaking out.

10 Q. Intentions are a bit hard to judge.

11 A. True.

12 Q. So what event in specific terms are you referring to
13 or thinking of?

14 A. There have been times -- one instance I remember in
15 particular that made me feel -- I wouldn't say intimidated
16 but I did feel awkward. It was the week of the MLK50
17 events. There was a panel discussion at the University of
18 Memphis at the Rose theater. We were asked to set up a
19 table about voter registration and voter engagement and
20 during the panel I stepped in and I sat in the back row.
21 It's a dark theater because the spotlight was on the stage.
22 Police officer walked by, tall slender white brother, and
23 as he walked back, he just nodded and say Reverend Fisher.
24 I didn't know him. So I didn't exactly know how he knew
25 me, and it gave me a vibe as if, yes, we're watching you.

CROSS-EXAMINATION OF E. FISHER

935

1 Q. Okay. So saying Reverend Fisher to you gave you that
2 vibe?

3 A. Only because this was somebody that I didn't know. So
4 it's not like someone who I felt was simply being cordial.

5 Q. Right. Is that the extent of it, that encounter?

6 A. That one, but there have been others similar to that.

7 Q. Similar to that, okay.

8 Have you ever had occasion to file any kind of
9 complaint with Internal Affairs with the police department
10 about any of their behavior toward you?

11 A. I want to make sure I understand your question
12 correctly. You said have I had an occasion to.

13 Q. Have you done so. That was my question. You're
14 right. I'm going to change it.

15 Have you done so?

16 A. No, I have not.

17 Q. Okay. Do you continue to feel free to speak out on
18 issues that you think are important to your congregation
19 and to the people of Memphis generally?

20 A. The freedom that I choose to speak with is not because
21 I haven't felt pressure externally or haven't received
22 repercussions for what I have said publicly and otherwise.
23 And so the way that you frame the question is as if my
24 freedom belongs to somebody other than me.

25 Do I feel free? I feel free because I choose to feel

CROSS-EXAMINATION OF E. FISHER

936

1 free but not because somebody is granting me this freedom
2 to speak or -- could you restate the question?

3 Q. Do you continue to speak out on issues that you feel
4 are of importance in the community?

5 A. Yes, in spite of any public pressure not to.

6 Q. Okay. And we had talked specifically about the City
7 of Memphis Police Department and I asked you about any
8 incidents in which you felt you had encounters with them
9 that you felt were inhibiting in some way and you indicated
10 that officer who nod and said Reverend Fisher?

11 A. Sure. I'll give you another one.

12 Yeah, after Darrius Stewart was killed, the Memphis
13 Law School had an event, inviting journalists to come out
14 and talk about the coverage of that incident over the
15 next -- over the past year.

16 And so I was out there and I had some conversation
17 with some of the journalist. I was parked on one of the
18 streets nearby the law school on the hill, headed down
19 towards Riverside Drive. And after it was over, as I was
20 walking to my car, I got in my car, started it up and I got
21 ready to back out, there was a police car that was impeding
22 my ability to back up. Could have been coincidental. But
23 based upon some of the interactions that we've had over the
24 past couple of years, in light of the work that you have
25 cited that we've been involved in, it's always hard to tell

CROSS-EXAMINATION OF E. FISHER

937

1 whether or not this is just coincidence or some form of
2 intimidation because historically it has been a reality
3 outside of one particular individual.

4 So that car sat there, never cut the lights on, never
5 got out and asked a question, just sat on an incline, on a
6 hill, for about two and a half minutes maybe. I thought
7 about taking my phone out and taking a picture, but I
8 didn't want to move too fast, because I didn't know what
9 was happening. And that's another instance.

10 Q. But you acknowledge that the presence of that car
11 could have been coincidental?

12 A. Yes.

13 **MR. GLOVER:** Okay. I have no further questions,
14 Your Honor.

15 **THE COURT:** Redirect?

16 **MR. CASTELLI:** We don't have any questions, Your
17 Honor.

18 **THE COURT:** All right. Appreciate you being here
19 and thanks very much.

20 (Witness excused.)

21 **THE COURT:** Will there be any additional evidence
22 submitted on behalf of the ACLU?

23 **MR. CASTELLI:** No, Your Honor. Plaintiff rests.

24 **THE COURT:** Okay. Plaintiff having rested, will
25 there be any evidence presented -- I know you want --

1 **MR. WELLFORD:** We renew the motion on standing
2 and can argue that at the appropriate time.

3 **THE COURT:** I think that's okay. We're going
4 to -- motion is renewed and so we'll take that up at
5 appropriate time.

6 Do you wish to call any witnesses?

7 **MR. WELLFORD:** We do.

8 **THE COURT:** All right. Mr. Laurenzi?

9 **MR. LAURENZI:** Yes, Your Honor. We're going to
10 call Lambert Ross to the stand.

11 **THE COURT:** All right. If you would raise your
12 right hand, please.

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DIRECT EXAMINATION OF L. ROSS

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LAMBERT ROSS,

was called as a witness and having first been duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. LAURENZI:

Q. Good morning.

A. Good morning.

Q. Will you please tell the Court your name.

A. My name is Lambert Ross.

Q. And, Mr. Ross, will you please spell your first and last name for the court reporter.

A. L-A-M-B-E-R-T, R-O-S-S.

Q. And Mr. Ross, can you tell us what do you do for a living?

A. I'm a police officer for the City of Memphis.

Q. How long have you been a police officer?

A. Twenty-eight years.

Q. For the City of Memphis?

A. 28 years.

Q. Can you tell me where you presently assigned?

A. I'm presently assigned to homicide.

Q. How long have you been in homicide?

DIRECT EXAMINATION OF L. ROSS

940

1 A. A little over a year.

2 Q. Can you tell me, do you have any rank in the homicide
3 division?

4 A. I'm the Major Commander of homicide.

5 Q. And what is the Major mean for homicide?

6 A. It pretty much he's the person that's in charge. The
7 lieutenants report to him. He advises lieutenants who are
8 over the sergeants and the investigators. He's the person
9 that reports to the colonels, lieutenant colonels, chief of
10 the chain.

11 Q. And I think you said you've recently been moved to the
12 homicide division; is that correct?

13 A. Yes, a little over a year.

14 Q. A little over a year.

15 How is it going?

16 A. Busy.

17 Q. Can you tell me what did you do before coming to the
18 homicide division?

19 A. Prior to coming to homicide, I was the commander of
20 the Real Time Crime Center.

21 Q. And what was your rank at the Real Time Crime Center?

22 A. Same rank, major.

23 Q. I'm going to ask you some questions about the Real
24 Time Crime Center, but before I do, can you --

25 **THE COURT:** Just so chronology is a little

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1 clearer, I'm going to let you tell me when you started at
2 Real Time Crime Center, and of course when you left.

3 **THE WITNESS:** Okay. It was probably April, May
4 of 2014, and I left August of 2017.

5 **THE COURT:** Okay. Thanks.

6 BY MR. LAURENZI:

7 Q. We're going to get into the Real Time Crime Center but
8 why don't you tell the Court a little bit about your
9 experience at the Memphis Police Department from when you
10 started until you got to the Real Time Crime Center.

11 A. When I started as a patrolman, it was -- this was the
12 days of the six-shooter 38 revolver. The department
13 continued to transition to the semiautomatic. The big 8-10
14 pound radios.

15 As technology changed so did the department, but like
16 most things in government, it takes time. Once I got to
17 the Real Time Crime Center, cell phones had been in
18 existence for a while, but one of the bigger things was we
19 were doing the -- a couple of Blue CRUSH cameras, and
20 that -- this Crime Center started in 2008, and we had
21 several, you know, hundred cameras around the city.

22 The Crime Center would monitor those cameras with 36
23 monitors on the walls, just like a wall of monitors that
24 officers can view the cameras from their desk. They can
25 view the cameras at their desktop.

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1 Q. Let me stop you there. Can you tell me these cameras
2 that you're speaking of, they are located throughout the
3 city; is that correct?

4 A. That's correct.

5 Q. And you also have cameras that you can -- that are
6 mobile and that you can put in a particular spot; is that
7 correct?

8 A. Yes, sir.

9 Q. And those are called sky cams?

10 A. They're mobile Blue CRUSH cameras.

11 Q. Mobile Blue CRUSH cameras?

12 A. Yes.

13 Q. And they have the little blue flashing on them?

14 A. Flashing blue light.

15 Q. So you can move them when you need to put them in a
16 particular place; is that correct?

17 A. Yes.

18 Q. And then, of course, you have the stationary cameras
19 in the downtown area; is that right?

20 A. We have over 200 fixed cameras in the downtown area,
21 from Riverside Drive to the -- we focus on the bridges. We
22 focus on the big river crossing, walking bridge. We have
23 probably 80 cameras on that bridge that goes over to
24 Arkansas.

25 **THE COURT:** 80 cameras? That's a lot of cameras.

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1 **THE WITNESS:** On the walking bridge?

2 **THE COURT:** Sure.

3 **THE WITNESS:** Public safety, Your Honor.

4 **THE COURT:** Absolutely.

5 Are there any cameras on the other bridges?

6 **THE WITNESS:** We have cameras focused on them but
7 we cannot put cameras on the state's bridges.

8 **THE COURT:** Because they're -- because they're
9 state bridges or federal bridges?

10 **THE WITNESS:** Well it's federal bridge but TDOT
11 has the control over the interstate.

12 **THE COURT:** Just so I understand it, does TDOT
13 have cameras?

14 **THE WITNESS:** TDOT does have cameras on bridges,
15 interstates, but we cannot access their cameras.

16 **THE COURT:** That's I was what I was asking. That
17 helps us understand what's going on.

18 BY MR. LAURENZI:

19 Q. In fact, as far as the cameras on the river, do you
20 work with the Coast Guard?

21 A. Yes, sir.

22 Q. Do the Coast Guard have cameras?

23 A. No. The Coast Guard tends to call us to see if we saw
24 anything.

25 Q. Okay. And did the Coast Guard ever help purchase

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1 those cameras?

2 A. Those cameras were purchased with a Port Security
3 grant.

4 Q. Okay. And the name of the RTCC is what?

5 A. The Real Time Crime Center.

6 Q. Now, what does it mean "real time"?

7 A. What we do with cameras is we view what's going on
8 right now in real time. We can put cameras, move cameras
9 into a location if there's somebody having an event going
10 on. Matter of fact, I still get a few calls for request
11 for cameras, forward that e-mail over to the Real Time
12 Crime Center.

13 One of the preachers of a church in south Memphis --
14 this is something he asked for a year ago and they've had
15 another community event and they wanted a Blue CRUSH camera
16 on a Saturday because they were having a lot of people come
17 over for the neighborhood, and they wanted to make sure
18 they had a camera there.

19 This is also an opportunity for the police department
20 to engage with community. We'll set up tables and stuff.
21 We'll give out swag stuff to kids. We'll even have a
22 recruiting table out there.

23 He asked for a camera and so I set that up. Sent an
24 e-mail to the Real Time Crime Center command, and they
25 agreed and it's in Crump Station. Crump Station command is

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1 also involved in this. But it's just something that we can
2 do to make sure the public is safe. So we just put this
3 camera over on Wellington at this church.

4 Q. Okay. And this is all watched real time; is that
5 correct?

6 A. Yes, sir. That's correct.

7 Q. Now tell the Judge what you would see if you walked
8 into the Real Time Crime Center.

9 A. It's -- just coming into the building, there are
10 cameras, you know, on the parking lot around the building
11 at 600 Jefferson. We monitor the parking lot. You come to
12 the 4th floor, there are cameras getting off the elevator.
13 Once you walk -- we call it the floor of the Crime Center.
14 There are 36 high-definition, ultra-high-definition
15 monitors on the floor. Each monitor may have a different
16 picture that's being displayed of a location around the
17 city.

18 There are four rows, almost like a theater set where
19 you got a lower front row and as you keep going back it
20 rises up to another level, another level so everybody has a
21 view of -- a good view of the floor.

22 Each work station has two monitors. Some have three
23 monitors so they can work. They have video up or they may
24 be running something else. It's almost an L-shape of
25 monitors. Going from left, get to the corner, it goes into

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1 an L on the right side.

2 Q. Now do you have people who are watching these
3 monitors?

4 A. You have people watching monitors on the video wall.
5 You have people watching monitors on their computer work
6 stations.

7 Q. Is that 24-7?

8 A. 24-7, seven days a week.

9 Q. Now what if you're monitoring what is occurring before
10 you and you see a car crash or if you see a robbery or an
11 assault, what would you do? What would your people do that
12 with information?

13 A. We have access to a police radio, police consult at
14 the Crime Center. One of the things we always do is we see
15 something about to occur -- Friday, Saturday night, Sunday
16 on Beale Street there's always issue with car break-ins.
17 That's what the guys monitor. They see somebody go up and
18 down the street, they will pick up a rock. You know what's
19 about to happen. They will immediately get on the radio
20 and call for a ward car. They'll give a description of the
21 person and the ward cars respond to that scene.

22 We always get on the radio and announce what's going
23 on, what we just witnessed with the dispatcher and the
24 dispatcher will dispatch a car or they'll go back and
25 forth, communicate back with us and we'll communicate with

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1 the car with what we see, what we're seeing on camera
2 before they get there.

3 Q. Now, since you were the first one who may have seen
4 the event, does the Real Time Crime Center open up a file
5 on what they have seen?

6 A. No, sir.

7 Q. Okay. To be clear, the Real Time Crime Center will
8 forward that information to whatever division, precinct,
9 section or whatever, who would need to know that
10 information?

11 A. Yes. That's correct.

12 Q. Okay. Somewhat, you are eyes for the Memphis Police
13 Department that allows you to see what is going on where
14 the cameras are posted; is that correct?

15 A. There are days we wish we had more cameras so we could
16 see a lot more things, yes.

17 Q. And as sophisticated as times are, do these cameras
18 that are along the river, do they have audio?

19 A. No.

20 Q. Okay. So all you're getting is what would really be a
21 very distant picture; is that correct?

22 A. All we get is a view. We can control the zoom on the
23 cameras. We can, you know, move in closer. Just like you
24 would with a general video camera. You can zoom in, but it
25 all depends where the camera is placed and how far you're

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1 trying to see.

2 Q. Have you ever used the cameras -- now you were the
3 supervisor, correct?

4 A. Yes.

5 Q. The boss?

6 A. Yes, sir.

7 Q. For how long?

8 A. A little over three years.

9 Q. Okay. Did you ever use the cameras to conduct
10 political surveillance?

11 A. No, sir.

12 Q. Tell the Judge a little bit about what files, if any,
13 are kept from the cameras that are at the Real Time Crime
14 Center?

15 A. Each camera has a hard drive on it. So the video is
16 constantly being recorded of a location. That video most
17 cases will write over itself in about 30 days. Some will
18 maybe last 30-plus days, but the most we've ever been able
19 to retrieve, if someone calls and say, hey, y'all got the
20 video for so and so on this date, we'll go look. A couple
21 of times we've gone 38 days and actually found some video
22 that was recorded 38 days earlier. But as a rule, about
23 30 days is all we can go back on a hard drive for video
24 that's being requested.

25 Q. Now, if it's requested, you will in fact download

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1 that; is that correct?

2 A. Yes.

3 Q. And provide it to the entity that is requesting it?

4 A. Yes. We usually just burn it to a disk.

5 Q. Okay. Has anybody asked you to download any political
6 events may have happened in the city?

7 A. We -- the night of the July night of the bridge
8 incident.

9 Q. You did download that; is that correct?

10 A. Yes, sir.

11 Q. Okay. Still have that; is that correct?

12 A. My understanding we still have that, yes.

13 Q. Okay. Why was the decision made to keep that footage?

14 A. That event for Memphis -- Memphis became part of the
15 nation that night, what was going on in the nation. It's
16 historical. From all aspects of it, it's historical, but
17 it's also -- that was the first major protest that this
18 generation of police had ever dealt with. There were a lot
19 of training things we wanted to look at as relates to that.
20 So that was -- that was a lot that had gone on that we
21 could all learn from.

22 Q. Did anybody use it to try to identify people who may
23 have been participating in the bridge incident?

24 A. No, sir.

25 Q. It was not used for political intelligence?

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1 A. No, sir.

2 Q. Now you do have another set of cameras that you took
3 custody of, is that correct, the body cams?

4 A. The body cameras, yes.

5 Q. Okay. When did you take custody of the body cams?

6 A. That would have been 2015.

7 Q. Okay. And there's an extensive protocol on when the
8 body cams are to be used; is that correct?

9 A. Yes.

10 Q. And can you tell the Court generally what that is?

11 A. The body cams policies have to be activated when an
12 officer receives a call or an officer has an encounter with
13 the public.

14 Q. So when they have the encounter, it is the -- it is
15 the Department's policy that those cameras are turned on;
16 is that right?

17 A. Yes. The cameras have to be activated. That's the
18 policy.

19 Q. And that would be any time that they interact with the
20 public?

21 A. Yes.

22 Q. And in fact, there is also an extensive filing system
23 for those recordings; is that correct?

24 A. Yes.

25 Q. Okay. Can you tell us a little bit about how those

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1 are stored?

2 A. At the end of the officer's shift or if an event
3 occurs where the video is needed, the Real Time Crime
4 Center will send someone to retrieve the officer's
5 body-worn camera. The camera has to be docked. There's a
6 docking station the cameras go into. It allows, one, the
7 camera to recharge the battery but also allows the camera
8 to upload the video into evidence.com which is where the
9 video is stored. Once it goes in evidence.com, someone has
10 to categorize that piece of video, name whatever that event
11 was. We also add a cad event number to that, which
12 dispatch gives you that call. That call automatically gets
13 a cad number. That cad number becomes a part of that piece
14 of video. And it's categorized depending on what type of
15 call it is.

16 Say it was the scene of a homicide. Well, those types
17 of cases tend to have appeal after appeal after appeal. So
18 we usually categorize that to stay for a hundred years and
19 1 day.

20 A traffic ticket may be six months which will allow
21 you to reset the court date, reset the court date again and
22 usually after six months. We always get notifications that
23 this batch of videos will expire in 30 days which means
24 they'll be wiped from the server.

25 Q. Now you've been in law enforcement for quite a while?

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1 A. Twenty-eight years.

2 Q. Do you have an opinion as to the body cameras and
3 whether they serve a purpose for the Memphis Police
4 Department?

5 A. The body cameras were a game changer for the police
6 department. I look at it as it brought us to the 21st
7 century in police technology. Policing has to become
8 smarter. The introduction of body cameras, there was
9 apprehension on the part of some officers, but at the end
10 of the day, a good officer will still be a good officer.
11 An officer that may not be as good will become a better
12 officer.

13 This should not change the way that an officer polices
14 and interacts with the public. And once we let the
15 officers see that this will protect them more so than this
16 is going to hurt them, it shouldn't affect the way that you
17 police, the fact that you have a body camera on.

18 The public has seen some of the videos. It has cut
19 down on the number of officer complaints because it's cut
20 that over half. It's just another piece of equipment
21 that's what the part of the tool belt. It's just another
22 piece of equipment now.

23 Q. So the police are to turn the cameras on any time that
24 they interact with the public; is that correct?

25 A. Yes, sir. Yes.

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1 Q. And that's an appropriate policy; is that correct?

2 A. Yes. That is an appropriate policy.

3 Q. Definitely would not want them picking and choosing?

4 A. No, no.

5 Q. Can you tell me --

6 **THE COURT:** I think one other thing about those
7 cameras I want to make sure I understand. They have --
8 they have audio whereas the other cameras don't; is that
9 right?

10 **THE WITNESS:** Yes, sir. They have audio.

11 **THE COURT:** That's something we just need to make
12 sure that's clear.

13 **MR. LAURENZI:** Okay.

14 BY MR. LAURENZI:

15 Q. And in fact, they do have audio; is that correct?

16 A. Yes.

17 Q. Now, what if nobody requests any information off the
18 body cam, how long is it kept, generally?

19 A. Let's say a year, sometimes two. It's all depending
20 on the type of case that it is because, you know, the
21 purchase of body cameras is expensive, but the storage of
22 video is -- can be the part that breaks the bank. This is
23 high definition video, and you don't go from -- you don't
24 go to gigabytes and terabytes. You go to petabytes when it
25 comes to storing the video. If you got 1,600 body cameras

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1 that are being recorded on average four hours a day every
2 day, that's a lot of videos being uploaded and stored, and
3 you have to -- you just can't store it on to the server.
4 You have to have redundancy after redundancy.

5 You may have ten servers that same video served on,
6 just in case something happens to the first server or
7 second server because you can never say we don't have the
8 video when it comes to a court case. We don't have the
9 video. That's one of the things that if you had it, you
10 should always have it.

11 Q. Because it may have inculpatory or exculpatory
12 evidence on it, correct?

13 A. Exactly.

14 Q. Thank you.

15 Now you have talked a little bit about the function
16 within the Real Time Crime Center with the cameras. And
17 can you tell me a little bit about your data analysis work
18 that is done within the Real Time Crime Center.

19 A. We have crime analysts who are both civilian and
20 commissioned officers. Every morning they report to work
21 at 7:00. Their primary role is to assess, do the crime
22 numbers. How many aggravated assaults occurred in the last
23 24 hours? How many cars were broken into? The location of
24 that these crimes occurred.

25 They would do analysis on this data, and each station

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1 or precinct is assigned a crime analyst. They do an
2 analysis on this data and try to provide that station with
3 the most up-to-date information on where crimes occurred in
4 the past 24 hours, where crimes have occurred in the
5 past -- we try to see what the patterns are to know how to
6 deploy your resources to prevent these crimes from
7 occurring. So that's what the civilian analysts do.
8 That's also what the office analysts do.

9 So crime numbers are being provided throughout the day
10 and pushed out to the stations, to the precincts.

11 Q. Okay. Can you tell me in those type situations,
12 Major, where a packet is formed for a particular week or a
13 particular period of time, is a file maintained on the
14 information that is gathered for that particular time
15 period? Is a file created?

16 A. Yes.

17 Q. Okay. And that file is kept at the Real Time Crime
18 Center?

19 A. Yes. In fact, today being Thursday, which is TRAC
20 meeting day for the commanding precincts, all those files
21 were created on a Tuesday. Pushed out so -- for the
22 presentation that we do every Thursday to see what the
23 crime numbers are and what's the plan to address those
24 crime numbers.

25 **THE COURT:** I'm very curious about the cameras

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1 that are not being monitored, and I think I understand that
2 all the data goes into the database from the form cameras
3 you have available?

4 **THE WITNESS:** We're talking about the Blue CRUSH
5 cameras, cameras around the city, not the --

6 **THE COURT:** What other cameras are there?

7 **THE WITNESS:** We have the body worn cameras.

8 **THE COURT:** You've got the body cameras, you've
9 got the Blue CRUSH cameras. If the neighborhood has bought
10 a camera, you've got that camera that's mounted.

11 **THE WITNESS:** Yes.

12 **THE COURT:** You've got a blue light, you've
13 got --

14 **THE WITNESS:** Yes.

15 BY MR. LAURENZI:

16 Q. Now your data analysis?

17 **THE COURT:** Right.

18 BY MR. LAURENZI:

19 Q. Is separate, totally separate from the cameras; is
20 that correct?

21 A. Yes.

22 Q. In other words, your data analysis is not coming
23 from -- is not coming from anything that is found on the
24 camera?

25 A. No, it's not. The cameras are, one, a deterrent

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1 hopefully; and second, to capture the event if something
2 happened. With the numbers of cameras that we have, which
3 is over a thousand, you can't watch them all.

4 **THE COURT:** Right.

5 **THE WITNESS:** What you want to be able to do, if
6 an event occurred, you try to go and pull that video from
7 that event and in the hopes of -- just last week shooting
8 occurred, we didn't capture the shooting but we captured
9 the vehicle that was responsible. That's what the cameras
10 give us.

11 **THE COURT:** Right.

12 **THE WITNESS:** It gives us that small advantage
13 that we wouldn't have had without that camera.

14 **THE COURT:** And the resolution is high
15 definition, so you can read license numbers or other
16 identifying information?

17 **THE WITNESS:** In a lot of cases we can. We have
18 locations around the city that have license plate readers
19 attached to cameras. Some of the neighborhoods have bought
20 the LPRs with their cameras to put them at entrances and
21 exits into neighborhoods. Some neighborhoods cannot afford
22 to buy cameras.

23 The City Council has set up grants up to \$2,500
24 for neighborhood watch groups to assist them with buying
25 cameras. We do that.

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1 Each council district over the past two years has
2 received up to probably 70 cameras, twice in the last two
3 years, and the data that we generate from the Real Time
4 Crime Center helps us to select the location to place these
5 cameras. We try to make sure we put them in an area where
6 you can see what went into a neighborhood, what leaves a
7 neighborhood. We try to blanket a neighborhood. The
8 neighborhoods love them because it adds a sense of security
9 for them, safety.

10 When I was in Real Time Crime Center, I probably
11 got 500 calls a year from sweet ladies saying I want a
12 camera in front of my house. I said, ma'am, I can't put
13 the camera in front of your house. You don't want that in
14 front of your house. We'll try to get one on your street.

15 It's a way for the police department to connect
16 with the community, and that's what policing is. It's
17 you're being a part of the community.

18 BY MR. LAURENZI:

19 Q. Let's be certain. There are areas of the community
20 that asking for these cameras; is that correct?

21 A. There are so many places asking for cameras.

22 Q. And can you -- I mean, are there enough cameras to go
23 around?

24 A. No. They're not enough cameras to go around, but the
25 Council through the generosity has provided, you know,

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1 these grants to neighborhoods and so pretty much cuts the
2 cost of that camera in half for them because it was -- it
3 had gotten to a point where you had those that could afford
4 buy their cameras and those that could not, they went
5 outside looking in. So some of the funds from the red
6 light camera program that also comes to the Real Time Crime
7 Center, some of those funds were used to create these
8 grants for the neighborhoods to receive cameras.

9 **THE COURT:** Part of the -- we're going to take a
10 break in about 20 minutes. Part of the issue is obviously
11 what's done with the data, and that's what we were getting
12 at.

13 BY MR. LAURENZI:

14 Q. And as far as the cameras, the data is not kept; is
15 that correct?

16 A. Unless it's requested, it's about 30 days.

17 **THE COURT:** About 30 days?

18 **THE WITNESS:** Then it writes over itself.

19 **THE COURT:** And that was what was so interesting
20 was the write-over concept because there is the ability to
21 store immense amounts of data nowadays, but you're storing
22 it in a server and not in the cloud; is that right or not?

23 **THE WITNESS:** On with the Blue CRUSH cameras,
24 yes, it's stored -- it's actually stored on the camera
25 unless we pull it off of the camera. That's right. Yes,

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1 sir.

2 **THE COURT:** And on the license reading
3 capability, you didn't describe that, but that is a data
4 accumulation?

5 **MR. LAURENZI:** That's a data tool.

6 **THE COURT:** That we actually probably need to
7 make sure we understand also for the case. Do you
8 understand what I'm saying there?

9 **MR. LAURENZI:** That will be fine.

10 BY MR. LAURENZI:

11 Q. Are you aware of the license readers?

12 A. Yes, sir. I have a general knowledge of the license
13 plate readers, yes.

14 Q. Okay. Does the RTCC have supervision over the license
15 readers?

16 A. What we get is it just reads the license plate.
17 That's it. Unless there's a plate that we're looking for,
18 we can go and look at -- and it's that, too, is maybe a
19 week's worth of that's stored on this hard drive. Unless
20 there's something we're looking for, it just reads and it
21 reads. It means nothing. It does not really -- it does
22 hit off stolen vehicles. It may hit off of -- when I say
23 hit, if there's a vehicle that's reported stolen or used in
24 a carjacking and it passes across the path of the license
25 plate reader -- I call it LPR -- it passes through that

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1 path, it sees that tag, it will push something out to an
2 officer that's in the car that this tag was a hit. It will
3 send him some type of alert. And he can listen to see
4 what -- see what it is that is hitting on. Carjack
5 vehicle, stolen car.

6 It's a database that has information in it. It keeps
7 from asking the dispatcher to run a tag. That's pretty
8 much what it does.

9 **THE COURT:** Okay. I know we've got the other
10 motion that we'll have to deal with and will we have more
11 testimony on that at that time if we need to?

12 **MR. LAURENZI:** You know that we will, Your Honor.

13 **THE COURT:** And you see what --

14 **MR. LAURENZI:** I do understand that, and we think
15 it's vitally important is that wherever we go from here
16 that we are aware more of the needs and what is good and
17 effective policing, and this won't be gone in detail.

18 **THE COURT:** I don't think we have to go through
19 it so much today, but I don't want that subject to get away
20 from us. Okay. Thanks very much. Go ahead, I'm sorry.

21 **MR. LAURENZI:** Okay. That's fine.

22 BY MR. LAURENZI:

23 Q. We talked about data.

24 Is there another function that the Real Time Crime
25 Center was playing in 2016?

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1 A. During the course of 2016, there were protests going
2 on around the city. From the protests, we were trying to
3 make sure we were staying abreast of anything that may
4 affect -- that may be -- Memphis may become involved in
5 also.

6 Q. And as you were doing this, you were trying to find
7 out this information real time; is that correct?

8 A. Yes.

9 Q. In other words, you were not doing prior searches to
10 determine what a group is or who a group is and do any type
11 of investigative work?

12 A. No.

13 Q. It is simply real time. And when we talk about real
14 time, this was used with what's known as social media; is
15 that correct?

16 A. Yes.

17 Q. Can you tell us what tools did the Real Time Crime
18 Center have to review social media?

19 A. There were two tools that we had used. The first
20 which I think was 2014 was Geofeedia. And in 2016 it was
21 Nc4 Signal.

22 Q. Now, what are those tools and tell us a little bit
23 about how they operate generally?

24 A. They allow you to enter a search term and it groups
25 that search that you do, and you can -- in trying to group

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1 it to just a small location as opposed to a national
2 search.

3 Q. Why don't you want to do a national search?

4 A. The concern is you only want to deal with what's
5 affecting you, what is it that we need to be aware of.

6 **THE COURT:** And just so -- follow that one more
7 step which is how does it restrict itself locally. It may
8 be simple. I'm not sure I understand.

9 BY MR. LAURENZI:

10 Q. That would be fine. Can you explain to the Court how
11 it restricts itself?

12 **THE COURT:** It may be a technical person that
13 would do that also.

14 **THE WITNESS:** My understanding of, Your Honor,
15 especially with the Geofeedia which is the first software
16 that we were using, you could actually build -- it's called
17 a geofence around an area to look at the Liberty Bowl. You
18 could build a fence around Southern East Parkway, that
19 area, and if there's something that you're concerned about,
20 you can enter a search term and it will push the
21 information back out, anything related to that term you put
22 in.

23 BY MR. LAURENZI:

24 Q. Now, can you tell us a little bit about what it
25 searches?

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1 A. It will only allow you to look at the public, what you
2 have public. If your account is private, there's nothing
3 that we could see with that.

4 Q. Could it take you to a newspaper article?

5 A. It could take you to -- if that article maybe mentions
6 something that somebody posted that on something and it was
7 public, it may show you a piece of that.

8 Q. So only what is public?

9 A. Yes.

10 Q. Is what this is going to take you to?

11 A. This is it.

12 Q. And it would -- it could take you to Facebook accounts
13 that are public; is that correct?

14 A. Yes.

15 Q. What about Twitter?

16 A. I'm not sure about Twitter.

17 Q. Okay. All right. Now the Judge mentioned a little
18 bit about search terms, okay. What determines the search
19 terms?

20 A. If -- once you get in there and you start seeing the
21 same term repeated on posts, then maybe that's something
22 you need to look at.

23 Q. But I want to even go back a little further. What
24 helps you to pick what terms you're actually going to put
25 in and try to search for?

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1 A. It's going to have to -- it would have been triggered
2 by some event of the day.

3 Q. So it's -- so it's really the events --

4 A. Yes.

5 Q. -- that select the terms?

6 A. Yes. It would have been triggered. Other than that,
7 the whole thing with the -- with the social media searches,
8 in 2014 when we first got Geofeedia, this was assisting us
9 with crime scenes. People are afraid to talk to the police
10 on the scene because they don't want to be scene talking to
11 you because you get labeled a snitch. Some people would
12 call Crime Stoppers. Some wouldn't. People would also
13 discuss the things that occurred on Facebook. If we could
14 get as much information as we could to assist us in solving
15 crimes, especially violent crimes like murders, aggravated
16 assaults, to prevent the next crime from occurring, this is
17 what the social media searches were all about. This is
18 what it was all for in 2014 when we first got it, to assist
19 in solving crimes, violent crimes in the city.

20 Q. Now, of course, during your search terms, there might
21 be some common terms that might be used that would suggest
22 violence. Gun, knife, Memphis Police Department, correct?

23 A. Yes.

24 Q. All right. But if the events pick the terms, for
25 example let's say that it's the St. Jude marathon, can you

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1 tell me, do you do a search during this time --

2 A. Every year, yes, we do.

3 Q. -- for St. Jude?

4 A. For the marathon, every year.

5 Q. And would you put in the term that would be relevant
6 to that time period?

7 A. You would do St. Jude. You would do St. Jude
8 Marathon. You would do marathon. Those are the terms you
9 use because if there's something that's going to happen it
10 would have to reference one of those terms. That's what
11 the largest expectation would be.

12 Q. So there would have to be some event that would --
13 that would trigger these additional words; is that correct?

14 A. Yes.

15 Q. Okay. Black Lives Matter?

16 A. If you -- if you had something --

17 Q. Now I'm going to point you -- let's go to July
18 of 2016, and can you tell me, are you aware that that term
19 was being used for searches?

20 A. Early July of 2016, I heard the term across the
21 nation, but were we using it, I can't tell you we were.

22 Q. What about after July the 10th?

23 A. Yes.

24 Q. Why would you be using it more after July the 10th of
25 2016?

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1 A. It was on everything, TV, the newspaper.

2 Q. We're talking the bridge.

3 A. Yes. It became a part of what Memphis was, and as far
4 as -- I'm not going to say we chose that term, Your Honor.
5 I feel like that term chose us, because it was -- it became
6 a part of what this city was involved with. And, you know,
7 this was -- this is the country that we live in, and
8 differences of opinion change. That's where things had
9 gotten to, and -- but when it came down to the right to
10 protest, I'm okay with it. No one's going to stop their
11 right to protest.

12 Q. And when you went to search certain search terms, you
13 were looking to where you might find the most material; is
14 that correct?

15 A. Yes.

16 Q. And what specifically was law enforcement looking for
17 as it was going through these terms in 2016?

18 A. What we were trying to -- before the event would take
19 place, how many people may be involved in the event.

20 Q. Why was that important?

21 A. If -- we have to look at two things: Public safety,
22 how many people, how many people we would need to put in an
23 area to make sure that the people at the event were safe.
24 The same time we were doing searches for Black Lives
25 Matter, we also have to look at a counter-search for anyone

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1 else who was adverse to the Black Lives Matter movement.
2 It's not just we have to protect them, but you got to make
3 sure that that neighborhood, every protest event, every
4 major event in the city, St. Jude Marathon, we have to make
5 sure that we're protecting that route, those runners from
6 counter-protesters. This goes from everything we do.

7 Q. And was that the same thing for BLM?

8 A. Yes, sir. It was. Every protest that BLM did or
9 Fight for \$15, every protest that they were involved in, we
10 also had to look to see who would be out to target them.

11 Q. Was it ever used to find out who was involved in Fight
12 for \$15?

13 A. No.

14 Q. Was it involved to find out who was involved with the
15 Black Lives Matter chapter here in Memphis?

16 A. No.

17 Q. Would you have allowed that?

18 A. No.

19 Q. Why?

20 A. The First Amendment Right is protected, precious.
21 Personally, I grew up in a small rural town in West
22 Tennessee.

23 **THE COURT:** Which one?

24 **THE WITNESS:** Brownsville. Beautiful town.

25 **THE COURT:** Sure.

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1 **THE WITNESS:** But during the time I grew up, the
2 only time I could go to the swimming pool in the city was
3 on a Thursday, but my mom had to take the kids that she was
4 taking care of to the swimming pool. So my choices of
5 swimming were Thursday or the green pond in the field
6 behind our house. So my parents would let us go to the
7 swimming pool on Thursday if we couldn't get in every day.
8 So I never learned to swim because I was not swimming in
9 the green pond.

10 So when it comes to -- this is early '70s. So
11 when it comes to the right to protest, I'll protect your
12 right to protest just like that we'll protect you.

13 BY MR. LAURENZI:

14 Q. You know, we have said that the event picks the search
15 terms for the work that was being done at the Real Time
16 Crime Center, and the Black Lives Matter very much stayed
17 an issue for months after the bridge; is that correct?

18 A. Yes.

19 Q. Now, can you tell me that when snags were made -- and
20 snags were made of various events --

21 A. Yes.

22 Q. -- including Black Lives Matter?

23 Okay. Would a file be created at the Real Time Crime
24 Center that maintained kind of a dossier on a particular
25 group?

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1 A. No, sir.

2 Q. On a particular person?

3 A. No, sir.

4 Q. There are no such files?

5 A. No, sir.

6 Q. Now, we have said that the job of the Real Time Crime
7 Center is real time, and the snags are real time, too; is
8 that correct?

9 A. Yes, sir.

10 Q. And that's why there's not historical files?

11 A. Yes.

12 Q. Everything is being sent to someone who may have a
13 need for that information?

14 A. If that's the case, yes.

15 Q. Okay. Can you tell me some of the divisions that use
16 the information that's coming out of the social media work
17 of the Real Time Crime Center?

18 A. If there were -- it was usually dealt with what part
19 of the city, which meant which station this was occurring
20 in. If it was something in the downtown area, of course it
21 would be North Main Station. So this information would be
22 forwarded to North Main Station and the command staff or
23 the police department. So to make them aware of this is
24 what is going on, this is the information that we have just
25 so that they could prepare for how they want to respond and

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1 handle and provide safety for this event.

2 Q. So you would have precincts at time ask for
3 information?

4 A. Yes, sir.

5 Q. What about homicide? Would homicide at time ever ask
6 for information?

7 A. Yes, sir.

8 Q. What about -- what about Organized Crime?

9 A. Sometimes.

10 Q. Okay. What about Homeland Security?

11 A. They would sometimes ask for information but that was
12 a limited basis really.

13 Q. Okay. Now, of course, they were requesting for
14 information during the time period after July 10th of 2016;
15 is that correct?

16 A. Yes, sir.

17 Q. Snags were being made?

18 A. Yes, sir.

19 Q. You know there was some snags that have been shown in
20 this courtroom of events, and obviously peaceful events,
21 okay, the Black Lives Matter chapter of Memphis, and that
22 was snagged. Can you explain to the Court why those events
23 are snagged and were being passed on during this time?

24 A. There were things that especially during -- after that
25 July night, sometimes you didn't know what was going on

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1 because information didn't always come to you. You may
2 have had just a piece of the information. Sometimes you
3 were sharing information with people who may have had more
4 information. If we sent something to a precinct, it's to
5 let them know that there's something going on in your
6 precinct for them to be prepared. Maybe they get
7 information that we're not receiving. This is nothing more
8 than an opportunity to share the information, public
9 safety, public awareness, to let people know just in case.

10 Q. And their action may be that they do nothing?

11 A. A lot of cases, most cases that's what it was.

12 Q. I mean, it isn't a directive from the Real Time Crime
13 Center or anybody else that you need to go to this event
14 and find out what's going on?

15 A. No, no.

16 Q. That would be a gross misinterpretation of the work
17 that's being done; is that correct?

18 A. Yes, sir.

19 **THE COURT:** So I'll understand, though, the
20 precinct commander would make the decision with what to do
21 with the information on a peaceful event?

22 **THE WITNESS:** They could make the decision. Your
23 Honor, sometimes information that they have, it didn't
24 really affect us, what we did at the Real Time Crime
25 Center. If we got a piece of information then we may send

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1 it to them because they may know something about this event
2 that we don't know.

3 We didn't receive all the permits in all cases of
4 an event going on. There's a permit for this. We didn't
5 receive that all the time. So this was an FYI to a station
6 commander that there's an event, possible event going on in
7 your station.

8 **THE COURT:** Right. And then it's the discretion
9 of the commander?

10 **THE WITNESS:** They decide.

11 **THE COURT:** Who makes the decision there if you
12 know?

13 **THE WITNESS:** That would be up to that precinct
14 commander.

15 **THE COURT:** Okay.

16 **THE WITNESS:** Yes, sir.

17 BY MR. LAURENZI:

18 Q. And again, it could be nothing, in other words,
19 they're aware of it and they don't do anything at all?

20 **THE COURT:** That's just speculation at that
21 point, right.

22 BY MR. LAURENZI:

23 Q. It is speculation.

24 A. Right, it is. It is.

25 Q. But they have multiple options?

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1 A. Yes.

2 **THE COURT:** Right. Right. That's maybe an area
3 of inquiry at an appropriate time.

4 **MR. LAURENZI:** That will be fine.

5 **THE COURT:** We'll take our morning break.

6 **MR. LAURENZI:** That will be fine. This will be a
7 good spot, Your Honor.

8 **THE COURT:** We'll take it right now. Of course
9 we'll see you in a few minutes. We'll take a 15-minute
10 break this time, 15 minutes, and see you back at that time.
11 Thanks very much.

12 (Brief Recess.)

13 **THE COURT:** All right. You may be seated.
14 Counsel may proceed.

15 **MR. LAURENZI:** Thank you, Your Honor.

16 BY MR. LAURENZI:

17 Q. Major Ross, did you have anything to do with putting
18 the Joint Intelligence Briefing document together?

19 A. No, sir.

20 Q. Did the Real Time Crime Center have anything to do
21 with putting the JIBS together?

22 A. No, sir.

23 Q. Can you tell me, were you on the list to receive the
24 JIBS?

25 A. Yes.

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1 **MR. LAURENZI:** I have what's going to be marked
2 as a collective exhibit. It is a series of JIBS. The
3 first one being March 10, 2017. The second one being
4 March 11, 2017. The next one is April 12, 2017; June 17,
5 2017; July 13, 2017; August 15, 2017; and May 8, 2017.

6 And to be a little more specific, Your Honor,
7 these are not the actual JIBS. These are the e-mails in
8 which the JIBS were contained in and they're being offered
9 for the purpose of showing who was receiving the JIBS
10 during this period of time.

11 **THE COURT:** Certainly. Marked and received
12 collectively as 147.

13 (WHEREUPON, the above-mentioned document was
14 marked as Exhibit Number 147.)

15 **MR. LAURENZI:** And, Your Honor, if I may
16 approach.

17 **THE COURT:** You may.

18 BY MR. LAURENZI:

19 Q. Major Ross, I'm going to ask you if you would look at
20 those and can you tell the Judge, one, the dates; and two,
21 if you were a recipient on those particular -- for those
22 particular JIBS.

23 A. On March 10, 2017, on the first one I'm looking at,
24 yes, I did receive this. March 11, 2017, yes, I did
25 receive that one also. April 12, 2017, I did receive that

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1 one. June 17, 2017, yes, I did receive that one. July 13,
2 2017, I received that one. August 15, 2017, I did receive
3 that one also.

4 Q. Major Ross, can you tell me, are you familiar with the
5 Office of Homeland Security?

6 A. Yes, sir.

7 Q. And is the Office of Homeland Security part of the
8 Real Time Crime Center?

9 A. The office that they use, yes, it is in the Real Time
10 Crime Center.

11 Q. Okay. But is it part of the Real Time Crime Center?

12 A. No. Homeland Security is separate.

13 Q. Let's be clear here. It is separate and distinct from
14 the Real Time Crime Center; is that correct?

15 A. Yes.

16 Q. Now we talked a little bit about the facility, and I
17 think you indicate that their office is close to the Real
18 Time Crime Center; is that correct?

19 A. It's in a hallway, yes.

20 Q. Okay. They're on the fourth floor?

21 A. As is the Real Time Crime Center.

22 Q. Okay. And during 2016 or at any time have you had
23 supervision over the Office of Homeland Security?

24 A. No, sir.

25 Q. Okay. During this time period do you know who was

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1 working in the Office of Homeland Security?

2 A. I know there was Tim Reynolds in there. At some point
3 maybe Stuart Frisch was there at some point earlier. I'm
4 not sure when he left.

5 Q. Did they have their own command structure?

6 A. Yes, they did. They came under Special Operations.

7 Q. Can you tell me, was there a period of time when the
8 Real Time Crime Center got what's known as an I2 notebook?

9 A. This was part of some software that we got from
10 LexisNexis. I don't think anyone actually knew that we had
11 it until -- because it was a part of a suite. There was
12 some training that was required to know how to use it. One
13 of the -- I'm not exactly sure when we got LexisNexis, but
14 we probably had had it a few years before I got there. So
15 maybe 2012, 2013.

16 Q. Was it routinely being used by the Real Time Crime
17 Center?

18 A. No.

19 Q. Not at all?

20 A. The I2 part? No.

21 Q. Did you become aware that somebody had actually put
22 together a diagram using that particular software and it
23 had mentions of Black Lives Matter on it?

24 A. Yes.

25 Q. This is Exhibit 56. I want to hand you Exhibit 56,

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1 and can you tell me, was Exhibit 56 created at your
2 direction?

3 A. No, sir. It was not.

4 Q. Okay. Was it created as part of the work of the Real
5 Time Crime Center?

6 A. It was created by a person at the Real Time Crime
7 Center; I can say that, but no one gave instructions to do
8 this.

9 Q. Okay. Did you do some investigation and have you
10 found out how it came about?

11 A. Yes, I did. And what I learned was one of the
12 analysts on the midnight shift, he had gone to a school up
13 in Nashville or somewhere earlier or to some conference,
14 and he learned some things about LexisNexis. He got back,
15 and being a computer geek, he started playing around with
16 it. He discovered that we had the I2 Notebook. And I
17 talked to the former chief, and he said, yeah, it was part
18 of the suite that we got with LexisNexis. He said but no
19 one's been trained on it because it's out-of-town training
20 it's costly. Well this analyst started playing around with
21 it and he created this picture matrix.

22 Q. This wasn't part of any investigation?

23 A. No, sir.

24 Q. And it's not any evidence that the police were
25 conducting and had requested an I2 diagram on people

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1 connected to what's on that sheet of paper?

2 **MR. CASTELLI:** I'm going to object to that
3 question he asked. It's not evidence of --

4 **THE COURT:** Objection sustained, calls for a
5 legal conclusion.

6 **MR. LAURENZI:** I agree with that.

7 **THE COURT:** Objection sustained.

8 **MR. CASTELLI:** Thank you, Your Honor.

9 BY MR. LAURENZI:

10 Q. Was it made for the purpose of any investigation?

11 A. No, sir.

12 Q. Was it made at the direction --

13 **THE COURT:** Well, let's make sure. Do you have
14 personal knowledge of that or -- the reason I'm asking that
15 is that it wasn't made at your instruction, right?

16 **THE WITNESS:** No, it was not made at my
17 instruction.

18 **THE COURT:** It was made by whom?

19 **THE WITNESS:** It was an analyst on the midnight
20 shift, a commissioned officer analyst.

21 **THE COURT:** Right.

22 **THE WITNESS:** On the midnight shift.

23 BY MR. LAURENZI:

24 Q. Who you had supervision over?

25 A. Yes. So I --

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1 **THE COURT:** Go ahead.

2 **MR. LAURENZI:** That's all. That's really all I
3 have.

4 **THE COURT:** Okay.

5 BY MR. LAURENZI:

6 Q. For the time period that you were there, Major Ross --
7 which was a considerable period of time, three years --
8 being aware of the Kendrick Decree, did the Real Time Crime
9 Center or any of its employees engage in the collection of
10 political intelligence?

11 A. No, sir.

12 Q. Did it store or maintain files of political
13 intelligence?

14 A. No, sir.

15 Q. Did it do any type of investigations on political
16 intelligence?

17 A. No, sir.

18 Q. Did anybody during this time tell you that you needed
19 to find out what a particular person connected with a
20 particular group was doing?

21 A. No, sir.

22 Q. Anybody ever tell you that you need to find out what a
23 particular group was doing because of their political views
24 or social views?

25 A. No.

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1 Q. Would you ever have done it?

2 A. No.

3 **MR. LAURENZI:** Pass the witness, Your Honor.

4 **THE COURT:** Cross-examine.

5 **CROSS-EXAMINATION**

6 **BY MR. CASTELLI:**

7 Q. Good morning, Major Ross.

8 A. Good morning.

9 Q. Tom Castelli. We've met before.

10 A. Yes.

11 Q. You were just asked several questions about political
12 intelligence. What in your mind is political intelligence?

13 A. What is political intelligence?

14 Q. Yes, sir.

15 A. Simply, whatever your political points of view are and
16 I'm trying to determine or change or alter or impact you
17 from doing that, I'd be doing political intelligence on
18 you. That's the simple or hardest way I can put it.

19 Q. Okay. Thank you.

20 Kind of going back just to the setup of the Real Time
21 Crime Center. You described kind of when you walk in
22 there's these high definition monitors.

23 How many cameras feed into those monitors?

24 A. All the cameras can be connected to a monitor. You
25 have to push it to that monitor.

1 Q. Sure.

2 A. But the cameras are just being recorded on the edge,
3 per se. If I want that camera to be on the wall, I'll have
4 to go into the software and change what cameras are being
5 displayed. So you can split the screen into -- one screen
6 into four different views, but that's going to minimize
7 what you're actually seeing because you're just seeing
8 small frames of it. So, easy enough, 36 monitors will show
9 36 different views.

10 Q. Okay.

11 A. Or you could take four monitors and show one huge
12 view, 110-inch view.

13 Q. How many cameras total are there around the city?

14 A. There are over a thousand. I'm not sure what the
15 count is right now.

16 Q. Okay. And that includes the kind of stationary
17 cameras that are on buildings or structures?

18 A. The mounted cameras, yes.

19 Q. And then the Blue CRUSH?

20 A. Well, they're all --

21 Q. Cameras?

22 A. -- Blue CRUSH cameras.

23 Q. I don't want to -- I think there's a trademark name.

24 A. Yes.

25 Q. That's not what we have or what Memphis has. They're

1 the mobile cameras is what I'm talking about.

2 A. Yes. Yes.

3 Q. So between those two sets of cameras, there's over a
4 thousand cameras --

5 A. Yes.

6 Q. -- available for the Real Time Crime Center to view?

7 A. Yes.

8 Q. So you were discussing the social media collator. I'm
9 going to mark this as an exhibit. It is Plaintiff's 154.

10 **THE COURT:** So 148, marked and received.

11 (WHEREUPON, the above-mentioned document was
12 marked as Exhibit Number 148.)

13 BY MR. CASTELLI:

14 Q. Thank you.

15 If you'll look at your screen, I'll put it up there.
16 Major Ross, is this an e-mail that you sent?

17 A. Yes.

18 Q. And is this e-mail discussing the NC4 Signal collator
19 that you were talking about earlier?

20 A. Yes.

21 Q. So would that have been phased into use around the
22 time of this e-mail?

23 A. That's correct.

24 Q. Okay. And that's -- what's the date of the e-mail?

25 A. It's July 8, 2016.

1 Q. So before that, you were using a collator called
2 Geofeedia; is that right?

3 A. Yes.

4 Q. Was -- Geofeedia had more utility as far as being able
5 to target geographically where you were searching; is that
6 correct?

7 A. Yes.

8 Q. So NC4 Signal simply didn't have the same
9 functionality when it came to geographic targeting?

10 A. It was harder to use is what I was getting reported
11 back to me.

12 Q. Is that still in use? Do you know?

13 A. I don't know.

14 Q. Okay. When you left the Real Time Crime Center, was
15 that NC4 Signal still being used, if you remember?

16 A. I don't remember.

17 Q. Fair enough.

18 So your -- the analysts, whether they're civilian
19 analysts or officers, they have access to the cameras in
20 the Real Time Crime Center?

21 A. Once it comes to the cameras, it's the officers.

22 Q. It's I guess not the cameras but the feeds is what
23 they have access to?

24 A. The officers are 99.99% the ones that actually -- they
25 may see the video. They see it, the civilians do, but the

1 officers are the one controlling it and having to deal with
2 it.

3 Q. And I want to be sure I understood your testimony
4 earlier. For these cameras, the video is digitally stored
5 at the site of the camera; is that correct?

6 A. It's on the hard drive that's inside the white box
7 from the camera.

8 Q. Okay. So and then it only flows into the server if
9 that -- that video is requested?

10 A. You could try and pull the video from the camera. So
11 you pull down the video. So you stream it through Verizon
12 4G which could take some time with that kind of video.

13 Q. Yeah.

14 A. Or you go out to the camera and hook a computer up to
15 the camera and just pull it down that way.

16 Q. Okay. So but it's -- when we're talking about
17 overwriting of the hard drive for each camera, that's on
18 site?

19 A. Yes.

20 Q. So once that video is somehow pulled from that hard
21 drive on the camera, it's in a -- it's in the police
22 department's servers; is that correct?

23 A. Yes.

24 Q. All right. And do you know how long that -- once it's
25 pulled into the servers, how long that data is retained?

1 A. Well, the thing about that data, if it's requested and
2 someone wants it for something, so we usually just burn
3 that to a disk. We try really hard not to store any video
4 because it takes up so much space on the servers.

5 Q. So once it's burned to a disk, is it deleted --

6 A. Yes.

7 Q. -- from the server?

8 A. Yes, yes.

9 Q. So then it exists in a physical electronic copy on a
10 disk?

11 A. If it's evidence that's tagged into evidence because
12 it's a part of a trial, but yes, we try not to store and
13 keep video forever.

14 Q. Would it just be up to the -- whichever officer
15 received the disk as to how long?

16 A. Well, if it's part of evidence, it would become a part
17 of the whatever court case, yes.

18 Q. Sure. I would imagine it would exist as long as the
19 criminal case is ongoing?

20 A. Yes.

21 Q. But if it's not part of a court case, not part of a
22 criminal investigation, is it just up to each individual
23 officer to determine when to destroy that?

24 A. Well, if it's not part of a court case or any type of
25 investigation, we don't really have much need for the

1 video.

2 Q. But if an officer has requested video from something
3 that's not -- doesn't end up in a criminal proceeding, is
4 there -- are there any policies about retention of that
5 video?

6 A. Us keeping that video? No.

7 Q. Okay.

8 A. We try not to keep video, and that's been stressed
9 since day one.

10 Q. The camera feeds in real time, there's been a lot of
11 talk about snags. And are those screenshots of social
12 media?

13 A. Yes.

14 Q. All right. Can there also take screenshots from the
15 camera feeds?

16 A. They can.

17 Q. Okay.

18 A. Yes.

19 Q. Is that something that an analyst might do when
20 they're monitoring a camera is to take snags or
21 screenshots?

22 A. Yes, you could, yeah.

23 Q. Okay. And then that would be then distributed to the
24 whomever might need that information; is that right?

25 A. Yes.

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1 **MR. CASTELLI:** I'm going to mark this as the next
2 exhibit. It's pretrial 108.

3 **THE COURT:** Marked and received as 149.

4 (WHEREUPON, the above-mentioned document was
5 marked as Exhibit Number 149.)

6 BY MR. CASTELLI:

7 Q. Major Ross, is this another e-mail that you sent?

8 A. Yes, sir.

9 Q. I know the subject overtime but in the e-mail are you
10 telling officer or Lieutenant Patty that we need to get
11 some still photos of the protest for the Director. Is that
12 what you're saying there?

13 A. Yes.

14 Q. Do you recall which protest that was?

15 A. Can you -- is there more to this e-mail?

16 Q. I can show you -- let me just screen up because it's
17 just one page.

18 A. Okay.

19 Q. I'm happy to hand it to you to let you read it.

20 A. It's November 29th which is a holiday.

21 Q. And if you don't remember, that's okay.

22 A. Well, what I'm seeing is they work from 4:00 to 8:00
23 during the -- so they said 15-hour protest, \$15 an hour
24 protest. So I guess that would be the Fight for \$15.

25 Q. Okay?

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1 A. So if it's overtime, in November, I think we at this
2 point we had already, the department, had gone through its
3 entire overtime budget for that fiscal year. So I think we
4 were -- the Director was probably going to be going to the
5 Council to request more funding.

6 Q. And then you say we need to create a folder to keep
7 those in. That's for the photos?

8 A. Yes. This is just what we're doing. We're having to
9 do this, because these guys worked from 8:00 to 4:00.
10 That's their regular tour of duty, and this e-mail 8:16 is
11 when they sent that to me. I think that's what the time
12 was.

13 So they were getting off work. It was four hours
14 those two guys. That was eight hours. It may have been
15 more than that. Ned and I worked -- David, yeah, they
16 worked -- two guys worked. They sent it to David.

17 Q. Where would the folder have been created?

18 A. That would have been a payroll folder.

19 Q. A payroll folder?

20 A. If it's for overtime, yes. That would have been --

21 Q. I'm sorry. So you're saying that the photos of the
22 protest was to document overtime?

23 A. To justify the overtime, yes.

24 Q. Okay.

25 A. We have to justify overtime.

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1 Q. Okay.

2 A. So yes.

3 Q. So back to the social media collator. You were
4 talking about some -- how you could search for terms. The
5 collator is also capable of implementing like standardized
6 searches, where you can basically program it to run certain
7 searches; is that right?

8 A. Well, let's -- when it comes to the social media
9 collators, that would be both Geofeedia and NC4 Signal, I
10 was never the expert on using them. The tasks that you try
11 to do other people who know how to use it. You allow them
12 to do their job. They would come back with a
13 recommendation. When it came to selecting both Geofeedia
14 and NC4, they came back with a recommendation on which
15 device we needed to look at. We made both of those. So me
16 knowing the inner-workings of it and how to use it, it's
17 limited.

18 Q. Okay.

19 A. Okay.

20 Q. So you're not sure exactly how those searches were?

21 A. No, no, no.

22 Q. Fair enough.

23 I just want to clear something up. Were you using
24 Geofeedia and NC4 at the same time?

25 A. No. The e-mail that you showed earlier that -- prior

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1 to July about NC4, I think our contract with -- I think our
2 contract with -- I'm not sure if that's it. But I think
3 our contract with Geofeedia had expired that August of '15.
4 So we did not have anything, and we'd been testing NC4,
5 doing a 30-day test.

6 **MR. CASTELLI:** Let's mark this as the next
7 exhibit. It is 87.

8 **THE COURT:** Marked 1-5-0, 150, without objection.

9 (WHEREUPON, the above-mentioned document was
10 marked as Exhibit Number 150.)

11 BY MR. CASTELLI:

12 Q. Major Ross, I'm going to show you another e-mail. Let
13 me expand that a little. So is this another e-mail that --
14 at the top where you are responding to something from Major
15 Bernard?

16 A. Yes.

17 Q. And in this you are instructing your analyst at the
18 Real Time Crime Center to monitor these two events that are
19 going on during the weekend for Crump Station; is that
20 right?

21 A. Yes.

22 Q. Okay. So this is what the -- this would be the social
23 media collator or the cameras or both?

24 A. It's everything, yes.

25 Q. Okay. And there's some highlighting on this that was

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1 in the document we got. Was that your highlighting or was
2 that Major Bernard?

3 A. I'm not sure if I highlighted that or not. Looks like
4 Bernard did that.

5 Q. Okay.

6 A. But --

7 Q. And let's see.

8 So if an officer wants to request the video be
9 downloaded from one of the cameras and burned to a disk,
10 how do they go about doing that?

11 A. They would have to submit a video request form.

12 Q. Okay. And who do they submit that to?

13 A. They would submit it to the Real Time Crime Center.

14 Q. Okay. Does that go through -- when you were there, do
15 those requests go through you as the head of the Real Time
16 Crime Center?

17 A. No.

18 Q. They went to somebody down the chain?

19 A. They would go to a group of people.

20 Q. Okay.

21 A. Because, remember, we're three shifts. So they would
22 go to a group of people. We just don't -- I mean, the
23 video -- we produce the video 24 hours a day. So a group
24 of people receive that e-mail.

25 Q. Were there any restrictions on who could request

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1 video?

2 A. Well, it would have to be justifiable need for the
3 video.

4 Q. Is there a policy about that?

5 A. Well, requests for video also comes with having to put
6 a case number, incident number with it. So when there's a
7 policy, you can say there is because you got to show how
8 this video relates to so-and-so case. Because you're
9 making this video evidence or you're looking -- there's
10 something that you need, there's a reason you need this
11 video. So it's not just, hey, can you burn me this disk
12 from this date to this time. It didn't work that way.
13 There was a form you filled out that you submitted and you
14 signed for it. You signed that form when you picked up the
15 disk for that video.

16 Q. And the cameras themselves, what are the capabilities
17 of these cameras? Are they able to zoom in and out and
18 turn around, some of them or all of them?

19 A. Some of them are, yes.

20 Q. So some of them are stationary and pointed in one
21 direction?

22 A. You're not going to be table to turn it. You may be
23 able to zoom with it but some you can't turn.

24 Q. On the mobile cameras, do they have a turn radius?

25 A. Most of those have a pan-tilt zoom where you can

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1 control them.

2 Q. There's a -- there's a van that's operated by the Real
3 Time Crime Center; is that right?

4 A. Yes.

5 Q. And is that -- that's got surveillance -- let's not
6 use that word. Let's just say it's got cameras.

7 A. It's got cameras.

8 Q. Cameras?

9 A. Yes.

10 Q. It's got one camera, a dome camera that can see
11 360 degrees; is that right?

12 A. I have never -- that was pretty much new. I think I
13 got in it one time, but as far as seeing everything it did,
14 I just never saw everything it was doing.

15 Q. Okay. Did you see that it's got a front camera, a
16 rear camera and two side cameras?

17 A. I know there's a lot of cameras. I know there's one
18 on the back that goes up, like, 12 feet, something like
19 that, yeah.

20 Q. Okay. And then these are feeding into these high
21 definition televisions.

22 So is the resolution on all the cameras high
23 definition?

24 A. Some of the cameras are old.

25 Q. Yeah.

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1 A. Some are very old. Some are being replaced. So
2 there's some older cameras you're just not going to get a
3 great video feed from.

4 Q. But newer cameras are going to have better clarity?

5 A. Yes, it's going to be better mega pixels as far as the
6 quality of the camera.

7 **MR. CASTELLI:** Those are my questions.

8 **THE COURT:** All right. Redirect?

9 **MR. LAURENZI:** Just a few questions, Your Honor.

10 **THE COURT:** Certainly.

11 **REDIRECT EXAMINATION**

12 **BY MR. LAURENZI:**

13 Q. Major Ross, as far as the van that has just been
14 spoken of, that van is used for events such as the
15 University of Memphis football games?

16 A. Yes, it is.

17 Q. And does it allow the Real Time Crime Center to see
18 what is going on in and around the football stadium?

19 A. Yes.

20 Q. Why would you be interested, Real Time Crime Center,
21 to see what's going on around the University of Memphis
22 football game?

23 A. Well, our interest is not the score. We're trying to
24 make sure that when we got that many people in one place,
25 we want to make sure that we can provide as much safety or

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1 as much of a presence in that area to deter anything from
2 going on. If something does happen, it's documented; we're
3 there.

4 So we try to make sure that we're in any location
5 where there are a lot of other people gathered, regardless
6 of what the circumstances are.

7 Q. Now counsel asked you some questions about the
8 capabilities of the camera, okay.

9 And can you tell me, as far as cameras now, you
10 mentioned that of course there are a number of different
11 cameras that are used around the city and with different
12 capabilities?

13 A. Yes.

14 Q. Do you have any cameras, for example, that may operate
15 when it hears a gunshot?

16 A. We do.

17 Q. Okay. And can you tell me how is that information
18 stored?

19 A. That information is also stored on that camera. It
20 does push a signal back to the -- it will send a signal
21 back. Because the video is still there. The camera is --
22 it hears the gunshot. The camera will pan to the direction
23 of the gunshot. It zooms in and then it slowly pulls back
24 to give a broader view of the area.

25 We have those around different parts of the city. So

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1 what it's trying to do is give you the spot that it
2 detected the gunshot, and as the camera pulls back, it
3 tries to give you an overview of anyone who is running from
4 that scene so you can try to get a description of that
5 person or that vehicle.

6 **MR. LAURENZI:** I'm sorry, Your Honor, I'm looking
7 for Exhibit 149.

8 BY MR. LAURENZI:

9 Q. While I'm looking for Exhibit 149, can you tell the
10 Court a little bit about the difference from Geofeedia --
11 thank you, Counsel, that's fine -- between Geofeedia and
12 the other software that you had.

13 A. NC4?

14 Q. Yes.

15 A. The primary difference was a couple of things.
16 Geofeedia was easier to use for the analyst. Geofeedia
17 allowed you to build the geofence around the area that you
18 were so you could really concentrate your focus into a
19 particular area that you were trying to be aware of what
20 was going on in that area.

21 NC4, harder to use, less -- the complaint I kept
22 getting was harder to use, but this goes back to you kind
23 of get what you pay for. That's what we could afford at
24 that time. And it's -- I'm not sure if they're still using
25 it or not, but when we started with this in 2014, it was to

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1 assist investigators on crime scenes. That's the 2014 when
2 we first did that purchase was for homicide investigations,
3 for robberies, for anything that we could -- where people
4 were and there were witnesses, we wanted to make sure that
5 we could capture as much information as we could to help
6 solve the crime.

7 Q. Why did you drop Geofeedia? We've heard so much about
8 it.

9 A. \$25,000 on the renewal compared to 9,500 for the first
10 year. Just couldn't do that. That was robbery.

11 **THE COURT:** What was it the second year?

12 **THE WITNESS:** The second year was 25,000, what
13 they would start that contract with. The first year was --

14 **THE COURT:** NC4?

15 **THE WITNESS:** NC4 was 9,500.

16 **THE COURT:** For the first year. What was the
17 second year?

18 **THE WITNESS:** I don't know if we even did a
19 second year with that one, Your Honor.

20 **THE COURT:** It didn't work as well?

21 **THE WITNESS:** It just was harder to use.

22 The whole thing about the social media software
23 that we had, this was something that -- there would
24 probably be one person doing that at a time when there was
25 something going on because it didn't stop the job that the

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1 Real Time Crime Center was doing. There were still Crime
2 Stoppers calls coming into the Real Time Crime Center.
3 There were still data to be enhanced or looked at, created.
4 There was cameras to be viewed. Like I mentioned earlier,
5 the red light cameras, that also comes through the Real
6 Time Crime Center. This is 24 hours, 7 days a week of
7 work.

8 So when someone had to go in and look at social
9 media, this was probably one person for a short period of
10 time. And when it was over, they moved on back to the
11 things that they were tasked with doing.

12 BY MR. LAURENZI:

13 Q. You know, you've mentioned that money is fairly tight
14 with the -- at the Memphis Police Department; is that
15 correct?

16 A. Yes, sir.

17 Q. And that's been in the paper a pretty good bit?

18 A. Yes, sir.

19 Q. And it of course ended up causing the demise of
20 Geofeedia; is that correct?

21 A. Yes, it did.

22 Q. Too much money.

23 Now can you tell me when you sent this memo?

24 A. Yes, sir.

25 **MR. LAURENZI:** I'm sorry, I'm showing Exhibit 149

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1 Your Honor.

2 **THE COURT:** Right. I've got it.

3 BY MR. LAURENZI:

4 Q. Okay. Showing you Exhibit 149, okay. It talks about
5 overtime.

6 Can you -- do you know why overtime was such a big
7 topic at this time?

8 A. From July to November, I think we had spent all
9 overtime for that fiscal year, or if we hadn't spent it
10 all, we were very close. So I'm sure that Director and the
11 command staff and the finance director were probably going
12 back to try to see if they could secure some more money
13 from the Council.

14 So, in doing so, we would -- we were having to monitor
15 and show presence at a lot of protests that year. I don't
16 recall --

17 Q. Were you aware that there was a protest close in time
18 to this specific date?

19 A. From the bottom of the e-mail, the one I looked at
20 earlier, there was -- I guess there was a Fight for \$15.

21 Q. Okay.

22 A. And a couple of my guys had worked it, and this was --
23 this e-mail came in --

24 Q. Would have been on or near that date?

25 A. Yes.

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1 Q. I'm going to hand you this and ask if you've ever seen
2 this.

3 A. I probably saw it. I just don't remember it. This
4 was the 29th, I think. November 29, yes.

5 Q. Does that refresh your memory as the date?

6 A. That was the date.

7 Q. November 29th?

8 A. Yes.

9 Q. Which would have been the day before; is that correct?

10 A. That's correct.

11 Q. And the Director -- let's put this in perspective.

12 The Director was asking that photographs be given to him to
13 aid him in his request for overtime?

14 A. Yes.

15 Q. And, again, this was a specific request being made;
16 right?

17 A. Yes.

18 Q. There's a number of questions asked by Mr. Castelli
19 about a request that has to be made to get the information
20 off of the cameras?

21 A. Yes.

22 Q. The Real Time Crime Center takes that as a very
23 serious request; is that correct?

24 A. It is.

25 Q. I think you indicated that it has to be for a -- for

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1 law enforcement purpose?

2 A. Yes.

3 Q. Has to be in writing?

4 A. Yes.

5 Q. Did anybody ever make a request while you were there
6 wanting to find out something about what a particular group
7 or rally did, said, anything like that?

8 A. No.

9 **MR. LAURENZI:** If I can have one second, Your
10 Honor.

11 **THE COURT:** Certainly.

12 **MR. LAURENZI:** That's all the questions, Your
13 Honor.

14 **THE COURT:** Okay. Major Ross, thanks for being
15 here. We'll let you step down. Thank you.

16 **THE WITNESS:** Thank you, Your Honor.

17 (Witness excused.)

18 **THE COURT:** Yes, sir. Who will our next witness
19 be?

20 **MR. LAURENZI:** Your Honor, the next witness we
21 would call would be Fred Godwin --

22 **THE COURT:** All right.

23 **MR. LAURENZI:** -- who will be called as an
24 expert.

25 **MR. CASTELLI:** Your Honor, we're not -- I guess I

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1 object to the relevancy of Mr. Godwin's testimony at this
2 point. I think he was originally an expert on what
3 political intelligence and the decree, and I think after
4 the Court's order I'm not sure that his expert opinion has
5 any relevancy to the proceedings here.

6 **THE COURT:** You may be right.

7 **MR. LAURENZI:** What we would simply do, we would
8 simply ask the Court to note our objections, and unless --
9 we would like to just submit a copy of his report, mark it
10 for identification only at this time.

11 **MR. CASTELLI:** I mean, I don't have a problem
12 with that. The report's already I believe in the record in
13 some of the motions. I'm sure the Court's reviewed it.

14 **THE COURT:** And I take it would be testifying
15 regarding the content of his report?

16 **MR. LAURENZI:** He would.

17 **THE COURT:** That would preserve that and it would
18 still be in the record.

19 **MR. LAURENZI:** As long as it's in the record,
20 Your Honor, then just note our objection and we understand.

21 **THE COURT:** We'll mark it. It does appear that
22 it would not be relevant to remaining issues, but we need
23 to make it. They may be getting out of -- Mr. Godwin, they
24 may be getting you out of having to testify. They're going
25 to mark your report, I believe, unless we just want to hear

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1 from him.

2 **MR. LAURENZI:** Personally, I would like to --
3 Your Honor, I would love to be able to examine Mr. Godwin.

4 **THE COURT:** I'm sure you would, absolutely.

5 I think the situation is we're going to mark the
6 report, and that will resolve any issues in that regard. I
7 understand the objection, but it's also submitted and that
8 way we'll have it for its value. I know he's disappointed.
9 But we've got the report here. Do you want to submit that?

10 **MR. LAURENZI:** Thank you.

11 **THE COURT:** It will be 151. 151. Do you want
12 Mr. Godwin to say anything about it or everybody agrees
13 that is his report? I think everybody agrees.

14 **MR. CASTELLI:** No objection. We agree. We
15 stipulate that that is his report.

16 (WHEREUPON, the above-mentioned document was
17 marked as Exhibit Number 151.)

18 **THE COURT:** No problem. It's stipulated it is
19 the report and so it's Mr. Godwin.

20 Who will our next witness be after that?

21 **MR. WELLFORD:** Your Honor, the Defense rests.

22 **THE COURT:** All right. Will there any rebuttal
23 evidence from the ACLU?

24 **MR. CASTELLI:** No rebuttal evidence, Your Honor.

25 **THE COURT:** All right. Gentlemen and Ladies,

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1 that will conclude the evidence in the case.

2 Do the parties -- and it's not necessary, but do
3 the parties wish to make a brief closing argument or do you
4 wish to submit briefs based on the material obtained in the
5 hearing, which would candidly be more useful?

6 **MR. CASTELLI:** We would rather submit a brief,
7 Your Honor.

8 **MR. WELLFORD:** We agree, including an opportunity
9 to address the standing issue.

10 **THE COURT:** Yes. Yes.

11 **MR. WELLFORD:** And Your Honor gave us a time
12 frame. We would include that in a post-trial brief.

13 **THE COURT:** Do you want to submit that in a
14 separate brief --

15 **MR. WELLFORD:** That's fine.

16 **THE COURT:** -- because the time -- the space
17 limitation?

18 **MR. WELLFORD:** That's fine.

19 **THE COURT:** Why don't we have any brief -- and
20 since it's the -- do you want them -- I think we need to
21 get your brief first on standing.

22 **MR. WELLFORD:** Yes, sir.

23 **THE COURT:** And your brief first on merits. That
24 makes sense?

25 **MR. CASTELLI:** That makes sense.

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1 **THE COURT:** And response briefs can then be
2 submitted.

3 So what's your pleasure on -- let's go with ACLU
4 because they're Plaintiff. You may need to get portions of
5 the transcript. And that will take a little time. Let me
6 check on that.

7 The transcript I understand can be available
8 midweek next week. I know you have to have some time to go
9 through, add your citations, complete your argument. So I
10 want a realistic because I'm going to try to -- I will hold
11 everybody to it -- realistic time frame for submittal of
12 the ACLU final brief in support of your case.

13 **MR. CASTELLI:** Let me look at a calendar, Your
14 Honor.

15 **THE COURT:** Sure.

16 **MR. CASTELLI:** I'm not playing on my phone. So
17 if midweek, I think --

18 **THE COURT:** You'll get the transcript midweek,
19 and so you need to figure out your time.

20 **MR. CASTELLI:** I think September 14th.

21 **THE COURT:** I assume want to submit on September
22 14th?

23 **MR. CASTELLI:** I think that would give us two and
24 a half weeks, two full weeks.

25 **THE COURT:** You'll get the same time for your

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1 first brief.

2 So September 14th will be the -- and if you
3 submit earlier, that's fine, but usually come in on or
4 close to that date. That will be the ACLU brief in support
5 of their case, and that will be the City's brief on the
6 standing issue and then -- and then the reply briefs. And
7 I'm going to let you select your time on that, because I
8 know that the -- because I'm going to let the City select
9 the time on that because that's an important brief. It's
10 important to both of you. It's a little different. You
11 want to make sure you have enough time for that.

12 **MR. WELLFORD:** If Your Honor would permit us ten
13 days for the reply brief, we should be able to do that.

14 **THE COURT:** Sure, absolutely. I'm going to look
15 at the calendar and make sure.

16 Okay. The 24th is a Monday and the 14th is a
17 Friday. So that works, and then that will be your reply
18 brief on standing. Of course if you want to submit it
19 earlier, that's fine.

20 **MR. CASTELLI:** Yes, sir.

21 **THE COURT:** That should be the briefing that's
22 necessary in the case.

23 **MR. WELLFORD:** Yes, sir.

24 **THE COURT:** Okay. Now I want to make sure I
25 understood one thing. Were you requesting anything in

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1 addition to the briefing schedule? Because I don't object
2 to having argument. It's probably not overly helpful.

3 **MR. WELLFORD:** I don't think oral argument is
4 necessary.

5 **THE COURT:** I don't either. But I don't want to
6 turn you down on it if you -- okay. Both of you agree that
7 we can all submit it on the papers. Of course, I'll have
8 the full transcript. I'll have all of the exhibits, and of
9 course, I have lots and lots of notes about things to look
10 at. Okay.

11 Now that will mean, just so everybody will
12 understand, a pretty quick turnaround.

13 Now you also have a motion, and so let's talk
14 about that. We'll talk about that because you basically
15 have said we need to -- one of the things you've indicated
16 is if there is to continue to be a Decree in place it needs
17 to be modified.

18 **MR. WELLFORD:** That's correct, Your Honor, and we
19 filed it and their time for responding is probably vast
20 approaching, but --

21 **MR. CASTELLI:** Tuesday.

22 **MR. WELLFORD:** But it is --

23 **THE COURT:** Right. We just need to make sure --
24 are you going to be able to respond on the current
25 schedule?

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1 **MR. CASTELLI:** No, I don't think so. And I think
2 we need to bring it up because this motion is essentially a
3 whole new issue in the case that may require some evidence.

4 **THE COURT:** Well, we talked about that and I even
5 mentioned it when Mr. Laurenzi was examining that there
6 will probably need to be if that motion is pursued and if
7 ACLU has standing, which is an important question, then if
8 it's determined that they had standing, then we will --
9 there will be some issues to then be addressed.

10 **MR. WELLFORD:** I think it's fair to say that each
11 side would be entitled to some discovery and presentation
12 on that subject if we get to that point procedurally.

13 **THE COURT:** Okay. And so what you would prefer
14 to do would be to reserve after the ruling on standing, and
15 we may rule on standing first because obviously the first
16 thing we have to address and then -- and then -- yes, sir,
17 go ahead.

18 **MR. WELLFORD:** I was going to suggest, Your
19 Honor, that we would at like to at least proceed on the
20 dual track in terms of briefing and getting some of the
21 legal issues and the legal standards briefed, because
22 depending on the Court's ruling, we want to -- we don't
23 want to delay getting things moving on that process.

24 **THE COURT:** Right.

25 **MR. WELLFORD:** I understand the discovery may

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1 make -- perhaps could be delayed and other things, but we
2 can get a lot of the legal issues associated with the
3 motion to modify and vacate briefed, I think in the
4 meantime.

5 **THE COURT:** Now well the first thing would be to
6 have a response by ACLU, and what I'm trying to do is it
7 seems more appropriate not to require them to do that until
8 after the 24th.

9 **MR. WELLFORD:** I think that's fair. We all have
10 a lot of work to do.

11 **MR. CASTELLI:** We appreciate that.

12 **MR. WELLFORD:** I understand that will take a
13 little time to respond to that.

14 **THE COURT:** Okay. So I am going to set the
15 response date to their motion. Also I think we need to
16 do -- unless you want to wait until after the standing
17 ruling. I do think the standing ruling -- I mean it's
18 going to come out first.

19 **MR. CASTELLI:** Sure.

20 **THE COURT:** And so it's a little complicated.
21 What I'm going to suggest is why don't we say that your
22 response would be due ten days after the 24th of September
23 or do you want 14? I just had a nod there she wants 14.

24 **MS. FLOYD:** Yes, Your Honor.

25 **MR. CASTELLI:** I'm on vacation that week.

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1 **MR. WELLFORD:** Is that a rhetorical question?

2 **THE COURT:** It must have been. I didn't mean for
3 it to be. That's what we'll need to do then. Ms. Floyd,
4 that's what you prefer, 14?

5 **MS. FLOYD:** Yes, Your Honor.

6 **THE COURT:** I think that that's important.

7 **MR. CASTELLI:** That's fine.

8 **THE COURT:** We're going to add 14 days and that
9 will give you to -- looks like that's actually Columbus
10 Day. So you want until the 9th, is that right?

11 **MS. FLOYD:** Yes, Your Honor.

12 **THE COURT:** October 9th.

13 I think if we set that much that's enough for
14 right now. If you -- and then if you -- if both sides want
15 to engage in any other activity, we can have -- you can
16 request a schedule or you can simply agree to some
17 preliminary discovery if you think that's appropriate.

18 **MR. WELLFORD:** That's fine. That's fine.

19 **THE COURT:** Okay. So that's ACLU response to
20 motion. I'm just going to call it motion to modify.

21 **MR. WELLFORD:** Motion to modify.

22 **THE COURT:** All right. We have work to do, and I
23 was trying to explain to everyone that it's not
24 instantaneous. It's not like when you have a jury. It's
25 kind of nice to have a jury because the jury has to devote

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1 all of its time to that and they would resolve some issues.
2 This is not that type of case, but we will probably have a
3 ruling on standing pretty quickly after we get the final
4 briefing. I'm not saying immediately, but -- and then the
5 subsequent ruling will depend on the ruling on standing as
6 you can see.

7 So our goal is to resolve those issues within
8 30 days after all the briefing in connection with those two
9 issues, and we'll probably achieve that. With this case
10 like all cases has priority, that's the problem. They all
11 have priority. But we'll do that.

12 Thank you-all very much. The Court has a lot to
13 consider. If there's nothing else, we'll just stay with
14 that schedule. Is there anything else from anyone?

15 **MR. CASTELLI:** Nothing from plaintiff.

16 **MR. WELLFORD:** Nothing from us.

17 **THE COURT:** Thank you very much. We'll let you
18 be excused.

19 (Adjournment.)
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C E R T I F I C A T E

I, LISA J. MAYO, do hereby certify that the foregoing 125 pages are, to the best of my knowledge, skill and abilities, a true and accurate transcript from my stenotype notes of the trial, on 23rd day of August, 2018, in the matter of:

ACLU of Tennessee, et al.

vs.

City of Memphis, Tennessee

Dated this August 28, 2018

S/Lisa J. Mayo

LISA J. MAYO, LCR, RMR, CRR
Official Court Reporter
United States District Court
Western District of Tennessee