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1 POLICE ADVISORY COMMISSION

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3 INVESTIGATIVE REPORT IN THE MATTER OF:
4 GRUPO FUEGO

4

5 COMMISSION FILE NO: 061678-90

6 I.A.D. FILE NO.: 05-1171

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9 ---
10 Wednesday, 14 November 2007

11 City Council Chambers

12 City Hall-Room 400

13 Philadelphia, Pennsylvania

14

15 *Six O'clock in the evening*

16

17 BEFORE: ROBERT NIX, Presiding Officer

18 COMMISSIONER JOSEPH T. STAPLETON, ESQ.

19 COMMISSIONER ABE A. JORDAN

20

21 APPEARANCES:

22 DENNIS G. YOUNG, ESQUIRE

23 Counsel to the Police Advisory Commission

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26 TIMOTHY L. STRANGE, ESQUIRE

27 GERALD S. STANSHINE, ESQUIRE

28 Attorneys for Philadelphia Police Officers Union

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1 I N D E X

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4 WITNESS:

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6 POLICE OFFICER BENJAMIN DRAINS

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13 SERGEANT PAUL SEEGER
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1 PRESIDING OFFICER NIX:

2 Good evening.

3 My name is Robert Nix, and I am
4 the Chair of the Philadelphia Police Advisory
5 Commission, and I am the Presiding Officer of
6 the hearing panel this evening to take testimony
7 in the Grupo Fuego matter.

8 The matter is designated as
9 Police Advisory Commission No. 061678-90.

10 And with me this evening is panel
11 member Joseph Stapleton; and also counsel to the
12 panel, Dennis Young.

13 Before we actually get started,
14 though, by stipulation of the attorneys, before
15 I call the hearing to order, we are going to
16 take testimony from you, having been sworn in
17 and abbreviated Garrity warning because of an
18 agreement between attorneys concerning your
19 involvement in the matter.

20 -----

21 (Police Officer BENJAMIN DRAINS, sworn)

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PRESIDING OFFICER NIX: Would you administer the Garrity warnings?

MR. STRANGE: Good evening.

1 My name is Timothy Strange, and I
2 am counsel for the Philadelphia Police
3 Officers' Union.

4 Your testimony today is being
5 taken down by the court reporter, so if you
6 could speak loudly.

7 Is it fair to say that you have
8 been subpoenaed to be here to appear before
9 the Police Advisory Commission, and you have
10 received a subpoena from them to be here
11 tonight; is that correct?

POLICE OFFICER DRAINS: Yes.

13 MR. STRANGE: And is it true,
14 sir, that you understand that you are
15 basically ordered to comply and answer any
16 questions truthfully that the Police Advisory
17 Commission poses to you?

POLICE OFFICER DRAINS: Yes.

18 MR. STRANGE: Do you understand
19 that the Mayor of Philadelphia, the current
20 Police Commissioner, the former Police
21 Commissioner Timoney, and several Common Pleas
22 Court judges, have indicated that the Police
23 Advisory Commission does have the power to
24 compel your testimony. And the risk to you

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1 for not complying or cooperating truthfully
2 could lead to disciplinary action, up to
3 dismissal.

4 Do you understand that?

POLICE OFFICER DRAINS: Yes.

6 MR. STRANGE: You also understand
7 that there's a United States Supreme Court
8 case named Garrity that indicates that police
9 officers' testimony is compelled in this
10 forum, and you are compelled to answer all
11 questions and answer questions truthfully that
12 are posed to you?

13 POLICE OFFICER DRAINS: Yes.

14 MR. STRANGE: The risk of not
15 being truthful or not cooperating could mean
16 disciplinary action up to dismissal.

17 Do you understand that, sir?

18 POLICE OFFICER DRAINS: Yes.

19 MR. STRANGE: Will you comply
20 with the edict to tell the truth and cooperate
21 with the Police Advisory Commission?

22 POLICE OFFICER DRAINS: Yes.

23 MR. STRANGE: Thank you.

24 At this point I think the panel
25 members and commissioners would have a

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1 question or two.

2 -----

3 POLICE OFFICER BENJAMIN DRAINS, Badge No.
4 7265, after having been previously sworn, was
5 examined and testified as follows:

6 *EXAMINATION BY MR. YOUNG*

7 Q. Officer Drains, you can be seated.

8 Good evening.

9 My name is Dennis Young, and I am counsel for
10 the Police Advisory Commission.

11 As your attorney stated, you have been
12 subpoenaed to answer some questions regarding an
13 incident that happened on November 11, 2005.

14 We met outside, is that correct?

15 A. Yes.

16 Q. And it's my understanding that you were not
17 called to the scene of Dianna's Ballroom on
18 November 11th, 2005?

19 A. I wasn't there.

20 I left early because I was sick.

21 Q. What was your tour of duty on November 11th,
22 2005?

23 A. Four to 12.

24 Q. What was your assignment?

25 A. I believe it was 246 Car.

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1 Q. And do you recall as you sit here today why
2 you left early from work?

3 A. Yes. I wasn't feeling well that night.

4 Q. And who is the supervisor that you report to,
5 or reported to, back on November 11, 2005?

6 A. Sergeant Murphy.

7 Q. And would he have been the sergeant that you
8 would have requested and approved you early?

9 A. Yes.

10 MR. YOUNG: Nothing else.

11 -----

12 PRESIDING OFFICER NIX:

13 Commissioner Stapleton, do you
14 have any questions for this witness?

15 COMMISSIONER STAPLETON: No.

16 PRESIDING OFFICER NIX: Nor do I.

17 Thank you for taking the time to
18 come in and clear this up.

19 We were unsure of whether or not
20 you were there that night.

21 MR. STRANGE: May I go see if
22 Officer Masciocchi has appeared?

23 We're waiting for one more
24 officer. I would like to talk to them all at
25 once.

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1 -----

2 PRESIDING OFFICER NIX: Are you
3 ready?

4 MR. STRANGE: Yes.

5 PRESIDING OFFICER NIX: Would you
6 please swear in the officers?

7 -----

8 (POLICE OFFICER RAYMOND MASCIOCCHI, SERGEANT PAUL
9 SEEGER, SERGEANT AUSTIN FRASER, sworn)

10 -----

11 PRESIDING OFFICER NIX: Good
12 evening, Officers, ladies and gentlemen.

13 My name is Robert Nix, and I'm a
14 member of the Philadelphia Police Advisory
15 Commission.

16 I am the Presiding Officer of the
17 panel hearing established to receive testimony
18 in evidence in the matter of Grupo Fuego,
19 designated by as Police Advisory Commission
20 Complaint No. 061678-90.

21 Also participating this evening
22 as panel members are Joseph Stapleton and Abe
23 Jordan, both fellow members of the Police
24 Advisory Commission.

25 Counsel to the panel this evening

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1 is Dennis Young.

2 This hearing will be conducted in
3 accordance with the duly adopted rules of the
4 Philadelphia Police Advisory Commission.

5 The rules which apply to panel
6 hearings state as follows:

7 Any witness called to testify may
8 present an opening statement not to exceed
9 five minutes prior to the giving of testimony.

10 Ordinarily, the initial
11 examination and questioning of witnesses shall
12 be conducted by counsel to the Commission, or
13 by counsel of his designation.

14 At the conclusion of counsel's
15 questioning, panel members may question
16 witnesses in an order determined by the
17 Presiding Officer.

18 As to the rights of the witnesses
19 appearing before the panel, any witness may be
20 advised by an attorney, but the attorney may
21 not, of right, otherwise participate in the
22 hearing.

23 The attorney may confer with the
24 witness, but may not answer for the witness,
25 or interfere with the examination and

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1 questioning of the witness.

2 Failure to comply with these
3 conditions shall be sufficient grounds for the
4 exclusion of the attorney from any further
5 participation in the hearing.

6 The witness may not be excused
7 from attending or testifying because the
8 witness failed to obtain an attorney, or
9 because his attorney was excluded from
10 participation in the hearing for violating the
11 conditions set forth.

12 The hearing panel has determined
13 that as to any witness on notice to appear
14 before the panel, they will be sequestered,
15 and that will be to preserve the integrity of
16 the fact-finding process.

17 That means a witness will be in
18 another room and will not be permitted to hear
19 the testimony of any other witness until their
20 own has been completed.

21 Finally, let me say that this is
22 an important matter.

23 It is an important matter to the
24 participants, and it is an important matter to
25 the City of Philadelphia. And, as such,

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1 everyone in attendance is asked to refrain
2 from any outbursts or expressions of emotion
3 in order to maintain the dignity of the
4 process so that the proceeding can be
5 conducted with the same respect that's
6 accorded a judicial tribunal.

7 In that regard, I request
8 everyone remain seated during the presentation
9 of testimony, and that cell phones be turned
10 to vibrate or off.

11 Prior to starting, though, I
12 would like to take a moment of silence out of
13 respect for Officer Cassidy.

14 -----

15 (Moment of silence)

16 -----

17 PRESIDING OFFICER NIX: Thank you.

18 And I also want to express my
19 sorrow and speedy recovery for the two
20 officers injured last evening in the shooting,
21 and every officer that has been injured so far
22 this year.

23 We're just escalating into a
24 terrible situation.

25 MR. STRANGE: If I may, I have a

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1 few questions to ask you on the record.

2 I ask you to speak up so the

3 Commissioners can hear you.
4 Sergeant Seeger, Officer
5 Masciocchi, Sergeant Fraser, good evening.
6 I'm Tim Strange, counsel for the Police
7 Officers' Union.

8 I have a few questions for you.

9 These are called Garrity

10 warnings.

11 Is it fair to say, and is it
12 true, that all three of you have been
13 subpoenaed by the Police Advisory Commission
14 to be present here this evening?

15 SERGEANT FRASER: Yes.

16 SERGEANT SEEGER: Yes.

17 POLICE OFFICER MASCIOCCHI: Yes

18 MR. STRANGE: Is it also fair to
19 say that all three of you have received court
20 notices through the Philadelphia Police
21 Department to appear here tonight?

22 SERGEANT FRASER: Yes.

23 SERGEANT SEEGER: Yes.

24 POLICE OFFICER MASCIOCCHI: Yes.

25 MR. STRANGE: And is it fair to

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1 say, and is it true, that your individual
2 Commanding Officers have indicated to you that
3 you must appear tonight, and that you are
4 required to answer any and all questions posed
5 to you honestly by the members of the Police
6 Advisory Commission?

7 SERGEANT FRASER: Yes.

8 SERGEANT SEEGER: Yes.

9 POLICE OFFICER MASCIOCCHI: Yes.

10 MR. STRANGE: Regardless of your
11 tour of duty, were you warned and told you had
12 to be here tonight?

13 SERGEANT FRASER: Yes.

14 SERGEANT SEEGER: Yes.

15 POLICE OFFICER MASCIOCCHI: Yes.

16 MR. STRANGE: And do you
17 understand that the Mayor, the current Police
18 Commissioner, former Police Commissioner
19 Timoney, and several Common Pleas Court judges

20 have stated that this Committee has the power
21 to compel your testimony, and that the risk to
22 you for not cooperating truthfully includes
23 disciplinary action, up to dismissal, for
24 failure to comply truthfully.

25 Do you understand that?

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1 SERGEANT FRASER: Yes.

2 SERGEANT SEEGER: Yes.

3 POLICE OFFICER MASCIOCCHI: Yes.

4 MR. STRANGE: You also understand
5 that there's a United States Supreme Court
6 case by the name of Garrity, which stated that
7 police officers' testimony is compelled in
8 this forum, and that you three officers are
9 compelled.

10 And the risk of not complying
11 honestly is also you can face disciplinary
12 action, up to dismissal.

13 Do you understand that?

14 SERGEANT FRASER: Yes.

15 SERGEANT SEEGER: Yes.

16 POLICE OFFICER MASCIOCCHI: Yes.

17 MR. STRANGE: Do you three
18 officers intend to, and will you comply, to
19 tell the truth to any questions, and answer
20 truthfully to any questions posed to you
21 tonight?

22 SERGEANT FRASER: Yes.

23 SERGEANT SEEGER: Yes.

24 POLICE OFFICER MASCIOCCHI: Yes.

25 MR. STRANGE: Are you satisfied,

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1 members of the Commission?

2 PRESIDING OFFICER NIX: Thank
3 you.

4 MR. STRANGE: I believe you
5 wanted Sergeant Seeger first.

6 MR. YOUNG: We would like Officer
7 Masciocchi.

8 PRESIDING OFFICER NIX: Are you
9 prepared to proceed?

10 MR. YOUNG: Yes.

11

12 POLICE OFFICER RAYMOND MASCIOCCHI, Badge No.
13 2115, 2nd District, after having been previously
14 sworn, was examined and testified as follows:

15 *EXAMINATION BY MR. YOUNG*

16 Q. Officer Masciocchi, good evening.

17 My name is Dennis Young, and I am counsel for
18 the Police Advisory Commission.

19 As your attorney stated, you've been
20 subpoenaed tonight to give testimony in the matter
21 of Grupo Fuego in an incident that happened on
22 November 11th, 2005, out in front of Dianna's
23 Ballroom on Luzerne Street.

24 Do you recall that incident?

25 A. Yes, I do.

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1 Q. For the record, could you please give us your
2 name -- your first name and last name -- and spell
3 it for the record?

4 A. My first name is Raymond.

5 My last name is Masciocchi,
6 M-A-S-C-I-O-C-C-H-I.

7 Badge No. 2115, 2nd District.

8 Q. And, Officer Masciocchi, I am going to assume
9 that you've testified before in either some form of
10 a court proceeding or judicial proceeding. So I am
11 going to dispense with the formalities, and just
12 ask that when you answer a question, to answer the
13 question verbally and try to refrain from nodding
14 your head.

15 You have a right to give an opening statement
16 about up to five minutes before I begin my
17 questioning.

18 Would you like an opportunity to give an
19 opening statement?

20 A. No, thanks.

21 Q. I am going to ask you some questions.

22 The panel members seated to my left may also
23 have some follow-up questions to my questions.

24 What was your tour of duty on November 11,
25 2005?

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1 A. It was eight to four.

2 Q. And what was your assignment?

3 A. I'm sorry, 4 to 12.

4 Q. What was your assignment?

5 A. I believe I was at 2410 car.

6 Q. And do you recall who your supervisor was at
7 the time of the incident?

8 A. I believe it was Sergeant Beebe; B-E-E-B-E.

9 Q. And at some point you were requested to go to
10 the incident on Luzerne Street out in front of
11 Dianna's Ballroom; correct?

12 A. Yes, that's correct.

13 Q. Do you know if your supervisor was also
14 present at the time?

15 A. I don't recall.

16 I don't think he was present.

17 Q. Now, this, I believe, is at least our fifth
18 day of testimony, and we've heard -- we've heard
19 witness accounts of both officers and civilians
20 about the atmosphere and the environment at the
21 time of the incident.

22 And one of the things that we've heard is that
23 there were a lot of people. There were a lot of
24 civilians; probably more than 200 civilians at one
25 point.

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1 There were many, many officers at the scene.

2 It was a mob situation.

3 It was very chaotic.

4 The police believe they were outnumbered.

5 Is that your recollection of the environment
6 at the time that you arrived on scene?

7 A. Yeah, that's true.

8 Q. And we also heard testimony that there were at
9 least three assist calls; there was a first assist,
10 second assist, and third assist.

11 Do you know whether you arrived on the first
12 assist, second assist, or third assist?

13 A. I arrived before any assist.

14 We were there first, or second, responding
15 officer, I think.

16 Q. And how were you summoned to the location?

17 Was it a 9-1-1 call?

18 A. Negative.

19 It was a -- another officer came over the
20 radio and said he needed assistance; said there was
21 a large crowd of juveniles fighting in the street.
22 And we responded -- I responded.

23 Q. And when you say "we," you are obviously
24 referring and someone else.

25 Who is the other officer that you're referring
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1 to?

2 A. I believe it was Officer McLaughlin.

3 We were finishing out our logs.

4 It was towards the end of the night; catching
5 up on the log before reporting off.

6 Q. So you arrived in a police cruiser with
7 Officer McLaughlin, is that correct?

8 A. I arrived in my police car, and he arrived in
9 his.

10 Q. Now, if you could tell the panel what you saw,
11 or what happened, when you first arrived on the
12 scene?

13 A. There was a -- maybe, about seven kids outside
14 the location.

15 I believe it was some type of concert going
16 on. It must have let out, and they were
17 fighting -- starting a fight. Pushing and
18 screaming and yelling.

19 And that's what I seen when I first arrived.

20 Q. Just about seven or so people?

21 A. Seven people.

22 Q. Now, you previously mentioned that you arrived
23 because of an officer who went on radio and said
24 they needed some assistance?

25 A. Yes.

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1 Q. And I am going to assume that when you
2 arrived, you figured out who that officer was, and
3 at some point provided some type of assistance; is
4 that correct?

5 A. Yes.

6 Q. Could you tell us about that?

7 A. Well, the officer -- I don't exactly know his
8 name -- he was in 5 Squad, we were in 2 Squad.

9 He was just saying that these kids were

10 starting a fight.

11 The club broke out, and we were just pretty
12 much crowd control at that time.

13 Q. Did you see any officers when you arrived on
14 scene who were engaged in any altercations with any
15 of the civilians?

16 A. Well, what happened was, I think -- I believe
17 a few of the -- maybe, like, six or seven --
18 juveniles started yelling at the one officer.

19 He wasn't -- I don't know if he was -- I don't
20 think he was in the 24th.

21 And, you know, I talked to the one kid.

22 I said, "Listen, calm down. It's the end of
23 the night. You don't want to get locked up. We
24 don't want to lock you up."

25 And he sort of went over and talked to the
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1 other guys, the other six or five -- I think it was
2 between five and seven -- at which time he -- this
3 was awhile ago, so I believe one or two kids broke
4 out and ran towards one of the other officers. Not
5 the one in 5 Squad or me. I believe he grabbed his
6 stick. So I cursed him out, and grabbed his stick.
7 At which time, a bunch of other kids started
8 rushing us.

9 And there was only -- at the time I think
10 three of us there. There was three of us at that
11 one location.

12 And, basically, we just -- we had our sticks
13 out, and were just telling them stand back; "Get
14 back, get back."

15 We were actually -- at that time, we backed
16 up, and there was a fence directly across from the
17 club. We were where -- we were sort of, like,
18 backed into there. We really couldn't go anywhere.

19 Q. Even though you may not be able to see it, I
20 do believe there's a fence that lines with this
21 sidewalk.

22 A. And the club is with the yellow thing on top?

23 Q. Yes.

24 A. Yes.

25 We were backed up -- it was -- when we first
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1 arrived it was pretty much not in the middle of the
2 street, but coming towards the fence.

3 Q. Were you directly in front of the ballroom?

4 A. At first, when I talked to the kids, I told
5 him, "Tell your kids to calm down."

6 Q. Were you in this area (indicating)?

7 A. I was up further towards the club.

8 Yeah, around there.

9 MR. STRANGE: I don't know, Mr.

10 Young, would it be beneficial to everybody,
11 including yourself, if the officer approached
12 and pointed it out with his finger?

13 MR. YOUNG: Sure.

14 Q. Tell the panel where you are?

15 A. I parked the vehicle right about here
16 (indicating), in between this area (indicating).

17 This is the club there, right (indicating)?

18 Q. Yes.

19 A. Okay.

20 The crowd was pretty much right around here
21 (indicating).

22 The seven kids and the crowd was sort of
23 piling out at the same time.

24 So, like I said, as I was talking to the one
25 juvenile, he went up to a few -- a couple of the

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1 other ones. Then the two rushed the other officer,
2 who was around this location (indicating), and then
3 we all went over here (indicating).

4 This is where we ended up, right along the
5 fence of -- this is the fence, right (indicating)?

6 Q. Yes.

7 A. Yes.

8 Q. Okay.

9 You mentioned one of the civilians rushed the
10 officer.

11 Could you describe the civilian that rushed
12 the officer?

13 A. About 16 to 18. Thin build. Short hair.

14 Dark.

15 Q. If you know, was he Hispanic; was he white;
16 was he black?

17 A. Hispanic.

18 Q. And you also said that you didn't know the
19 officer that was rushed.

20 Could you describe that officer for the panel?

21 A. White male; maybe in his 30's.

22 I don't know if he was with the Northeast Task
23 Force.

24 He wasn't -- I don't believe he was in the
25 24th, regular patrol.

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1 Q. Now, you also mentioned when you saw that the
2 officer was being rushed, that you and another
3 officer -- and I think you testified that there
4 were only three officers at the scene at the
5 time -- you and the other officer assisted the
6 officer that was being rushed.

7 A. I can't speak for the other officer.

8 I turned around, seen him get rushed, and the
9 other two officers, as I seen them approach -- you
10 know, them three -- I turned back around and tried
11 to keep the crowd, you know, to my face instead of
12 turning my back on them. You know, "Look, calm
13 down."

14 And then after I turned around, I ran back
15 towards the fence to assist him, and I noticed that
16 the male who grabbed my stick and was doing the
17 cursing and the yelling was on the ground.

18 Q. Let's step back.

19 The individual, this 16 to 18 year old
20 Hispanic male, when he rushed the officer you
21 testified, was he the one that had the stick in his
22 hand?

23 A. He didn't have it in his hand.

24 He grabbed it. He grabbed it like --

25 Q. When you said he grabbed the stick, you mean

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1 he grabbed the police officer's nightstick?

2 A. Yes. As the police officer had it in his
3 hand.

4 Q. But he didn't rush the officer with a stick?

5 A. He rushed him, grabbed the stick, then I
6 turned.

7 When I turned back around, the kid was on the
8 ground, the officer was standing in front of him,

9 because the crowd was rushing in.

10 At this point, it went from seven kids to
11 about a hundred. I mean, like, off the top of my
12 head. I didn't count each one, but a lot of kids.

13 I don't know how many kids were in that club.

14 Q. Again, so that I'm clear, when you first
15 arrived on the scene you testified that there was a
16 crowd of five or seven?

17 A. There was a crowd of 70.

18 Q. Seventy?

19 A. Seventy.

20 Q. I misheard you.

21 A. But there were seven juveniles, who this one
22 kid, a Hispanic male, who grabbed a stick, was
23 with.

24 They were pretty much instigating a lot of the
25 cursing, the yelling. Not all of them; maybe four
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1 out of the seven.

2 Q. So there was a group within a group.

3 There were a group of five or seven boys, then
4 there was a larger group of about 70 civilians?

5 A. Exactly.

6 The club was letting out, so.

7 Q. And at that time it's your testimony that
8 there was between three to five officers on the
9 scene?

10 A. There was three.

11 Q. Okay.

12 A. One, two, three -- there was four, including
13 me.

14 Q. And the assistance that you provided the
15 officer that was rushed was that you saw the other
16 officers assisting this officer, so your job was to
17 basically maintain the crowd so that they wouldn't,
18 I guess, get closer to the other officers; is that
19 correct?

20 A. Wouldn't get closer to us, yeah.

21 They all started charging us.

22 Q. And what crowd control techniques did you use?

23 A. Basically just -- we had the baton.

24 I'll show you.

25 Like this. One hand on each end (indicating).

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1 And just in front of us (indicating And, you know,

2 "Step back, stay back"(indicating).

3 Q. Okay.

4 Now, again, you're referring to "us."

5 Obviously there was you and another officer

6 that was doing that; correct?

7 A. Yes.

8 Q. How many other officers were trying to control

9 the crowd?

10 A. All four of us.

11 Q. Okay.

12 Now --

13 A. All four of us. Like I said, we were backed

14 up against that fence. I'm trying to freeze frame

15 this for you step-by-step.

16 When we first got there, it started out right

17 where I told you, in front of the club.

18 Then a little bit, like, in the street.

19 Then after the officer got rushed, they pushed

20 them three back towards the fence.

21 I pushed -- held the crowd a little bit, as

22 much as I could. Then I went back towards the

23 fence.

24 Now, we're all up against that fence there,

25 all four of us, basically just with the sticks out,

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1 handling each end.

2 There was not much you could do with 70 to 100

3 kids, do you know what I'm saying?

4 Q. So at some point all three or four officers

5 that were on scene were performing some type of

6 crowd control technique with the batons, trying to

7 push the crowd out. And at some point this

8 Hispanic male rushed the one officer and, I guess,

9 he fell back into the fence?

10 A. He rushed the officer before all of this,

11 before the crowd control.

12 Q. And then there were two other officers that

13 came to his assistance?

14 A. Once -- let me try to explain this.

15 Once the male rushed the officer, grabbed his

16 stick, I turned back around to face the crowd.

17 Once that happened, I don't know what
18 conspired, the male was on the ground, up against
19 the fence.

20 I turned back around, I noticed that.

21 Then I ran, and the other officer ran. The
22 two officers were already at the fence.

23 Now, at this time, the crowd just wildly came
24 out.

25 So, now, it progressed towards against the
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1 fence.

2 Now we're pretty much just up against the
3 fence area with nowhere to go.

4 Q. The individual that you saw get rushed, and
5 who later you saw, I guess, laying on the ground,
6 did he have any injuries to him the last time that
7 you saw him?

8 A. Injuries, I couldn't recall.

9 I didn't see any type of blood or anything
10 like that at the time.

11 I was pretty much concentrating on the kids
12 that were piling out.

13 Like I said, it was 70, then 100.

14 It's progressing. They're coming out.

15 Q. Did you see the officers handcuff that
16 individual?

17 A. No, I didn't.

18 Q. Did you see that individual be placed in
19 either a wagon or a cruiser?

20 A. No.

21 Q. At any point that night did you see that
22 individual again, other than the time that you saw
23 him on the ground?

24 A. Well, after -- like I said -- I mean, you want
25 to go back? Because what happens is we put the

0030

1 assist out, then there's a lot more officers,
2 there's a lot more people. So I really didn't see
3 who arrested who, or who cussed who; do you know
4 what I mean?

5 I didn't arrest anyone, so I can't really -- I
6 noticed a few people getting arrested and getting
7 put in the wagon, but I couldn't tell you who was

8 who, or who arrested who.

9 It was just mayhem.

10 Q. You didn't participate in the apprehension of
11 the Hispanic male?

12 A. No, I didn't.

13 No, I didn't.

14 Q. After the Hispanic male was subdued, what
15 happened next in terms of what you recall and what
16 you did?

17 A. The crowd was trying to get to him. And, you
18 know, I was telling a few of the people in the
19 crowd -- I guess they knew him -- I said, "Listen,
20 he's fine. Medics are going to come."

21 You know, some more officers are coming.

22 We're just trying to clear them out.

23 Q. And --

24 A. Then another officer went over the radio,
25 called for more cars.

0031

1 Next thing I know, there was an assist. Then
2 it was a double assist. And then it was a triple
3 assist. That goes city-wide.

4 So we had cars from all over the city coming
5 in.

6 And, at that time, we have maybe about 300
7 civilians out there.

8 Q. How long do you think you were on scene?

9 A. Maybe about approximately almost 45 minutes;
10 almost an hour.

11 Q. In that 40 minutes or an hour of time period,
12 your responsibility, or your actions, were that of
13 trying to control the crowd and have the crowd
14 dispersed; is that correct?

15 Q. Yes.

16 Well, at that time, it was officer safety.

17 I mean, like I said before, the other -- the
18 other officers in cars came. It was just us four.
19 And you really can't do much, except just wait.

20 Q. I'm talking about once the second assist
21 arrived, once the third assist arrived, the
22 majority of your actions consisted of maintaining
23 the crowd and trying to get them to disperse?

24 A. Yes.

25 Just, you know, "Come on, let's go home," you
0032

1 know.

2 At that time we didn't really -- you know, a
3 lot of people weren't really going crazy.

4 It was, maybe, you know, like I said, 70 out
5 of that whole group.

6 I don't know how many kids fit in that place,
7 but there was, you know -- it wasn't the whole --
8 the whole club. It was just, maybe, 70. But
9 that's still more than we have at the time.

10 Q. You never arrested anyone that night; correct?

11 A. No.

12 Q. And you testified that you used your baton in
13 a crowd control manner; you testified that with
14 your hands and the baton out in front of your
15 chest, trying to push the crowd back.

16 Did you ever have to use your baton in any
17 other way?

18 A. No.

19 Q. Did you ever use any other police aids that
20 you have available to you?

21 A. No.

22 Q. No pepper spray?

23 A. No pepper stray.

24 Q. No Taser?

25 A. No.

0033

1 We don't carry Tasers. Only supervisors.

2 Q. Supervisors carry Tasers?

3 A. Yes.

4 Q. Did you hear any profanity being used that
5 night?

6 A. I heard a lot being screamed at us, but --

7 Q. What did you hear?

8 A. Well, the usual profanities: "Fuck you,
9 cops." You know, "Get the fuck out of here."

10 Q. Anything else?

11 A. Stuff like that.

12 No. No.

13 Q. Did you see any bottles been thrown by any of
14 the civilians in the crowd?

15 A. Yeah, there were some bottles flying.

16 Debris. Bottles. I guess whatever was
17 around.

18 I think there was a sneaker landed, almost hit
19 me in the head, but nothing -- you know.

20 Q. Did you see any of the civilians with any
21 weapons; bats or pipes or guns or anything like
22 that?

23 A. No.

24 Q. Now, you mentioned you heard profanity by the
25 civilians.

0034

1 Did you hear any police officers use
2 profanity?

3 A. Not that I recall.

4 In that situation, I mean, you don't know
5 where it's coming from, basically.

6 Q. So you heard profanity, but you're not
7 necessarily sure whether that profanity was being
8 used by the officers or civilians or both?

9 A. The only -- besides the basic, "Fuck you,
10 cops," I don't think the officers would be saying
11 that, but you never know.

12 Q. Did you hear any racial slurs or ethnic slurs
13 that may have been used either by the civilians or
14 by the cops?

15 A. No, I didn't hear any.

16 Q. There's been some testimony by some witnesses
17 that suggest that you were involved in the arrest
18 or the altercation of one of these Hispanic males,
19 a gentleman by the name of Benny Martinez.

20 Do you recall that at all?

21 A. I was involved in an arrest?

22 Q. Yes.

23 A. No.

24 I can only speak for myself. I wasn't
25 involved in any arrest, no.

0035

1 I didn't arrest anyone.

2 Q. And do you know Officer Diaz?

3 A. Yes.

4 Q. How long have you known Officer Diaz?

5 A. A couple years.

6 Q. Would it surprise you to learn that Officer

7 Diaz said that you were involved in the arrest of
8 Benny Martinez?

9 Would that surprise you?

10 A. Nothing would surprise me.

11 Q. I mean, does that refresh your recollection as
12 to whether you were or weren't involved in the
13 arrest of Benny Martinez?

14 A. No.

15 Like I stated before, I wasn't involved in any
16 arrest.

17 Q. Did you see Sergeant Seeger that night?

18 A. No, I didn't.

19 Q. Did you see Officer Brian Williams that night?

20 A. Officer Williams, yes.

21 Q. And why don't you tell the panel what you saw
22 when you saw Officer Williams that night?

23 A. Like I said, it was mayhem, so I just -- I
24 mean, I seen him.

25 I recognized him by the bald head.

0036

1 I just saw him on location.

2 Q. Did you see him have any interaction with a
3 pregnant female?

4 A. No.

5 Q. When you saw him, did you see him using his
6 baton in a crowd control manner, or in any other
7 manner?

8 A. No.

9 Q. Were you asked to testify in any criminal
10 proceedings against any other civilians that were
11 arrested as a result of this incident?

12 A. No.

13 Q. Were you named in any civil suit as it relates
14 to this incident?

15 A. Yes.

16 Q. You were?

17 A. This one.

18 Q. Outside of this proceeding, have you been
19 named as a defendant in any other proceeding
20 regarding this incident?

21 A. I believe there was a civil suit with these
22 defendants, or these complainants.

23 Q. And do you know why you were named?

24 Do you know the allegations by which you were
25 named?

0037

1 A. Yes.

2 Q. Tell the panel what they were or are.

3 A. Abuse of authority, I guess.

4 Q. Do you know?

5 MR. STRANGE: I do not know about
6 the civil suit.

7 MR. YOUNG: I have no further
8 questions at this time.

9 -----

10 PRESIDING OFFICER NIX:

11 Commissioner Stapleton, do you
12 have any questions?

13 -----

14 *EXAMINATION BY COMMISSIONER STAPLETON*

15 Q. Officer, the complaint that we have been
16 considering here as two components to it:

17 One involves allegations of physical abuse by
18 the police officers against the crowd, and I think
19 I have a pretty good understanding of what was
20 going on.

21 You used the term mayhem.

22 We've heard the term a angry mob, and various
23 other descriptors that take to us that night where
24 the police were clearly outnumbered and lots of
25 things going on to try to get the crowd under

0038

1 control. And what may have been perceived as
2 excess force could be what you describe as using
3 your baton in a horizontal manner, with two hands,
4 one at either end, pushing people back to control
5 the crowd.

6 A. That's excess force you were saying?

7 Q. I think that that's perhaps the perception.

8 I'm trying to understand if that's what you
9 were seeing the police officers, using batons, not
10 in a swinging motion, but held horizontally and
11 using it as a crowd control device.

12 A. Okay.

13 Q. Was that what you were seeing that night?

14 A. When I say crowd control, we were standing

15 there, like I said, each hand on each end of the
16 baton. And not necessarily slamming it up against
17 someone, but just, you know, step back, somebody
18 runs in, push them away. And that's basically it.

19 I mean, I applaud the officers for not doing
20 more, which was every right -- we had every right
21 to.

22 Q. Why do you say that, Officer, that you would
23 applaud them for not doing more?

24 A. I mean, we could have used our mace.

25 A lot of people could have gotten hit with the
0039

1 nightstick, and it would have been, you know -- I
2 mean, just for officer safety reasons.

3 I mean, we restrained ourselves, even though
4 we were backed up against that fence.

5 I mean, ten minutes is like an hour when
6 you --

7 Q. Why do you think mace was not used?

8 A. Why wasn't it?

9 I can't tell you.

10 Q. Why didn't you take your mace out and use it?

11 A. Well, we have a can of mace that's about
12 4 inches big, and you have about a hundred kids.

13 I mean, you know, I guess that would just make
14 them a little more angrier.

15 And, again, for officer safety, we try to
16 diffuse the situation until the calvary arrives,
17 which would be the other officers.

18 Q. The other aspect of the complaint -- as I
19 said, there were two components -- the other is
20 consistent complaints of police officers using
21 profanity; using ethnic slurs; using --

22 A. That confuses me. If you don't mind I
23 interrupt, because the 24th District where I used
24 to work is a pretty diverse.

25 I mean, Raymond Diaz is Hispanic.

0040

1 Half our squad is Hispanic, black and white.

2 I mean, it's -- you know.

3 I mean, if you're going to start racial slurs,
4 you're going to have a little problem when you get
5 back to the district in the locker room with the

6 other officers.

7 Q. How would you describe the language that was
8 used with the other officers?

9 Obviously you had to use some forceful tone?

10 A. Basically just, "Get back."

11 You're not going to have a conversation with
12 the people.

13 "Get back. Go home. You don't want to get
14 locked up."

15 Like I said, it was the end of the night. We
16 didn't feel like locking anybody up. We didn't
17 want anybody to get locked up. And they didn't
18 want to get locked up.

19 So we tried, like I said, to diffuse the
20 situation.

21 You know, teenagers don't listen too well.

22 Q. I have two of them at home, and I certainly
23 can understand that.

24 But the issue the community seems to be
25 concerned about is that their perception of the

0041

1 term Spic was used.

2 I find that offensive, as I'm sure you would.

3 A. Well, like I said, I'm Italian, but a lot of
4 my fellow officers were Spanish and, so, I can't
5 see them, you know, using the word Spic, or
6 whatever, you know.

7 Q. That's all I'm asking.

8 A. We have Officer Figueroa -- there's at least
9 five, and I believe they were all there.

10 Q. So you didn't hear it?

11 A. I didn't hear it.

12 Not -- I mean, it might have been said, but I
13 didn't hear it.

14 Q. In your testimony you said that you didn't use
15 it.

16 I am just wondering whether you heard it,
17 because the community is reporting to us that they
18 were hearing it.

19 It may have been outside of your zone, and it
20 may have been officers --

21 A. Maybe because the majority -- I guess the
22 majority of the people in that club were Hispanic,

23 so that would be a valid point, you know.

24 Q. Seems to me --

25 A. I guess if there were a bunch of Italians in
0042

1 there, they would be saying Dagos, Wops, you know.

2 Q. But that's the kind of language that would
3 inflame the situation. That's what we were trying
4 to understand, whether --

5 A. I was just sort of confused because, like I
6 said, a lot of the 24th District officers are
7 Hispanic, and they work in a community which is
8 Hispanic.

9 A lot of the community thought I was Hispanic.

10 So, like I said, I didn't hear it. Not that it
11 wasn't said, but I didn't hear it.

12 Q. Thank you.

13 -----

14 PRESIDING OFFICER NIX: I have a
15 few questions.

16 -----

17 *EXAMINATION BY PRESIDING OFFICER NIX*

18 Q. Officer Masciocchi, I want to get to the issue
19 of the assist call.

20 If I understood your testimony, when you got
21 there, there was just a responding to some
22 incident.

23 At some point there was officer assist calls.

24 Do you know who made that?

25 A. The first call was a -- I'm not positive, but
0043

1 I believe it was Officer McLaughlin, who I was with
2 before we went to the altercation. He called for
3 more cars.

4 And once he called for more cars, I guess
5 radio sent us some cars.

6 Then what happens is radio automatically sends
7 you an assist, when you hear a ruckus on the radio,
8 and they sent -- they send an assist out, which
9 means one assist to the district. So whoever was
10 working that time in the district came straight to
11 the location here.

12 Then whoever else called for some more cars,
13 then that means the adjoining districts, like the

14 25th, the 26th, they came.

15 Q. Is that a second assist call?

16 A. That's a second assist.

17 Then, I guess -- like I said, I don't know who
18 else called, but whoever else said give us some
19 more cars. So it just went city-wide.

20 Q. That's a third assist?

21 A. Which goes city-wide, which means cars from
22 South Philly, North Philly, Northeast.

23 Q. Are you aware of who specifically at the scene
24 made those calls?

25 A. No; no.

0044

1 Q. Are you familiar with Officer Gillespie?

2 A. Yes.

3 Q. Was he there that evening, do you recall?

4 A. I don't recall.

5 Like I said, this was --

6 Q. You had said originally there were four of you
7 total.

8 Do you recall if Officer Gillespie was one of
9 those original four?

10 A. The original four was me, Officer McLaughlin,
11 the officer I don't know, who was maybe Northeast
12 Task Force, and a 5 Squad car, who I indicated
13 before.

14 Those are the only people.

15 We were the only ones on location when all of
16 this popped off.

17 Q. And then did you -- you saw Officer Diaz
18 later, and some of the others?

19 A. I didn't see Officer Diaz.

20 Q. You didn't see him there?

21 A. No.

22 It doesn't mean he wasn't there. I just
23 didn't see him.

24 Like, with a city-wide assist, we have
25 hundreds of kids and a lot of cops. I mean, it's

0045

1 hard to see anybody.

2 Q. Can you estimate how many police were there by
3 the time the third assist had been called in?

4 A. Maybe -- I don't know 30, 40.

5 Forty, maybe. Maybe more. I can't --

6 Q. Do you recall seeing Sergeant Fraser there?

7 A. Um, I don't recall.

8 Q. You said that -- you do recall objects being
9 thrown, such as -- and I'm curious in particular
10 about bottles.

11 Were bottles been thrown?

12 A. I couldn't say seen them.

13 I know I said seen them. I heard them, the
14 crash of a bottle. I would assume it was thrown,
15 you know.

16 Q. But you did hear bottles crashing, breaking?

17 A. I heard them, yes.

18 Q. Thank you.

19 -----

20 PRESIDING OFFICER NIX: Do you
21 have any other questions?

22 MR. YOUNG: Yes.

23 -----

24 *EXAMINATION BY MR. YOUNG*

25 Q. Officer, I appreciate your candor in stating
0046

1 that it's your opinion that even an escalated use
2 of force would have been reasonable; for example,
3 the use of pepper spray, et cetera, and that gives
4 the panel some idea as to the environment and the
5 atmosphere at that time.

6 And I know you testified that you heard people
7 using profanity; I would imagine the F-word, damn,
8 and maybe a whole bunch of other words.

9 Now, you also mentioned that your focus was on
10 the five or seven individuals, and you were trying
11 to control that crowd, and you were trying to
12 protect the officer that was being rushed by a
13 Hispanic male.

14 And the fact that your attention was directed
15 there, the use of the profanity that was going on,
16 you're not able to say with certainty whether that
17 was coming from the civilians, or whether that was
18 coming from the police officers; correct?

19 A. Um, I could only speak for -- like I said,
20 when I first got there, when we first were up
21 against that fence and it was the four of us, we

22 were just basically survival out there.

23 As far as profanities, they were coming from
24 the crowd.

25 Q. And, again, I can understand that you can only
0047

1 speak for the time that you were trying to control
2 those five to seven individuals. But you were on
3 scene for 40 minutes; correct?

4 A. Forty minutes to an hour.

5 Q. And I would imagine throughout this whole
6 duration there was people yelling, screaming, using
7 profanity, words were flying, things were flying.

8 I would imagine that this was for the whole
9 duration of the time that you were there; is that
10 correct?

11 A. Pretty much.

12 Q. And I would imagine that after that one
13 Hispanic male was subdued and later arrested and
14 you went on to continue to control the crowd and do
15 whatever else you did that night, that you
16 continued to hear profanity, you continued to hear
17 words, and things like that; is that correct?

18 A. Yeah.

19 Q. And you can't say as you sit here today for a
20 certainty that profanity that was being used was
21 only coming from civilians; you can't say that, can
22 you?

23 A. Um, no, I can't say it for certainty.

24 I don't know who is saying what, but I know
25 there was a lot of officers there at the time and,
0048

1 like, professionals, so I doubt the cops were. But
2 that's just my opinion.

3 Q. Given your description of this night and the
4 mayhem, as I think you may have described it, do
5 you think it would have been unreasonable for an
6 officer who maybe had his baton in this position
7 (indicating) say, "Get the F back."

8 Do you think that would be unreasonable?

9 A. No.

10 Q. Do you think it would be unreasonable if the
11 officers that were trying to get the crowd to
12 disperse and go home, for them to say, "Go the F

13 home, go the F home."

14 Do you think that's unreasonable?

15 A. I wouldn't do it, but I don't think it's
16 unreasonable.

17 Q. Can you see how an officer who may have been
18 in a situation much like yourself, where you have a
19 crowd of officers, 200, 300 people, no one is going
20 home, you're outnumbered, can you see how an
21 officer can use that type of language in order to
22 gain control over a crowd?

23 A. Like I said, I don't -- I don't work that way,
24 but maybe some other people do.

25 I can't speak for other officers.

0049

1 Q. Have you ever heard any officer use profanity
2 at all?

3 A. Well, I think everybody uses profanity.

4 Nobody is a saint here, you know what I mean?

5 Q. I understand that.

6 Have you ever heard any officers use
7 profanity?

8 A. What do you mean, on the job?

9 Q. Yes.

10 A. Sure.

11 Q. Have you ever heard Officer Williams use
12 profanity?

13 A. I can't say that I did.

14 Maybe on me, if I was teasing him or something
15 like that.

16 Q. Have you ever heard Officer McLaughlin use
17 profanity?

18 A. Um, yeah.

19 Like I said, everybody curses. Nobody's a
20 saint.

21 Q. And I would imagine in these instances where
22 you've heard these officers use profanity, whether
23 it's in a conversation with you, whether it's in
24 jest, or whether they're referring to someone else,
25 it definitely wasn't in an environment as chaotic

0050

1 and in an atmosphere that's so explosive as this
2 could have been; is that correct?

3 A. Yeah, that's correct.

4 Like, when you have four officers, and you
5 have that large crowd, like I said, the best and
6 the smartest thing to do is diffuse the situation.

7 You're not going to start cursing at people.

8 You're not going to start saying racial slurs.

9 Like I said, we were pretty much outnumbered,
10 so we just did it streetwise and professional-wise.

11 Q. You were interviewed by Internal Affairs with
12 regard to this incident; is that correct?

13 A. Yes.

14 Q. Do you remember that interview?

15 A. Vaguely.

16 Q. Was it a person-to-person interview?

17 Were you sitting with someone?

18 A. I believe it was me and the sergeant
19 supervisor; sergeant, I believe.

20 Q. And Mr. Antonio Melendez, sitting there
21 (indicating), do you remember seeing him there?

22 A. Yes, I do.

23 Q. It's a good-looking face; you would remember
24 that?

25 A. Yeah. He's a nice guy.

0051

1 Q. So do you remember the interview?

2 A. Yes.

3 Q. And during that interview you testified that
4 you recalled seeing a Hispanic female that was
5 pregnant at the scene?

6 A. I recalled seeing a pregnant Hispanic female
7 crying at the scene.

8 Q. So you do recall that?

9 A. Yes.

10 Q. And do you recall why she was crying?

11 A. I have no idea.

12 It's just something that, you know -- it's
13 just a pregnant female crying --

14 Q. I would imagine --

15 A. -- in this large crowd of juveniles coming out
16 of that nightclub.

17 Q. -- I would imagine it would be something that
18 would gain your attention because it's a pregnant
19 woman, and I'm sure that it wasn't --

20 A. Yeah. That's what made me notice, I know she

21 was pregnant.

22 Q. Did you see her with any officer at the time?

23 There's been testimony that Officer Powell may
24 have assisted her.

25 Do you recall that?

0052

1 A. I just seen her -- she was with, I believe, a
2 Hispanic male. He was a little older. Maybe in
3 his 20's. Mid-20's maybe, I guess.

4 I basically just, you know -- she was in the
5 crowd. I didn't see any officers near her or with
6 her.

7 Q. Incidentally, at any point while you were
8 there, did you see any paramedics or ambulance
9 arrive on scene?

10 A. I don't recall.

11 Q. What does RPC stand for?

12 A. Radio Patrol Call.

13 Q. What does EPW stand for?

14 A. EPW?

15 Q. Yes.

16 The male on the ground was handcuffed by other
17 officers --

18 A. Yeah, that's the wagon.

19 Q. That's the wagon?

20 A. Yeah.

21 MR. YOUNG: I have nothing else.

22 -----

23 PRESIDING OFFICER NIX:

24 Do any of the other panel members
25 have questions?

0053

1 Officer, thank you for taking the
2 time coming in here and testifying.

3 You're excused this evening, and
4 thanks for coming in.

5 THE WITNESS: Thank you.

6 -----

7 MR. STANSHINE: I want to get
8 acclimated to what's going on.

9 -----

10 MR. STANSHINE: Thank you for your
11 courtesy in allowing me to get caught up with

12 what's going on.

13 PRESIDING OFFICER NIX: The

14 witness has already been sworn in.

15 We will go ahead and proceed in

16 giving him his warning.

17 -----

18 SERGEANT PAUL SEEGER, Badge No. 399, after

19 having been previously sworn, was examined and

20 testified as follows:

21 *EXAMINATION BY MR. YOUNG*

22 Q. Sergeant Seeger, good evening.

23 How are you?

24 A. Doing fine. Thank you.

25 Q. My name is Dennis Young.

0054

1 Again, I am counsel for the Police Advisory

2 Commission, and you've been subpoenaed to give

3 testimony as it relates to an incident that

4 unfolded on November 11th, 2005, on Luzerne Street

5 in front of Dianna's Ballroom.

6 Do you recall that night and that incident?

7 A. Yes.

8 Q. Could you please say and spell your name for

9 the record?

10 A. Sergeant Paul Seeger, S-E-E-G-E-R; Badge No.

11 339.

12 Q. You have the right to give an opening

13 statement of up to five minutes before I begin

14 asking my questions and before the panel begins

15 asking questions.

16 Would you like to give an opening statement?

17 A. No, thank you.

18 Q. How long have you been employed as police

19 officer?

20 A. Thirteen years.

21 Q. How long have you been a sergeant?

22 A. Almost six years.

23 Q. What was your tour of duty of November 11th,

24 2005?

25 A. Four to 12. I was assigned to 25-A.

0055

1 Q. And your assignment?

2 A. 25-A. Patrol Supervisor for the 25th

3 District.

4 Q. We've heard testimony by both civilian
5 witnesses and officers, and they have described for
6 us the atmosphere at the time that this incident
7 unfolded.

8 The scene, they described it as chaotic.

9 They described it as mayhem; as being very
10 agitated.

11 I understand that you were at the scene for
12 about 15 minutes; is that correct?

13 A. That's correct.

14 Q. And at the time that you arrived on the scene,
15 how would you describe the atmosphere on Luzerne
16 Street that night?

17 A. Um, I wasn't initially out on that location.

18 The incident occurred in the 24th District.

19 Their radio band is separate from ours.

20 I didn't respond until quite a little while
21 after the incident already started.

22 When an assist came out for that district,
23 when I arrived on location I saw a couple hundred
24 people out there. Some were just passively
25 watching; some were hostile towards police.

0056

1 Q. Would you have been part of the second assist
2 call or third assist call?

3 A. I don't recall exactly which one.

4 I know it was at least two in.

5 It could have been a third one before I
6 actually got into the 24th.

7 Q. And when you arrived on scene, could you
8 explain to the panel what happened?

9 A. As far as what?

10 Q. Obviously you were involved in something;
11 correct?

12 A. I wasn't involved in an initial incident which
13 occurred out there.

14 I was basically having my officers -- my
15 officers were in a secondary role of just mainly
16 crowd control.

17 I was just surveying what was going on in the
18 area.

19 Q. At some point during the 15 minutes that you

20 were at the scene, you were involved with a
21 pregnant woman; is that correct?

22 A. Right.

23 Q. When I say "involved," I use that word
24 loosely.

25 At some point you were made aware there was a
0057

1 pregnant woman at the scene?

2 A. Yes.

3 Q. There's been testimony, and there's been
4 statements that have been said, that -- first of
5 all, do you carry a Taser?

6 A. Yes.

7 Q. Did you have a Taser that night?

8 A. Yes.

9 Q. There's been testimony that at some point
10 during this time that you at least -- do you have a
11 holster for your Taser?

12 A. No.

13 Q. So you arrived on scene in a police cruiser?

14 A. Yes.

15 Q. Tell us how you were carrying that Taser once
16 you exit your police cruiser?

17 A. I'll start from the beginning.

18 Inside my cruiser the Taser is kept inside a
19 locked case that has to be hidden from public view.

20 I accessed that case, removed the Taser, and
21 placed the cartridge inside the Taser, exited the
22 vehicle, carried it in my hand.

23 Q. What other police tools did you have with you
24 at the time?

25 A. I carried my OC spray and a police bat.

0058

1 Q. And you had those two along with the Taser
2 with you when you exited your vehicle?

3 A. That's correct.

4 Q. Why did you feel the need to at least bring
5 your Taser out?

6 A. As a patrol supervisor, we're the only ones
7 that are entitled to carry Tasers, sergeants and
8 lieutenants, out on the street.

9 It's my responsibility to carry the Taser
10 should it be needed on location.

11 Q. So you have a hard and fast rule that whenever
12 you arrive on scene, because you are one of the few
13 officers that can carry a Taser, that you have a
14 responsibility to bring the Taser with you, or is
15 that a judgment call?

16 A. It's based off of the situation.

17 If I'm on a person with a gun, I'll take the
18 Taser out.

19 Q. And if you're, I guess, going to help a
20 homeless person get off the street, you're not
21 going to take a Taser out?

22 A. That's correct.

23 Q. When you arrived on the scene and you assessed
24 the situation, you felt that it would be
25 appropriate for you to at least have your Taser

0059

1 with you just in case?

2 Is that accurate?

3 A. The fact it was an assist officer partially
4 made up my mind driving out to the scene.

5 Q. Now I understand.

6 So it was the fact that you were called to
7 assist that that gave you the heightened awareness
8 that you may need your Taser?

9 A. That's correct.

10 Q. Were you carrying it at the time, or did you
11 have a holster for your baton?

12 A. I have a loop for my baton.

13 Q. And you were starting to tell me, you said
14 I'll start from the beginning.

15 You took your Taser out.

16 You have your Taser in your hand.

17 Tell me what happened next.

18 A. I exited my vehicle.

19 A couple of my 25th District officers were
20 already on location.

21 I just gave brief instructions about crowd
22 control. Like I said, there was a couple hundred
23 people out. Basically it was just to keep the
24 spectators back; make sure thing didn't escalate.

25 We were trying to remove people from the area,

0060

1 de-escalate.

2 I parked on I Street, which is off to the
3 right side of that map (indicating), walked
4 westbound across Luzerne Street, and when I got to
5 the driveway just past Dianna's Ballroom, that's
6 when I came in contact with the pregnant female.

7 Q. So tell the panel about the contact that you
8 had with the pregnant female.

9 A. As I was walking up, I observed a vehicle
10 parked in a driveway, just to the -- I guess it
11 would be to the west, or to the left, right where
12 that concrete patch is, right between the grass
13 (indicating). Right there (indicating).

14 There was a vehicle parked there.

15 There was two police officers attempting to
16 handcuff a male who was bleeding from the head.

17 There was, approximately, six to eight people
18 standing at the officer's back; one being the
19 female, who at the time I didn't know she was
20 pregnant.

21 She was pulling on the back of one of the
22 officers.

23 The officer tried to push her back with his
24 free hand.

25 She kept pulling at him.

0061

1 He was giving her verbal commands.

2 As I was approaching I gave her verbal
3 commands to back away from the officers, due to the
4 fact it was just the two officers and, like I said,
5 six to eight people in the immediate proximity
6 behind the officers.

7 But this female was being the most aggressive;
8 actually physically pulling on the police officers
9 that were attempting to handcuff the male.

10 Q. And do you know the name of the officers that
11 were attempting to handcuff the male?

12 A. They weren't my officers.

13 I didn't know them.

14 I'm not familiar with them.

15 Q. Okay.

16 I'm going to back up.

17 As a sergeant, is your uniform different than
18 a regular patrol officer's uniform?

19 A. It's not really visible.

20 It has stripes on the sleeves, and our badges
21 are a little bit smaller.

22 Q. Your shirt would have been, I guess, light
23 blue, as it is today?

24 A. Yes.

25 Q. And you mentioned, you said the Hispanic
0062

1 female that was pregnant was the most aggressive
2 out of, I guess, the other people in the crowd?

3 A. That's correct.

4 Q. Okay.

5 And that's because she was pulling at the
6 officer, and the officer was trying to push her
7 back, but she was still pulling at the officer?

8 A. Yes.

9 Q. What did you do next when you saw this?

10 A. I gave her verbal commands to back off on the
11 officers.

12 She didn't comply.

13 After repeated verbal commands, I pulled the
14 Taser up, turned it on.

15 Q. What were the commands specifically that you
16 gave her, if you remember?

17 A. I don't remember exactly the words what I
18 said.

19 Q. I'm sorry?

20 A. I don't remember the exact words.

21 It was to the effect to have her back away
22 from the police officers that were out there.

23 Q. Under any other circumstance, if you give
24 someone a verbal command in a situation like that,
25 what would you say?

0063

1 A. Basically, "Get back."

2 Q. And if they didn't comply the first time, what
3 would you say next?

4 A. I would try to do it again.

5 Q. Just, "Get back?"

6 A. Yes.

7 Q. Okay.

8 Would you also use some type of -- would you
9 also try to physically remove the person off of the

10 officer?

11 A. If I was close enough, that could be an
12 option, yes.

13 Q. Did you try that in this particular case?

14 A. No.

15 Q. I'm sorry I interrupted you.

16 You said that you, I guess, pulled your Taser
17 out?

18 A. Right.

19 Q. I think that's the words that you used.

20 Was the Taser already in your hand or --

21 A. Right.

22 I raised the Taser, yes.

23 Q. So tell me what happened next.

24 A. I activated the Taser.

25 It has a little infrared beam that goes off of
0064

1 it.

2 Pointed the --

3 Q. Can that be done with one hand, or do you need
4 both hands to do that?

5 A. One hand.

6 You use your thumb to turn it on.

7 Q. Was it in your right hand?

8 A. Yes.

9 Q. So you raised it up almost like a weapon, I
10 guess, a gun?

11 I shouldn't say a weapon because it is a
12 weapon.

13 A. Just like a gun, yes.

14 Q. And you can flick something?

15 A. You turn the switch on with your thumb.

16 Q. And the beam?

17 A. The beam comes on.

18 Q. And that was done?

19 A. Yes.

20 Q. Then what happened?

21 A. I gave her a command again, and told her that
22 she would be Tasered if she didn't comply.

23 At that time, an unknown civilian from my rear
24 came up and stated that the female was pregnant.

25 Q. And then what happened?

0065

1 A. She turned around and told me she was
2 pregnant.

3 I told her to step away from the officers.

4 She told me that police assaulted her
5 boyfriend and split his head open, that he didn't
6 do anything.

7 Q. Now the time that she turned around and told
8 you that she was pregnant -- and I know it's hard
9 to describe this in words -- but was she still, to
10 some degree, resisting -- was she still trying to
11 get at the police officers?

12 I guess what I am asking is while she is
13 acknowledging that she is pregnant, was she still
14 doing something else that would have labeled her
15 noncompliant?

16 A. She wasn't doing anything physically at that
17 time, but she didn't move away. And she was still
18 in close proximity, and could have resumed grabbing
19 the officers at any given time.

20 Q. And once you realized that she was pregnant,
21 and when she told you that one of the officers
22 split her boyfriend's head open, what did you do?

23 A. I asked her to move or get away again.

24 At that time, a couple of civilians came over
25 and removed her from the driveway, took her in the
0066

1 street area.

2 Q. And at some point did you, I guess, take your
3 Taser and put it in a down position?

4 A. Yes.

5 Q. Did you turn it off?

6 A. Yes.

7 Q. And at what point did you turn it off?

8 A. It was shortly after I realized that she was
9 pregnant.

10 Q. Had she not been pregnant, would you have used
11 your Taser?

12 A. I don't think the fact -- I didn't know she
13 was pregnant, and it really didn't play in my
14 decision to use it or not.

15 Basically, other people helped her out with
16 the commands, and there was no need to use it.

17 Q. So some other civilians came and, I guess,

18 took her away, or helped take her away, and she, at
19 least, started to acknowledge what you were saying,
20 and started to become compliant, so that there was
21 no need to use your Taser; is that accurate?

22 A. I don't think it's actually her that became
23 compliant. They physically dragged her away.

24 Q. How many people physically dragged her away?

25 A. Two.

0067

1 Q. Two males?

2 A. I think one was a female.

3 I'm not sure what the other one was.

4 Q. Was she still -- for lack of better words --
5 was she still resisting?

6 Was she still trying to get back to, I guess,
7 her boyfriend or the officers of that environment?

8 A. She was still trying to get over to that
9 location, yes.

10 Q. After she left the scene, what happened next
11 as it relates to you?

12 A. After she left the scene?

13 Q. Yes.

14 A. After she crossed the street and walked up the
15 street, the situation was pretty much calm by then.

16 I had my officers resume patrol, and I resumed
17 patrol.

18 Q. And when you say resume patrol, you mean what?

19 A. Go back over to the 25th District and patrol
20 our area.

21 Q. After the pregnant lady went back across the
22 street, had you seen her after that?

23 Did you have a chance to observe her after
24 that?

25 A. No.

0068

1 Q. When she was, I guess, trying too pull the
2 officer off the Hispanic male, did you notice
3 whether she was crying or not?

4 A. I don't recall if she was crying. But I know
5 she was screaming.

6 Q. And you said that the officer was, at some
7 point, pushing her, trying to get her off?

8 A. The officer was still facing the male that he

9 was trying to handcuff, but he had his arm behind
10 him in an attempt to push her off. It wasn't very
11 effective.

12 Q. Do you know where he was pushing her? Do you
13 know physically where he was on her body that he
14 was pushing her?

15 A. No.

16 She was between me and the officer.

17 Q. The 15 or so minutes that you were on the
18 scene, did you witness any bottles been thrown, or
19 any sneakers being thrown, or any other type of
20 foreign objects being thrown?

21 A. Not while I was there, no.

22 Q. Did you witness any civilians with any foreign
23 objects that could be perceived as a weapon; for
24 example, a bat, or a pole, or a pipe, or even a
25 tree stick, or anything like that?

0069

1 A. No.

2 Q. Did you have a chance to witness any other
3 events or altercations outside of the one with the
4 pregnant female and the Hispanic male?

5 And what I mean by that is that the way that
6 the testimony has been given is that there have
7 been -- within this big incident there have been
8 little incidents where police officers are either
9 trying to control crowds or trying to control
10 smaller crowds.

11 Did you get an opportunity to witness anything
12 else, other than what we previously talked about?

13 A. There were pockets of people broken up with
14 different police officers.

15 Basically everything else I saw, nothing was
16 of the physical nature. Everything was verbal.

17 Q. Did you see any police officers using their
18 batons in a crowd control fashion?

19 A. No.

20 Q. How many police officers do you think were at
21 the scene when you arrived?

22 A. I would estimate it at at least 50.

23 Q. Out of those 50 officers in that 15 minute
24 period of time, you didn't see any officers using
25 their baton in a crowd control manner?

0070

1 A. No.

2 Q. Does each officer have -- I guess for lack of
3 better words -- a holster in which they can lodge
4 their baton?

5 A. All batons are -- they go in a little canister
6 belt.

7 Q. Did you see any officers who had their batons
8 out and not in the loop that's connected to the
9 belt?

10 A. I don't know any certain or specific officer
11 that had it out, but there were officers that had
12 it in their hands.

13 Q. How do you remember them holding them?

14 A. Just down in their hands.

15 Q. So just one hand down by the side?

16 A. Right.

17 And some of them had them tucked up under the
18 arm.

19 Q. Like so (indicating)?

20 A. Yes.

21 Q. During the 15 minutes that you were on scene,
22 did you hear any civilian use profanity?

23 A. I heard profanity being mentioned.

24 I don't know where it came from.

25 I didn't physically observe anybody using

0071

1 profanity.

2 Q. So you didn't physically see any witnesses --
3 excuse me, any civilians or officers using
4 profanity?

5 A. That's correct.

6 Q. But I guess you did hear it?

7 A. Yes.

8 Q. Did the pregnant woman use profanity, do you
9 know?

10 A. I think she did.

11 I'm not positive on that.

12 She was screaming.

13 Q. Did you hear any racial or ethnic slurs being
14 used?

15 A. Not at all.

16 Q. Did you hear any words that could be perceived

17 as disrespectful to police officers being used;

18 like, for example, pigs, or --

19 A. I don't recall hearing any of that.

20 Q. Do you know Officer, I believe it's Gloria

21 Powell?

22 A. No.

23 Q. Do you recall whether you saw the pregnant
24 woman having a conversation with a black female
25 officer?

0072

1 A. No, I didn't.

2 Q. Do you recall seeing a black female officer on
3 scene?

4 A. There might have been.

5 I don't recall.

6 Q. Did you ever have to testify in any criminal
7 proceeding as it related to any arrest stemming
8 from this incident?

9 A. I didn't partake in any arrest out there, no.

10 Q. And you weren't called as a witness with
11 respect to any criminal complaints that were filed
12 against any of the civilians?

13 A. I'm not aware of any charges against the
14 civilians, and I wasn't called.

15 Q. Again, just so I'm clear, the reason that you
16 didn't use your Taser was not because the woman was
17 pregnant, but because at some point she was
18 beginning to comply with your instructions; is that
19 correct?

20 A. Yeah.

21 If at all possible I will always try to avoid
22 actually using the Taser. And it didn't rise to
23 the immediate, you know, need to use the Taser.

24 Q. I apologize, I think you also said because her
25 friends also came and gathered her and started to

0073

1 move her where you were instructing her to go?

2 A. Right.

3 Q. Did Internal Affairs conduct an investigation
4 as it related to your use of the Taser?

5 A. I didn't use the Taser.

6 If you actually deployed a Taser, it is
7 registered, and Internal Affairs is able to monitor

8 how many times the actual weapon was deployed.

9 Q. Okay.

10 Could you tell this panel, if at all, what you
11 remember regarding the apprehension and the arrest
12 of the Hispanic male that the pregnant female was
13 trying to "rescue?"

14 A. I don't know what the circumstances of his
15 arrest are; why he was bleeding from the head.

16 I just know that there was two officers
17 unknown to me that were attempting to handcuff him.

18 Q. You just mentioned he was bleeding from the
19 head.

20 When did you see the individual bleeding from
21 the head?

22 A. When I got up in close proximity, within
23 20 feet, it was quite a large amount of blood.

24 Q. As a supervisor, when you come on a scene like
25 this, are you also the supervisor of any officer

0074

1 that's on the scene, or are you only the supervisor
2 of any police officer that's under your command or
3 district?

4 A. Basically under my direct command are just my
5 officers that work for me. But, if I see an action
6 being taken with another officer, I'm entitled to
7 tell him to do so.

8 Q. Did you ask the officers why the individual
9 was bleeding?

10 A. I didn't have the opportunity.

11 Q. As you sit here today, you don't know which
12 officers were handling that situation; is that
13 correct?

14 A. That's correct.

15 Q. How many officers did you say were there
16 trying to handcuff the individual?

17 A. Two.

18 Q. Did you see the individual resisting?

19 A. He was resisting, but it wasn't like he was --
20 he was pulling away, but not combative, not
21 swinging at the officers or anything like that. He
22 was allowing handcuffing.

23 Q. Was he standing on the ground? What position
24 was he in?

25 A. He was standing, placed up against the side of
0075

1 the vehicle.

2 Q. Was he face facing the vehicle?

3 A. Yes.

4 Q. And the officers were behind him trying to
5 handcuff him?

6 A. Yes.

7 Q. And that's what you saw?

8 A. Yes.

9 Q. And is that the beginning of what you saw as
10 it related to that incident?

11 A. Yes.

12 Q. So if the individual was wounded somewhere
13 other than at that police cruiser, you wouldn't
14 have seen that?

15 A. I didn't see where he was wounded period.

16 MR. YOUNG: Nothing else.

17 Thank you, Sergeant.

18 THE WITNESS: You're welcome.

19 ----

20 PRESIDING OFFICER NIX:

21 Commissioner Jordan, do you have

22 any questions?

23 COMMISSIONER JORDAN: Yes.

24 -----

25 *EXAMINATION BY COMMISSIONER JORDAN*

0076

1 Q. Sergeant, was that only one lady arrested,
2 that pregnant lady, or was there more than one?

3 A. As far as I knew, the pregnant female wasn't
4 arrested, and I don't know who the 24th arrested.

5 Like I said, it wasn't my district. None of
6 my officers had arrests out there. And I don't
7 know what became of the male that was bleeding from
8 the head, or anybody else that was out there.

9 Q. In the report it says a young lady was
10 protesting, her mother was arrested and in a wagon,
11 and that she didn't do anything.

12 So I'm wondering if it's the pregnant lady or
13 some other lady?

14 A. Yeah; I wouldn't know anything about it.

15 I mean, the female that I was dealing with was

16 never arrested by me.

17 I don't know if she was detained anywhere else
18 later on or arrested.

19 Q. At this incident did you hear any of the
20 officers using profanity?

21 A. Profanity? No.

22 I heard profanity being said. I didn't see
23 who it came from or where. I couldn't identify any
24 particular person doing that profanity.

25 Q. Did you hear any racial slurs?

0077

1 A. No, I didn't hear any racial slurs.

2 Q. And how long did this incident occur; about 45
3 minutes or half an hour?

4 A. I'm not even sure.

5 I was only there for approximately 15 minutes
6 of it.

7 Q. Could you say how many police officers were
8 probably called there?

9 A. Once an assist goes out, it's not a specific
10 number that could get called to.

11 As the amount of assists goes up, more
12 officers arrive on location.

13 My best estimate, there was probably 50 to 60
14 officers out there when I was out there.

15 Q. So it would have been pretty difficult for you
16 to you see everything that was going on with all
17 the officers there and the crowd that was there at
18 the time?

19 A. Without a doubt.

20 COMMISSIONER JORDAN: Thank you.

21 -----

22 PRESIDING OFFICER NIX:

23 Commissioner Stapleton, do you
24 have questions for the Sergeant?

25 COMMISSIONER STAPLETON: Yes.

0078

1 -----

2 *EXAMINATION BY COMMISSIONER STAPLETON*

3 Q. Can you describe to me what the chain of
4 authority is when someone of your rank comes onto a
5 scene like this?

6 I think you said that you talked to the

7 officers here in the 24th --

8 A. In the 25th.

9 The incident occurred in the 24th.

10 Q. The officers who reported on the scene from
11 the 25th report to you, or is it like the military,
12 if you're a sergeant, it doesn't matter?

13 A. That's basically how it works. But my
14 officers that I was coming in contact with, we were
15 coming in almost like a straight line.

16 The 25th District cars were meeting up, coming
17 across Hunting Park and across I Street. So when
18 we actually exited the vehicles, a lot of my
19 officers were already in my immediate area. And I
20 instructed them and got crowd control, and we
21 started with the perimeter and rounded them back.

22 Q. Were there other sergeants on the scene from
23 the 25th?

24 A. Sad to say, I was probably the only sergeant
25 working in the 25th.

0079

1 Q. How about in terms of hierarchy; would you be
2 the highest ranking officer on the scene at the
3 25th?

4 A. Yes, I was.

5 Q. After you get there and you instruct your 25th
6 officers in crowd control, do they come back to you
7 for further instructions?

8 How does it operate once you're on the scene?

9 A. Basically, the best way I can describe it, is
10 once we arrive on location -- well, the incident
11 had already occurred. Most of the people were just
12 watching. There was a couple verbal confrontations
13 between officers and civilians out there. And the
14 only physical incident that I observed was the one
15 where the female was pulling on the back of the
16 officers.

17 So, basically, my guys were just in a
18 passive -- were also just talking to people, and
19 everybody pretty much seen enough of what they were
20 going to see by then.

21 There was a couple of stragglers, as far as
22 parents to come pick up children that were at that
23 ballroom. But it wasn't nothing like real physical

24 with the police.

25 It was mainly just explaining what was going

0080

1 on in the situation, and gaining compliance with

2 verbal communication with the crowd up there.

3 Q. Do your officers come back to you to get

4 permission to go back?

5 A. No.

6 I was rounding up my officers and told them to

7 resume as I was making my way back down from the

8 driveway.

9 And once I got back to my vehicle, I went over

10 the air -- our radio bands are separate from East

11 Division, the 24th's, and we have our own separate

12 radio bands -- and I had my radio dispatcher resume

13 all my officers.

14 As far as the 24th, 26th, or Highway, or

15 whoever else responded, that's where their

16 supervisors come in.

17 Q. Did any of your officers report to you before

18 they left the scene that they had any

19 confrontations with any of the civilians who were

20 on the scene; parents, children, young adults?

21 A. No.

22 There was nothing out of the ordinary, or

23 anything physical in nature, or anything which had

24 to be documented with a police report, as far as my

25 officers were concerned.

0081

1 If they would have used any force, they would

2 have to notify me, because we have Internal Affairs

3 documentation and other documentation that has to

4 be done.

5 Q. When the people from the 25th left, there was

6 nothing in your mind that would have caused you to

7 leave the scene thinking you were going to end up

8 in a proceeding like this because of the complaints

9 from individuals on the scene; there was nothing

10 brought to your attention?

11 A. As far as the police, no.

12 When we see a male bleeding from the head, you

13 do wonder what happened.

14 I'm sure questions would be raised as to why.

15 I don't know if that occurred prior to the
16 police contact, or police contact, or what the
17 reason was.

18 Q. But they were not your --

19 A. They weren't my officers, no.

20 Q. Can you tell me a little bit about the Taser,
21 because it's something I'm not familiar with.

22 When you got to that area where the person was
23 on the ground, there's an aggressive pregnant woman
24 there.

25 You had the Taser, and I assume it looks like
0082

1 a weapon -- it looks like a gun?

2 A. It looks like a gun.

3 It's black, but it has yellow on it also.

4 It almost looks like some kind of -- something
5 out of a science fiction movie.

6 It's bigger, more bulky, than an actual
7 firearm.

8 Q. Does it have a safety?

9 A. What it has is a switch that activates it.

10 If the switch wasn't activated that throws out
11 that infrared dot, it wouldn't be able to fire.

12 Q. So once the switch is on and that infrared
13 beam is on, it's live, and if you were to hit the
14 trigger, that discharges something?

15 A. Yes.

16 Q. It actually throws something out that's on a
17 wire?

18 A. Two darts, right.

19 Q. Would I know if you were pointing it at me
20 whether it was live?

21 If you pointed your gun at me, I wouldn't know
22 whether you had the safety on or off, so I wouldn't
23 be able to tell.

24 But if you pointed a Taser at me, I would know
25 whether it's armed, and that it could be discharged
0083

1 because there's a red light?

2 A. Right.

3 If you're familiar with a Taser, you know once
4 that red light is on that it could be deployed.

5 That you would know.

6 If not, I guess you wouldn't know.

7 Q. So as you go up and your Taser is live at that
8 point, there's some red light on, there's some
9 people around that officer that would be aware that
10 the Taser is live and ready and could be used at
11 that point?

12 A. For the most part, the people around the
13 officer had their backs to me.

14 It was -- they were, like, right up against
15 the backs of the officers.

16 There was people that came from behind me that
17 actually saw a red light on the female that spoke
18 up at that time.

19 Q. Did the woman you later found to be pregnant
20 make eye contact with you, or appear to see the
21 Taser in your hand with the red light on?

22 A. No.

23 Q. That was because she had her back to you at
24 the time?

25 A. She was preoccupied with what she was doing,
0084

1 pulling on the police officers.

2 Q. One last question:

3 Did you notice if there was a helicopter on
4 the scene?

5 A. I don't recall.

6 Might have been that night.

7 It typically patrols the four to 12 time slot.

8 I'm not sure if it was up are not.

9 Q. We heard conflicting testimony trying to
10 figure out I think there was one there, we don't
11 know whether it was a police helicopter or a news
12 reporter.

13 A. I'm not sure.

14 When I arrive with helicopters on the scene, I
15 don't take great big notice to it anymore.

16 Sometimes it's there for major disturbances,
17 sometimes it isn't.

18 This wasn't the first occurrence where there
19 was numerous police and numerous people. Probably
20 won't be the last.

21 COMMISSIONER STAPLETON: Thank
22 you.

23 PRESIDING OFFICER NIX:
24 Commissioner Jordan.

25 -----

0085

1 *EXAMINATION BY COMMISSIONER JORDAN*

2 Q. Sergeant, I just understood you to say that
3 you know precisely that no one from your district
4 was involved in the scuffle?

5 A. Nobody had any kind of actions that would have
6 required documentation as far as physical contact
7 with anybody.

8 Internal Affairs wants anything physical
9 documented.

10 Verbal conversation between two individuals
11 doesn't have to be documented, so there was nothing
12 physical brought to my attention conducted by my
13 officers that needed to be documented.

14 Q. So, therefore, the 25th, that confrontation
15 didn't occur with the pregnant woman? The 24th.

16 A. I really didn't understand that question.

17 I had personal contact with the female.

18 I didn't physically grab her or anything like
19 that.

20 If she's alleging any other kind of activity
21 that occurred to her, I know personally it wouldn't
22 have been any 25th District personnel that did
23 that, because I was the only 25th District
24 personnel involved with her.

25 And, like I said, I didn't physically come

0086

1 into contact with her.

2 Q. But your contact with her physically was to
3 have her handcuffed?

4 A. I never mentioned that, and I don't know where
5 you're getting that from.

6 She was never handcuffed.

7 Q. But she was put into the wagon?

8 A. No, she was never placed into a wagon.

9 She walked off under her own power westbound
10 on Luzerne Street with a couple other people.

11 That's the last time I saw her.

12 Q. Then I misunderstood the question.

13 Sorry.

14 Thank you.

15 -----

16 PRESIDING OFFICER NIX: I have a
17 few questions.

18 -----

19 *EXAMINATION BY PRESIDING OFFICER NIX*

20 Q. Sergeant, you said that during the 15 minutes
21 that you were there there were no other sergeants
22 from the 25th District there.

23 Do you know during that time were there other
24 higher ranks there?

25 A. There were lieutenants out there, yes.

0087

1 Q. And you saw them?

2 A. Yes.

3 Q. Were they anybody from your district, or were
4 these from districts like the 24th or other
5 districts?

6 A. I saw a Strike Force lieutenant out there.

7 He's the only one I recall being out there.

8 Through later testimony and hearing other
9 people I know a 26th lieutenant was out there.

10 I don't think the 24th had a lieutenant
11 working that night. I know we didn't have a
12 lieutenant working.

13 Q. Do you know the lieutenant you saw?

14 A. Lieutenant James Smith from the Narcotic
15 Strike Force.

16 Q. Did you see Lieutenant Cross?

17 A. That was the other lieutenant I heard was out
18 there.

19 I don't remember seeing him out there.

20 Q. But a lieutenant would have had a white shirt
21 on?

22 A. Yes.

23 Q. How many total district officers from the 25th
24 were there that evening that were under your
25 command?

0088

1 A. We probably had eight of them there out of the
2 50 or 60.

3 Q. And do you recall now from this, from the
4 proceedings that have happened in this, who Hector

5 Serrano is?

6 A. I don't know who he is, no.

7 Q. Did anybody approach you to try to write down
8 your badge number?

9 A. Nobody approached me to try to write my badge
10 number.

11 I know people were taking badge numbers down
12 at the location.

13 Q. But nobody asked you for yours, or tried to
14 write down yours?

15 A. I don't recall if they did or not.

16 If they did, I would have given it to them.

17 It's very hard to see a sergeant's. The
18 writing is very small. And police officers have
19 bold letters going across there (indicating).

20 Sergeants and lieutenants are really small.

21 PRESIDING OFFICER NIX: Nothing
22 else. Thank you.

23 Anyone else?

24 MR. YOUNG: I have a few.

25 -----

0089

1 *EXAMINATION BY MR. YOUNG*

2 Q. You mentioned that the pregnant woman wasn't
3 arrested; correct?

4 A. As far as I know, she wasn't arrested.

5 Q. Did her actions warrant an arrest?

6 A. Without a doubt, 100 percent, it did.

7 Q. And why wasn't she arrested?

8 A. She was extended a courtesy.

9 She was given the courtesy, given the fact she
10 was pregnant. And it was meant to calm the
11 situation down; to de-escalate the situation.

12 Q. Now we know there were other people at the
13 scene who were arrested. And we know that,
14 obviously, there were people who weren't arrested.

15 Do you recall whether -- either when you first
16 arrived on scene or when you were leaving the
17 scene -- whether you seen any other civilians who
18 were engaging in activity or conduct that warranted
19 an arrest that wasn't arrested?

20 Maybe I'll put it the other way.

21 Did you see any police officers who extended

22 the same professional courtesy in order to
23 de-escalate the situation, in order to try to get
24 the situation under control, that didn't arrest a
25 civilian that could have?

0090

1 A. I didn't personally see anything like that.

2 I know a lot of times in situations like that
3 there's a whole lot that's let go by the police.

4 There was disorderly conduct, to say the
5 least, I'm sure by the amount of profanity that was
6 being said out there. And there was a failure to
7 disperse upon police commands.

8 But, generally, that's not enforced by the
9 police because, like I said, we're trying to
10 de-escalate the situation. We're not trying to
11 have everybody start a fight.

12 Q. The use of profanity by a civilian in general,
13 and a civilian not obeying a police instruction to
14 disperse, that can warrant an arrest for disorderly
15 conduct?

16 A. Summary offense.

17 Q. And they would be taken away; taken into a
18 wagon or cruiser?

19 A. It's basically like a ticket they get; they're
20 in and out of there in about an hour, out of our
21 facility.

22 MR. YOUNG: Nothing else.

23 PRESIDING OFFICER NIX: Sergeant,

24 thank you for your testimony.

25 Thank you for taking the time to

0091

1 come in.

2 We appreciate it.

3 You're free to go.

4 The next witness will be Sergeant

5 Fraser.

6 Mr. Stanshine, are you ready?

7 MR. STANSHINE: Yes.

8 PRESIDING OFFICER NIX: The

9 Sergeant has already been sworn in and given
10 his Garrity warnings.

11 -----

12 SERGEANT AUSTIN FRASER, Badge No. 8666, after

13 having been previously sworn, was examined and
14 testified as follows:

15 *EXAMINATION BY MR. YOUNG*

16 Q. Sergeant Fraser, good evening.

17 I know we met earlier.

18 A. Yes, sir.

19 Q. Thank you for waiting patiently.

20 A. No problem.

21 Q. My name is Dennis Young.

22 I am counsel for the Police Advisory
23 Commission.

24 As you know, you've been subpoenaed to testify
25 regarding the incident that happened on
0092

1 November 11th, 2005, on Luzerne Street out in front
2 of Dianna's Ballroom.

3 Do you recall that incident?

4 A. Yes, I do.

5 Q. For the record, if you could give your name,
6 and spell your last name for the court reporter.

7 A. Sergeant Austin, A-U-S-T-I-N, Fraser,
8 F-R-A-S-E-R. Badge No. 8666.

9 Q. You have a right to give an opening statement
10 of up to five minutes before I begin my
11 questioning, and before the panel asks questions.

12 Would you like to give an opening statement?

13 A. No, thank you.

14 Q. What was your tour of duty on November 11th,
15 2005?

16 A. I am not positive.

17 I believe I was two to ten that evening.

18 Q. Now, I understand from a lot of information I
19 have that night that you were in plainclothes; is
20 that right?

21 A. That is correct, sir.

22 Q. Why were you in plainclothes?

23 A. At that time, my assignment, I had dual
24 responsibility.

25 I was covering the 24th District Tactical
0093

1 Team, as well as a divisional tactical team.

2 And when the narcotics enforcement guys are
3 out, they're required to have a supervisor with

4 them at all times.

5 Since they were working that evening, I was
6 responsible for covering them for any narcotics
7 sales they would have done.

8 Q. And would this tactical team also have been in
9 plainclothes?

10 A. The narcotics guys and the burglary details.
11 The rest the guys would have been in uniform, sir.

12 Q. So your assignment that day was to supervise
13 that group?

14 A. Yes, sir.

15 Q. And at some point you were called to Luzerne
16 Street to assist in the incident outside of the
17 ballroom; correct?

18 A. Yes.

19 Q. Do you know whether you were called as a
20 second assist or a third assist?

21 A. I do not recall if it was a second or third
22 assist.

23 Q. Between the time -- how long were you at the
24 incident between the time you got there and the
25 time you ultimately left?

0094

1 A. I would approximate maybe approximately 45
2 minutes.

3 Q. When you arrived on scene, can you describe
4 for the panel what you saw?

5 A. From what I recall it was, I guess, a loosely
6 scattered group of individuals, with officers here
7 and there.

8 At that point, there was no longer any
9 fighting, that I observed.

10 I observed a crowd, and my intent was to try
11 and help everybody disperse.

12 Q. And you said, you just said, that there was no
13 fighting; all the fighting had finished?

14 A. There was none that I observed, sir.

15 Q. Were you aware before you arrived on the scene
16 that there was fighting going on?

17 A. That's the information that I received via
18 police radio.

19 Q. Via who?

20 A. Police radio.

21 Q. Tell us what that police radio call was?

22 A. It was pretty much an assist in reference to
23 officers needing help in reference to a large fight
24 on the highway.

25 Q. And they actually mentioned a large fight?
0095

1 A. If I recall, yes, sir.

2 Q. When you arrived, you didn't see much of
3 anything by the way of fighting?

4 A. No, sir.

5 Q. How many officers do you think were there at
6 the time when you arrived?

7 A. I'm not sure, sir.

8 It was scattered all over the area.

9 Q. More than ten?

10 A. Yes.

11 Q. More than 20?

12 A. Could have been, sir.

13 Q. Okay.

14 How many civilians do you think were in the
15 street at the time?

16 A. If I had to guess?

17 Q. Sure.

18 A. A hundred to 150.

19 Q. So you arrived on scene, you see officers, see
20 upwards to 100, 150, civilians.

21 What was your responsibility, and what did you
22 do?

23 A. My responsibility, I thought, was to disperse
24 the crowd.

25 Initially what I did, I went to the front area
0096

1 of the ballroom. There was a fenced area and a
2 gate. I made an announcement to tell people if
3 they're at the party, to go back inside the gate or
4 the building.

5 Very few people responded to me at that time
6 and went back inside.

7 I took a group of officers with me.

8 We formed a loose line, and we started pushing
9 people west on Luzerne in order to disperse.

10 My reason behind that was if they were
11 combatants that were not identified, if we left

12 them in the area, they may start fighting again. I
13 was just trying to disperse them so we didn't have
14 any future problems.

15 Q. The officers that you aligned, were these
16 officers out of your district?

17 A. I can't remember who exactly were with me,
18 what districts they were assigned to. I just
19 grabbed the first few officers that I could get my
20 hands on.

21 Q. And they listened because you were a
22 supervisor on scene?

23 A. Yes.

24 Q. And was that -- is that their responsibility?

25 I mean, had you been a regular patrol officer
0097

1 and decided to do this, would the other officers
2 had listened?

3 A. It would be hard to say exactly what
4 individual officers would do in reference to other
5 officers.

6 Q. And did you identify yourself to these
7 officers as a sergeant, or is there something on
8 your uniform that identifies you, that an officer
9 knows you're a sergeant?

10 A. Yes, sir. I had my badge hanging.

11 It was around my neck, and it was outside of
12 my clothes at that time.

13 Q. So you tried to control the crowd.

14 You weren't in uniform.

15 Did you have any police tools available to
16 you?

17 A. I had police tools available to me, but I was
18 not using any at that time.

19 Q. What police tools did you have available to
20 you?

21 A. I had a nightstick in my vehicle.

22 I did not bring that out at the time. I did
23 not think it was necessary for me.

24 Q. Did you have any police tools on your person
25 when you exited your vehicle?

0098

1 A. I always have my weapon with me, sir.

2 I always have handcuffs with me.

3 Q. Now you said you were in plainclothes.

4 When you say plainclothes, were you in some
5 type of fatigue, or were you literally in jeans and
6 a shirt?

7 A. More likely than not, I would have been in
8 jeans and a sweat shirt.

9 Q. Anything that identified you as a police
10 officer, other than your badge?

11 A. No, sir.

12 Q. What happened next?

13 You aligned these officers, you tried to
14 control the crowd.

15 Did you see these officers using their baton
16 in a crowd control manner with a baton?

17 A. In a situation like that, what they do, they
18 hold their batons in what we call port arms.

19 And you hold it out in front of you, and you
20 move forward, and you move the crowd in a gentle
21 manner.

22 Q. Did you see that happen?

23 A. Yes, sir.

24 From what I could see in my field of vision,
25 that's what was happening.

0099

1 Q. Was that largely successful?

2 Was the crowd compliant?

3 A. Yes, sir.

4 They were moving along at a slow pace, but
5 they were moving.

6 Q. What happened next?

7 A. The only thing that happened individually in
8 reference to me, there was one young lady who kept
9 turning towards me and raising her fist as if she
10 were about to strike me.

11 After about the third time this individual did
12 this, I decided to take her into custody.

13 I did not want her to give the idea to all the
14 people that they could stop or strike officers. So
15 I had put her in the handcuffs, and I had officers
16 take her to a patrol wagon.

17 Q. This young lady that threatened you, did you
18 identify to this young lady that you were a police
19 officer?

20 A. Personally did I say to her I was a police
21 officer?

22 Q. Yes.

23 A. When I made the announcement, I announced that
24 I was a police supervisor and I wanted everybody to
25 move, sir.

0100

1 I don't recall speaking specifically to her,
2 because prior to her doing that she did not catch
3 my attention.

4 Q. And so you don't know exactly where she was in
5 relation to the time that you identified yourself
6 and asked the crowd to move; you don't know if she
7 heard you or not?

8 A. I could not say that, sir.

9 Q. Do you know whether she was in your immediate
10 vicinity?

11 And I guess what I mean by that, between the
12 time that you told the crowd to move back and the
13 time that this young lady raised her fist, did you
14 have any movement at all, or were you pretty much
15 standing in the same position where she would have
16 had to have been in your vicinity the whole time?

17 A. I'm sorry, can you repeat the question?

18 Q. That's a bad question.

19 Normally when it's longer than 30 seconds it's
20 a bad question.

21 You don't know -- when you gave the crowd
22 instructions to disperse, you don't know if she
23 heard you?

24 A. No, sir, I do not.

25 Q. And you said she raised her fist to you three

0101

1 times?

2 A. Yes, sir.

3 Q. Did you see her do anything else?

4 A. No, sir.

5 Q. Other than raising her fist to you in a
6 threatening manner, did she say anything to you?

7 A. I believe she was saying something, but I
8 couldn't tell what she was saying because of the
9 noise.

10 Q. Do you recall what officer you asked to arrest

11 her?

12 A. Actually, I personally took her into custody.

13 I put my handcuffs on her myself, and I had

14 officers walk her to the patrol wagon, sir.

15 Q. So let me go back.

16 You had your weapon on you?

17 A. Yes, sir.

18 Q. You had your handcuffs on you?

19 A. Yes, sir.

20 Q. Did you have anything else on you?

21 A. That was police-issued, sir?

22 Q. Yes.

23 A. No.

24 Yes, I'm sorry, my badge.

25 Q. Did she resist at all being handcuffed?

0102

1 A. No, she did not.

2 Q. Did she say anything like, "Why are you

3 handcuffing me; I didn't do anything; I'm not

4 moving."

5 A. Not that I recall, sir.

6 Q. Can you describe this young lady to us as you

7 sit here today?

8 A. It was a Hispanic female. I would estimate

9 late teens, early 20's.

10 Q. So you handcuffed her.

11 Did you have to use -- I mean, did you have to

12 put her up against a fence, or up against a wall,

13 or did you have to put her on the ground?

14 How did you handcuff her?

15 A. There was a parked car, I believe, in that

16 cutoff right there (indicating), just west of the

17 ballroom. If I remember correctly -- yes, sir,

18 right where that arrow is.

19 I turned her around, leaned her against the

20 car, put her hands behind her back, put her in

21 handcuffs.

22 Q. Did you tell her that she was under arrest?

23 A. Did I say that specifically?

24 Q. Yes.

25 A. I don't recall.

0103

1 Q. Is that something you would normally say or

2 not?

3 A. Not normally.

4 If somebody asks me, usually my explanation,
5 if I do put handcuffs on, are you are under arrest.

6 Very rarely would I put handcuffs on somebody
7 that's not under arrest.

8 Q. Did you give her any warnings that if she
9 continued with her conduct that she would be
10 arrested?

11 So the first time that she put her fist up at
12 you in a threatening manner, did you say anything
13 like, "Stop it. If you do it again I'm going to
14 arrest you?"

15 A. The only thing I said is that they have to
16 keep moving to the crowd, in general.

17 Q. Did you handcuff her because she threatened
18 you with her fist, or did you handcuff her because
19 she wasn't complying to your instructions, or a
20 combination of both?

21 A. It was a combination of both.

22 Q. You said you walked her somewhere. And you
23 mentioned that initially you put the handcuffs on
24 her.

25 You were in this area (indicating)?

0104

1 A. If I recall correctly, sir, yes.

2 Q. And I think from prior statements that you
3 gave, that you probably parked your cruiser in this
4 area somewhere (indicating)?

5 A. I believe that the car that I was in was
6 parked on the south side of the street.

7 And, if I recall correctly, it was across the
8 street from the ballroom, or someplace.

9 Q. Did you walk her to the wagon, or did you walk
10 her to another police cruiser?

11 A. No, sir.

12 I had two officers take her to the wagon.

13 I didn't personally take her to the wagon.

14 Q. So you handcuffed her, and you basically gave
15 her over to two officers?

16 A. Yes, sir.

17 Q. Do you know who those officers were?

18 A. No, sir. I do not recall.

19 Q. Can you describe those officers to the panel?

20 A. I can't. Honestly --

21 Q. White, Black, Hispanic; male, female?

22 A. There were so many people that night.

23 There were people there that I don't remember
24 being there.

25 Q. Did you see what the officers did with the
0105

1 young lady after you handed her over to them?

2 A. Did I watch them walk her to the wagon, is
3 what you're asking me?

4 Q. Yes.

5 A. No, sir.

6 Q. After you handed the young lady over to the
7 other officers, what did you do next?

8 A. We continued to move the crowd west, maybe,
9 probably, another 10 or 20 feet.

10 They started breaking up.

11 At that point I started trying to locate
12 officers that were assigned to me to try to have
13 them resume their duties.

14 Q. And did you, in fact, do that?

15 A. I followed most of them, yes, sir.

16 Q. Did you have any other interaction with any
17 other civilians there?

18 A. There was a young lady who identified herself
19 as being involved with the ballroom.

20 She came to me, and she asked me what I wanted
21 to do with the kids; do I want them to stay there
22 and wait for their parents, or do I want them
23 picked up somewhere else.

24 I told her that I would prefer for the parents
25 to pick the kids up outside of the area.

0106

1 Once again, we didn't want people hanging
2 outside the area in case there were more problems.

3 Q. When you say outside the area, you mean
4 outside that one-block radius?

5 A. Half a block in either direction was fine with
6 me.

7 Q. And the lady you had this conversation with,
8 was she an older lady?

9 A. She was an adult.

10 I would say maybe early 30's.

11 Q. Did she identify her at all with being tied to
12 or connected with either the ballroom or Grupo
13 Fuego, who was having a reception at the location?

14 A. She actually told me her name, which I don't
15 recall.

16 And I just assumed that she was, you know,
17 either one of the chaperones, or somebody involved
18 with the ballroom.

19 Q. Was her name Diane Guzman?

20 A. I don't recall what her name was.

21 Q. So you had this conversation with her, and you
22 gave her instructions what she should do with the
23 children who were coming out of the ballroom.

24 What did you do next?

25 A. I was in the process of leaving, and, again,
0107

1 an officer had -- who, I don't recall who it was --
2 told me he had someone that needed Rescue.

3 For some reason, I don't know why they didn't
4 call for Rescue themselves.

5 I went over there, and I requested Rescue to
6 meet the officer at whatever location they asked
7 for.

8 At that point, I left the area.

9 Q. So an officer told you that a civilian needed
10 Rescue?

11 A. That is correct.

12 Q. Just so the record is clear, what is Rescue?

13 A. I'm sorry. It is --

14 Q. I know what it is, you don't have to
15 apologize. Just for the record.

16 A. Medical response.

17 The fire department, they have a first
18 responder medical unit. They usually come out and
19 evaluate if someone has a complaint of pain,
20 fainting, anything along those lines.

21 They come out and evaluate the person and
22 determine whether they need on-scene medical
23 attention, or if they need to be transported to the
24 hospital.

25 Q. Did you get an opportunity to see the

0108

1 individual that needed Rescue?

2 A. No, I did not.

3 Q. Did you at all during the, I guess, 40 to 45
4 minutes that you were on scene, get an opportunity
5 to see, or do you remember seeing, a pregnant
6 woman?

7 A. No, I do not.

8 Q. There's been testimony by both civilians and
9 officers alike that there was profanity being used.
10 There's been testimony by witnesses, civilian
11 witnesses, that there were racial slurs being used,
12 derogatory comments being made.

13 Did you at all hear any profanity being used?

14 A. No, I did not, sir.

15 Q. You didn't hear anyone at all at the time that
16 you were there for 45 minutes not even use the
17 F-word?

18 A. I don't recall that, sir.

19 Q. The young lady that you handcuffed, did she
20 use profanity at all?

21 A. I did not hear or use any profanity, sir.

22 Q. Did you hear any racial slurs or derogatory
23 comments either by officers or civilians being
24 used?

25 A. No, sir.

0109

1 Q. Did you see any civilians carrying anything,
2 any foreign objects, that could have been perceived
3 as a weapon; for example, a baseball bat, or a
4 stick, or a pipe, or anything of that nature?

5 A. No, I do not recall seeing anything along
6 those lines, sir.

7 Q. Do you recall whether there were any civilians
8 who were throwing bottles or sneakers or other
9 clothing or garments?

10 A. I don't recall anything being thrown, sir.

11 Q. Other than the three or four or so officers
12 that you lined up in order to control the crowd,
13 did you have an opportunity to see any other
14 officers performing crowd control methods?

15 A. No, sir.

16 Q. Did you see any other officers who were
17 holding their baton in a fashion as you

18 demonstrated earlier; that prone fashion?

19 A. No, sir.

20 Q. But you did see other officers?

21 A. Yes, sir.

22 Q. Okay.

23 Did you see them with their batons?

24 Were their batons on their side, in their

25 loop, or under their arms?

0110

1 A. Most of the officers -- and this is from
2 experience -- usually, unless they're using it,
3 they're taught to hold their batons under their
4 arms in a non-threatening manner, sir.

5 Q. Did you see that?

6 A. Yes.

7 Q. You saw most of the officers using their
8 batons in that fashion?

9 A. Most officers had their batons with them, sir.

10 Q. Did you have a chance to see any civilians
11 display conduct that warranted their arrest but
12 didn't necessarily get arrested?

13 A. I personally did not.

14 Q. Did you have an opportunity to see any other
15 civilians get arrested, other than the civilians
16 that you handcuffed?

17 A. No; no, sir, I did not.

18 Q. At some point during the course of the night,
19 the young lady that you handcuffed, you had an
20 opportunity to see her again; is that correct?

21 A. That is correct, sir.

22 Q. And where was that?

23 A. At the 24th District, sir.

24 Q. Tell the panel about that.

25 A. Pretty much I had a conversation with her in

0111

1 reference to why I took her into custody. And the
2 fact that she was going to be released without
3 charges, I explained to her why. And I instructed
4 an officer to complete a 75-48A, which is a
5 investigation report, prior to her being released.

6 Q. And why do you think -- why did you release
7 her?

8 Why didn't you --

9 MR. STANSHINE: Can we take a
10 break and see you at sidebar?

11 MR. YOUNG: Sure.

12 (Sidebar discussion held off the record.)

13 -----

14 *CONTINUED EXAMINATION BY MR. YOUNG*

15 Q. Sergeant Fraser, the young lady that you
16 handcuffed when you went back to the district, she
17 was released without charges; correct?

18 A. That's correct, sir.

19 Q. Also while you were at the district, you also
20 had a chance to have some conversation with some
21 other individuals that were either detained or
22 arrested; is that correct?

23 A. I -- when you say detained or arrested --

24 Q. They were at the district. I would imagine at
25 some point they were detained?

0112

1 A. I'm not sure what interactions they had with
2 police officers on Luzerne Street.

3 The individuals I spoke to came to the
4 district on their own. They came through the front
5 door. And they came, basically, because they were
6 looking for answers as to what was going on.

7 Those are the individuals that I addressed.

8 Q. And what were the complaints of these
9 individuals?

10 A. There were a number of allegations of police
11 misconduct.

12 They were asking for names and badge numbers
13 of officers.

14 I tried to ascertain which officers through
15 physical descriptions, badge numbers, or anything.

16 They weren't able to furnish with me with any
17 of this information.

18 My response was actually, "I don't know who
19 you are talking about. I can't give you a name or
20 badge number.

21 Monday morning I instructed them that they
22 would all be allowed to fill out complaint forms,
23 if they so requested to.

24 My explanation to them was that there were so
25 many people there, that the best person to get

0113

1 through the job to figure out who was there and who
2 did what was Internal Affairs because of the tools
3 that were available of them.

4 Q. How many people were in this group?

5 Was it two or 3, 4 or five?

6 A. Ten to 15.

7 Q. Were each one of them complaining of their own
8 separate individual --

9 A. It was kind of everybody in a group.

10 They were all upset; yelling, shouting.

11 I was doing my best to try and calm people

12 down and individually address the questions, and

13 give them as much information as I could.

14 Q. As you sit here today, do you know the names
15 of any of those individuals?

16 A. I do not.

17 I didn't take anybody's name, sir.

18 Q. As you sit here today, can you describe any of
19 those individuals?

20 A. I could only say that they were Hispanic.

21 Mainly Hispanic females.

22 There may or may not have been a male or two
23 involved in the group.

24 Q. Younger; older?

25 A. It was running the gamut.

0114

1 It seemed like in the teens running to the
2 30's and 40's.

3 Q. I have one further question:

4 Earlier you testified that when you exited

5 your police cruiser that you didn't bring your

6 baton with you because you didn't feel there was a
7 need for it.

8 What made you -- what is it in your

9 assessment, or what was it in your assessment of

10 what was going on out in the street, that made you

11 believe that you just didn't need that police tool?

12 A. At that time, sir?

13 Q. Yes.

14 A. Once again, when I pulled up I did not see any

15 fighting; anybody struggling. It just seemed like

16 to be a crowd that was milling around.

17 And, again, my interpretation was that we just
18 needed to get them out of here before they started
19 having problems again.

20 Q. And I'm just trying to nail down the timeline.

21 Did you see any other individuals, any other
22 civilians, who were arrested while you were at the
23 scene?

24 A. No, sir, I didn't personally see that.

25 Q. The sergeant -- I believe the Sergeant that
0115

1 just left -- do you recall seeing him at the scene?

2 A. No, sir.

3 Q. Does that mean that he wasn't there when you
4 were there, or he may have been there, but you just
5 don't remember seeing him?

6 A. I just don't remember seeing him.

7 That does not mean he wasn't there.

8 Q. Did you see -- do you know Officer Williams?

9 A. Officer Brian Williams?

10 Q. Yes.

11 A. Yes, sir, I know him.

12 Q. How long have you known officer Brian
13 Williams?

14 A. At the time of the incident?

15 Q. Yes.

16 A. At the time of the incident, I probably have
17 known him a little less than a year.

18 Q. Did you see him at the scene?

19 A. I may have.

20 Honestly, at this point, I can't recall
21 exactly who I saw.

22 Q. Do you know Officer Swift; John Swift?

23 A. Yes, I do.

24 Q. Did you see Officer Swift at the scene?

25 A. No, I did not see him at the scene.

0116

1 I don't recall seeing him at the scene, I'm
2 sorry.

3 Q. How about officer Matthew Gillespie?

4 A. Matt Gillespie.

5 I don't personally recall seeing him at the
6 scene.

7 Q. Officer Masciocchi, who testified earlier; do

8 you recall seeing him at the scene?

9 A. No, I don't recall seeing him at the scene,
10 sir.

11 Q. Do you recall the names -- and I may have
12 asked you this; if I did, I apologize.

13 Do you recall the names of the officers that
14 you instructed to line up in order to control the
15 crowd; do you recall who those officers were?

16 A. No, sir; not specifically.

17 Q. How many officers -- you're from the 24th
18 District; is that correct?

19 A. At the time of the incident I was assigned to
20 the 24th District, sir.

21 Q. How many officers do you recall that was under
22 your supervision at the 24th?

23 How many officers do you recall were there
24 from the 24th?

25 A. It's hard to say, sir, because I didn't see

0117

1 everybody that was there.

2 Q. Do you recall specifically the names of the
3 officers that were assigned to the 24th at the
4 time?

5 A. That would be hard for me to say who was
6 assigned there and who was working.

7 Q. Do you remember any officer at all that was
8 there that you could give us a name to?

9 A. No. Because I could say I know officers were
10 assigned there, but I can't specifically place them
11 as being at that incident on that night.

12 Q. Fair enough.

13 Nothing else.

14 Thank you, Sergeant.

15 -----

16 PRESIDING OFFICER NIX:

17 Commissioner Jordan, do you have
18 any questions for the Sergeant?

19 COMMISSIONER JORDAN: Yes, I have
20 quite a few questions of the Sergeant.

21 -----

22 *EXAMINATION BY COMMISSIONER JORDAN*

23 Q. Sergeant, at the time were you Highway Patrol?

24 A. No, sir, I was not.

25 Q. It was what district at the time?

0118

1 A. I was assigned to the 24th District, sir.

2 Q. You said that you was in plainclothes?

3 A. Yes.

4 Q. Were you on duty that day?

5 A. Yes, sir, I was.

6 Q. And you were doing undercover work at the
7 time?

8 A. Yes, sir.

9 I was supervising the Tactical Narcotics Team,
10 as well as other tactical officers.

11 Q. So when you arrived on the scene of the
12 incident, you noticed a large crowd of people;
13 correct?

14 A. Yes, sir.

15 Q. Roughly how many people did you see?

16 A. As I approximated earlier, sir, approximately
17 100, 150, civilians.

18 Q. And when you was called, was you called on an
19 assist officer?

20 A. That is correct, sir.

21 Q. So wouldn't normally -- if you was going to be
22 assisting an officer, a crowd control incident,
23 wouldn't you come out with your nightstick?

24 A. Initially, sir, what happened, sir, my visual
25 observation of the scene when I arrived, I did not

0119

1 think that it was necessary for me to use my
2 nightstick.

3 Q. But normally wouldn't you come out with a
4 nightstick?

5 A. Normally if the crowd is unruly, sir, or if
6 there are still ongoing conflicts; yes, sir.

7 Q. And how did you identify yourself as a
8 officer?

9 A. My badge.

10 Q. Your badge was outside your clothing?

11 A. Yes, sir.

12 Q. So the young lady that you later on arrested
13 and that was throwing her fists up against you, she
14 did notice that you had a badge in front of you?

15 A. I honestly can't say what she did or did not

16 notice, sir.

17 The badge was visible to anybody in front of
18 me, or anywhere within --

19 Q. Plain view?

20 A. Close range.

21 Q. You said you noticed her throwing her fists
22 up?

23 How close would you say you were to this
24 lady?

25 A. To?

0120

1 Q. To the lady that you arrested.

2 A. I would say within 5 feet, sir.

3 Q. Five feet?

4 A. Yes, sir.

5 Q. And you arrived on the scene.

6 When you arrived on the scene, she had to
7 notice your badge on the front of you, but she kept
8 throwing up her fists towards you.

9 Was it only you she threw the fists up
10 towards, or was there other officers in your
11 surrounding area that she could have thrown her
12 fists up to?

13 A. I'm sorry, I don't think I understand the
14 question, sir.

15 Q. In other words, when you arrived on the scene,
16 sir, and you had your badge sitting in front of you
17 in plain view sight, was there other officers
18 within three or four feet, or four or five feet,
19 surrounded by you, and she could had been throwing
20 up her fists up towards them as well as you?

21 A. Um, the incident we're talking about, sir,
22 took place a little bit after I initially arrived
23 on the scene.

24 At the point of contact that we're talking
25 about, sir, I had gotten to the front of the

0121

1 establishment and I had made an announcement to
2 have the people that were in the party to go back
3 inside, or please disperse.

4 At this point, we formed a line, the officers
5 that we were with, we shoulder-to-shoulder, and
6 were moving individuals west on Luzerne Street to

7 get them out of the area.

8 She was maybe 5 feet in front of me.

9 When she turned, in my approximation she was
10 turning directly towards me.

11 She was facing me, and it was my opinion she
12 was looking right at me.

13 There were officers next to me.

14 Again, in my interpretation, she was turning
15 towards me.

16 Q. Then, therefore, if you and the other officers
17 formed a line, wouldn't you have recognized one of
18 the officers?

19 A. Yes, sir.

20 Q. Okay.

21 Then you did recognize other officers that was
22 there that was present?

23 A. Sir, I am sure that the majority of officers
24 that were there that night are officers that I
25 know.

0122

1 My recollection of exactly who was there, who
2 was with me, I couldn't sit there and tell you
3 such-and-such officer was there.

4 On my part it would be guessing because I
5 don't recall exactly who was there that night.

6 Q. But if you all formed a line, and you was very
7 close to one another, you surely would look to your
8 right or to your left, you would have recognized
9 someone; am I correct?

10 A. I would recognize any officer that was there,
11 sir.

12 I'm sorry, I may not be understanding what
13 you're trying to ask me.

14 Q. I'm trying to bring up the fact that you had
15 to recognize one of the officers that was standing
16 close to you.

17 You would have known one of the officers that
18 was standing close to you if you had all had formed
19 a line.

20 You would have looked right, you would have
21 looked left, and you would have known one of the
22 other officers standing close to you?

23 A. That is correct, sir.

24 I'm not disputing that.

25 Q. Well, therefore, when you arrested this lady,
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1 was there a daughter or someone saying that "you
2 arrested my mom," and she -- while you were trying
3 to put her in the wagon, "why are you putting her
4 in the wagon, she didn't do anything."

5 Was there anyone involved with the scuffle at
6 the time that you arrested this lady?

7 A. No.

8 This young lady was in her late teens, early
9 20's.

10 I don't remember anybody saying -- referring
11 to her as their mother.

12 Q. Okay.

13 When you arrested her, you arrested her for
14 throwing her fists up towards you in a threatening
15 manner; is that correct?

16 A. That's the reason I took her into custody.

17 Q. And you handcuffed her and escorted her
18 directly to the wagon?

19 A. I had other officers escort her to the wagon.

20 Q. And you stayed in the crowd along with the
21 barrier line that you was connected to?

22 A. I'm sorry, along with?

23 Q. With the line of officers that you all had
24 connected each other to.

25 A. Yes.

0124

1 Q. Was she the only young lady arrested?

2 A. From what I have learned after the incident,
3 no, she was not the only individual arrested.

4 She was the only person I personally arrested.

5 She was the only person I observed being
6 arrested on that night, sir.

7 Q. Then how many people from your unit would you
8 have said was there from your unit, from the
9 immediate unit, that you recognized?

10 A. Sir, I don't know if I'm being unclear.

11 I'm sure because of the division where the
12 officers that were assigned to that area I would
13 probably recognize the majority; people that were
14 there on that night.

15 Right now I personally cannot actually sit
16 here and tell you Officer A, Officer B, Officer C;
17 individually who was there.

18 If you give me a list of names, I could tell
19 you the people that I know and the people that I
20 recognized, which would be probably most of the
21 people that were there that night.

22 Q. Okay.

23 Now, this young lady, she was arrested later
24 on?

25 A. Yes.

0125

1 She was detained and released without charges.

2 Q. Do you know of anyone else that might have
3 been released without charges?

4 A. No, sir; not that I'm aware of.

5 COMMISSIONER JORDAN: Nothing
6 else.

7 -----

8 PRESIDING OFFICER NIX:

9 Commissioner Stapleton, do you
10 have any questions for the Sergeant?

11 COMMISSIONER STAPLETON: Yes.

12 -----

13 *EXAMINATION BY COMMISSIONER STAPLETON*

14 Q. Sergeant, in November of 2005 you were a
15 sergeant in the 24th District?

16 A. That is correct, sir.

17 Q. Let me ask you the same question that I asked
18 Sergeant Seeger: When you arrived on the scene,
19 who was in charge?

20 A. As far as the police personnel, or --

21 Q. Correct.

22 A. I don't think that any particular individual
23 was identified as being in charge.

24 Usually in situations like that, everybody's
25 primary goal is to restore order. And different

0126

1 supervisors that may have been there may have taken
2 different routes.

3 I explained what I did and why in order to try
4 to alleviate future problems.

5 Q. We understand that there were at least two

6 lieutenants on the scene.

7 When you arrived, were you in a marked car
8 first?

9 A. No, sir.

10 I was in an unmarked car.

11 Q. Did it have a dome light?

12 A. It had a dashboard light, sir.

13 Q. When you arrived, someone would recognize this
14 was unmarked; whether or not they knew it was from
15 the 24th District, you would notice that police
16 personnel was on the scene?

17 A. Yes.

18 Q. You get out and have a badge identifying you
19 as a police officer?

20 A. Yes.

21 Q. So the officers would know, at least?

22 A. Actually, it would be any police officer.

23 Q. So you could tell someone in the 25th District
24 who had come to the scene to do something, and they
25 would have to follow your direction because of your
0127

1 rank?

2 A. Unless they were given another assignment by
3 another supervisor, yes.

4 Q. And the lieutenants would also be able to tell
5 you what to do on the scene and direct you in this
6 chain of command?

7 A. Yes, sir.

8 Q. So when you get there, you're not looking
9 around to see if there's a lieutenant to find out
10 what your instructions are, you're looking for
11 officers to direct you and make an assessment about
12 crowd control, and you start moving people west on
13 Luzerne Street, which on that photograph they would
14 be moving from your right to the left?

15 A. Yes, sir.

16 Q. So you get other officers from the 24th
17 District. And, as we understand it, at least the
18 testimony we have heard so far, unless the officers
19 had a baton under their arm or in a position
20 horizontal chest level we understand would be used
21 to move a crowd in that direction?

22 A. If they were taking that action.

23 If they weren't taking any action, it would be
24 under their arms.

25 Q. So you get in this line, you don't have a
0128

1 baton, and you're moving people in that direction?

2 A. That's correct, sir.

3 Yes, sir.

4 Q. One of the people being moved in that
5 direction turns around and makes a threatening
6 gesture to the people in that line, am I correct,
7 or to you specifically?

8 A. Yes, sir.

9 Q. And without a baton, your response was to
10 close the gap between you and this woman and cuff
11 her?

12 A. Initially what I did was I reached in and I
13 pulled her away from the group, to the car that was
14 sitting there, turned her around, leaned her over
15 the car, and put her in cuffs; yes, sir.

16 Q. So were you close enough at that point, as
17 you're moving the crowd west on Luzerne with the
18 other officers, to pull her towards you as she put
19 her fist out as if she was going to confront you or
20 to resist the movement west on Luzerne?

21 A. No, sir.

22 She put her fists up prior to me taking her
23 out of the crowd.

24 Q. And at that point I'm trying to understand
25 whether she's an aggressor coming to you or you
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1 identified her as an aggressor and go to her and
2 remove her from this crowd.

3 A. I identified her as an aggressor and possibly
4 inciter. For that reason I removed her from the
5 crowd and took her into custody.

6 Q. At that point, do you give instructions to the
7 other officers who are below in rank to continue to
8 do something while you take her to the wagon to
9 control her?

10 A. I don't recall specifically giving any
11 instructions.

12 They continued to push the crowd.

13 An officer -- two officers -- I'm not sure if

14 there was one or two -- was instructed to take her
15 to the police wagon, and I rejoined the group of
16 officers moving west.

17 Q. When you ultimately leave the scene, you're
18 going back to the 24th District because you've put
19 somebody under arrest, obviously in handcuffs.

20 At that point, you need to go back to the
21 station to complete paperwork.

22 Would that be the protocol?

23 A. Yes.

24 Q. Do you report to the lieutenant from the 24th
25 District at that point and let him or her know you

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1 have made an arrest, that you're not going to
2 continue your designated assignment that night,
3 which was to cover a tactical narcotics group, but
4 instead go back to the precinct to do the paperwork
5 for the person you arrested?

6 A. I did not report back to them.

7 Partially the reason, I believe this incident
8 took us to the end of our tour and we were going to
9 be leaving anyway. But I did have to go back to
10 headquarters to complete paperwork before I went
11 home that night.

12 Q. You're not letting anybody know you made an
13 arrest?

14 I'm not being critical; I'm trying to
15 understand the process in this chain of command,
16 because we have a lot of people and a lot of
17 officers, and there seems to be a lot of moving
18 parts.

19 I, at least, initially couldn't understand who
20 is in charge of this process; whether there's some
21 kind of method.

22 So when you come on the scene, you have this
23 rank lieutenant, sergeant, down to patrol officers.

24 Who is taking control and saying you go here.

25 As I understand it, we have overlaps of

0131

1 officers from the 25th District now assigned in the
2 24th District?

3 A. Yes.

4 Q. Are there any highway guys there that night?

5 A. There may have been, sir.

6 I honestly couldn't tell you.

7 Q. When you go on the scene, does someone tell
8 you what to do, or --

9 A. As highway patrol supervisor?

10 Q. Yes.

11 As a Sergeant in Highway, if you were to come
12 to the scene, would you look for a lieutenant, or
13 would you be looking Highway people?

14 I'm trying to understand who is running the
15 show here.

16 A. I understand. I think I understand what
17 you're asking, sir.

18 What it seems like in this situation, it was a
19 very fluid situation.

20 Generally officers are trained that, as a
21 police officer, a law enforcement officer, the
22 course of conduct is necessary to alleviate
23 whatever the problem is.

24 You're supposed to be able to train people to
25 be able to recognize that and take the proper

0132

1 action.

2 If it's an action that can be taken by one
3 police officer, then that officer will take it.

4 If it's two officers, then they're supposed to
5 take that action.

6 Once again, with a number of supervisors
7 there -- again, I can speak from my evaluation of
8 the incident -- you try to disperse the crowd so
9 there wouldn't be any future problems.

10 I tried to move this group of individuals,
11 have them dispersed, so there wouldn't be a flareup
12 of possible combatants in this area.

13 Evaluation by all the supervisors that may
14 have been on the scene may have been what they saw.

15 I can't tell you what they saw, especially if
16 they got there before I got there.

17 Maybe they had a different evaluation of the
18 scene and what was necessary to help take care of
19 this incident.

20 Q. We are trying to figure out if this happens
21 again, things we can recommend to help you guys in

22 this situation.

23 One of the things I'm just puzzled by is the
24 at least seeming absence of any kind of
25 coordination.

0133

1 But, I mean, as I understand what you're
2 saying, you're coming on the scene and making
3 separate assessments.

4 So there's a Sergeant Seeger doing his thing,
5 and you're doing your thing; there's lieutenants
6 there who are doing other things.

7 But there's not one person who has, in a
8 situation like this, control and running around, "I
9 want you here:" I want you here. I want you
10 there," or bringing resources in to deal with this.

11 A. If necessary, the lieutenant, if he felt it
12 was necessary for him to notify Command, he would
13 make an announcement over the air and probably have
14 everybody take a certain action, or meet at a
15 certain location, or whatever he felt was
16 necessary, if he determined it was necessary.

17 That's what he would do.

18 If he was there and a captain showed up, and
19 the captain, being the highest ranking person
20 there, would make a determination and take action
21 he or she saw was necessary.

22 Q. As you're moving the crowd west on Luzerne,
23 and this woman makes a threatening motion to you,
24 could you have instructed one of the officers in
25 the line to use the baton in a pushing

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1 (indicating), and just push her back? Or is it
2 your call to say, "I'm taking her in; I'm bringing
3 her out of the crowd."

4 A. It was my call.

5 If I had wanted to, I could have had an
6 officer do that.

7 Again, I didn't think it was necessary because
8 the crowd was -- the crowd was moving slowly. They
9 were moving. Generally everyone was complying.

10 This young lady, again, in my opinion, it was
11 a threatening motion to me, and I was looking at it
12 as trying to resolve any future problems.

13 I didn't want her to embolden anybody else,
14 that this person might turn around and decide to do
15 this, or take it a step further and strike another.

16 I was just trying to avoid that problem.

17 Q. That's helpful.

18 I think I have a good understanding as you're
19 moving down Luzerne and have you one person you
20 single out and maybe make an example of in front of
21 that crowd, bringing her out, and that's sending a
22 message that you're serious about moving people
23 away, and you're not going to let somebody say, no,
24 I'm not moving and try to push it back.

25 Fair enough.

0135

1 Thank you.

2 -----

3 PRESIDING OFFICER NIX: Any more
4 questions?

5 COMMISSIONER JORDAN: Yes.

6 -----

7 *EXAMINATION BY COMMISSIONER JORDAN*

8 Q. Sergeant, from my experience of seeing police
9 and activities, I know when there's a situation,
10 and it's a crowd situation, and other officers
11 arrive onto the scene, it seems like the highest
12 ranking officer, everyone looked towards that
13 person, that highest ranking officer, to give the
14 commands.

15 So this particular night or particular day
16 this incident happened when you arrived on the
17 scene, you didn't look towards the highest ranking
18 person for the commands, you just took it upon
19 yourself to initially do what you was trained to
20 do?

21 A. Sir, as the supervisor in the department, I'm
22 trained and required to make decisions when
23 someone -- based on my evaluation, something needs
24 to be done. Especially as a supervisor it's pretty
25 much my job to make that initial decision and get

0136

1 the ball rolling as far as dealing with that
2 particular situation.

3 Once again, if a lieutenant decided I was

4 taking inappropriate course of action, or he
5 decided that a different course needed to be taken,
6 he would make me and any other sergeant that was on
7 location aware of that, and we would regroup and
8 take the course of action he determined was
9 necessary.

10 Q. At the time of this incident was you the front
11 line supervisor?

12 A. I was, yes.

13 Q. That's all. I just was curious. That gives
14 me an idea of your taking charge and taking command
15 of the position that you had fulfilled at the time.

16 So being the front line supervisor you
17 wouldn't normally have to do that?

18 A. No, sir.

19 Q. The other thing I wanted to bring out was you
20 did recognize the officer that was on the side of
21 you?

22 A. Again, sir, I would recognize the officer.

23 But, to be honest with you, my focus was not
24 on the officers and identifying who they were; my
25 focus was on dispersing this crowd and avoiding any

0137

1 future problems.

2 Q. Your focus was on that?

3 A. Yes, sir.

4 Q. But as you formed the line, an alliance of
5 officers that was there, your focus had to be on
6 who was on the side of you at the time when you was
7 -- who was on the left of you at the time; your
8 focus had to look at both sides and say, "Oh, Bob
9 and Bill, let's get this line going." Am I correct?

10 A. Actually, sir, on the right side was the
11 fence.

12 I just grabbed a group of officers in the
13 area.

14 I couldn't even actually tell you if they were
15 all from the 24th or from the 25th. I don't know.
16 I just grabbed some officers up.

17 And then, again, that was my focus, that was
18 my attention. That's all I was doing, sir.

19 COMMISSIONER JORDAN: Thank
20 you very much for your testimony.

21 -----
22 PRESIDING OFFICER NIX: I just
23 have a few more questions.

24 -----
25 *EXAMINATION BY PRESIDING OFFICER NIX*
0138

1 Q. Sergeant Fraser, just two quick questions.
2 When you formed that line and you were pushing
3 people and moving them in a direction and there was
4 a line of police, what was behind you; was there
5 more people and more civilians all milling about?

6 A. I would have to say that there were civilians
7 and officers behind me.

8 There were people in the whole general area
9 all over the place.

10 But this was -- to me, the greatest
11 concentration of people were right in front of the
12 establishment. And, again, I just wanted to
13 disperse them.

14 Q. When you were focused in the direction you
15 were moving people, did anybody bump into you from
16 behind you?

17 Any civilians bump into you?

18 A. No, sir; not that I recall.

19 Q. And the last question is really simply
20 following on Commissioner Stapleton, and that is:
21 Is there the possibility of conflicting commands
22 when there's a number of supervisors?

23 You have a group, you're taking them this way,
24 and there's other sergeants, and they're deciding
25 to move people this way.

0139
1 Is there the possibility that there could be
2 conflicting; they're going to move this one group
3 this way, and another one that way into each other?

4 Has that happened, in your experience, when
5 there isn't a central --

6 A. Yes, sir.

7 There's always the possibility of something
8 like that taking place.

9 I do not see the potential for that to happen.

10 Here, again, I started in front of the
11 building, the banquet hall, and I was moving people

12 away.

13 If the other supervisors moved people away,
14 they would have been moving them east and south,
15 and we would not have ran across each other in that
16 manner.

17 Q. Thank you.

18 PRESIDING OFFICER NIX: Anything
19 else?

20 MR. YOUNG: I have three
21 questions.

22 -----

23 *EXAMINATION BY MR. YOUNG*

24 Q. Sergeant, I apologize. I know it's getting
25 late.

0140

1 A. No need to apologize, sir.

2 Q. We just want to make sure that we have these
3 answers for the record.

4 When you were handcuffing the young lady, was
5 there any other civilian that came in her defense
6 and said, "Don't arrest her," or, "What are you
7 doing," or anything like that?

8 A. I don't recall anybody else trying to stop me
9 from handcuffing her, sir.

10 Q. The other question is:

11 How long have you been a police officer?

12 A. Currently, January will be the end of my 11th
13 year.

14 Q. Eleventh?

15 A. Yes, sir.

16 Q. Last question: How long have you been a
17 supervisor?

18 A. Supervisor, six years.

19 Q. Nothing else. Thank you.

20 -----

21 PRESIDING OFFICER NIX: Sergeant
22 Fraser, thank you for your time, patience, and
23 testimony tonight.

24 We appreciate it.

25 Thanks for coming in.

0141

1 You're excused.

2 And we will recess until tomorrow

3 night.
4 (Hearing concluded: 9:15 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings
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-and-
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