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1 POLICE ADVISORY COMMISSION  
2  
3 INVESTIGATIVE REPORT IN THE MATTER OF:  
GRUPO FUEGO

4  
5 COMMISSION FILE NO: 061678-90  
6 I.A.D. FILE NO.: 05-1171  
7 - - -

8 Tuesday, 13 November 2007  
9 City Council Chambers  
City Hall-Room 400  
Philadelphia, Pennsylvania

11 \*Six O'clock in the evening\*  
12 - - -

13 BEFORE: ROBERT NIX, Presiding Officer  
14 COMMISSIONER JOSEPH T. STAPLETON, ESQ.  
COMMISSIONER OSCAR ROSARIO

15  
16 APPEARANCES:  
17 DENNIS G. YOUNG, ESQUIRE  
Counsel to the Police Advisory Commission  
18 - - -  
19 GERARD S. STANSHINE, ESQUIRE  
TIMOTHY L. STRANGE, ESQUIRE  
20 Counsel to the Philadelphia Police Officers' Union  
21 - - -

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1 I N D E X  
2 - - -

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4 WITNESSES:  
5  
6 Detective Matthew Gillespie  
7 By Mr. Young: Page 10, 40  
8 By Commissioner Rosario: Page 31  
9 By Commissioner Stapleton: Page 31, 44  
10 By Presiding Officer Nix Page 35  
11  
12 Police Officer Raymond Diaz  
13 By Mr. Young: Page 47, 73  
14 By Commissioner Rosario Page 65  
15 By Commissioner Stapleton: Page 67  
16 By Presiding Officer Nix: Page 69, 77  
17  
18 Police Officer Mary Powell  
19 By Mr. Young: Page 78, 107  
20 By Commissioner Stapleton: Page 100  
21 By Presiding Officer Nix: Page 102

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23  
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1 PRESIDING OFFICER NIX:

2 Good evening, ladies and

3 gentlemen. My name is Robert Nix.

4 I am a member of the Philadelphia

5 Police Advisory Commission, and I am the

6 Presiding Officer of the panel hearing

7 established to receive testimony and evidence

8 in the matter of Grupo Fuego, designated as

9 Police Advisory Complaint No. 061678-90.

10 Also participating this evening

11 are panel members Joe Stapleton, and Oscar

12 Rosario, both fellow members of the

13 Philadelphia Police Advisory Commission.

14 Counsel to the panel this evening

15 is Dennis Young.

16 Before we call the panel hearing

17 to order, I would like us to take a moment of

18 silence in memory of Officer Cassidy.

19 -----

20 (Moment of silence)

21 -----

22 Thank you.

23 And on behalf of the Philadelphia

24 Police Advisory Commission, our condolences go

25 out to the entire Department on the loss of

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1 your coworker.

2 I will call now this panel

3 hearing to order.

4 This hearing will be conducted

5 in accordance with the duly-adopted rules of

6 the Philadelphia Police Advisory Commission.

7 The rules which apply to panel

8 hearings of the Police Advisory Commission

9 states state as follows:

10 Prior the giving testimony.

11 Ordinarily, the initial examination of counsel

12 or his designee will be done by counsel or his

13 designation counsel of his designation.

14 At the conclusion of counsel's

15 questioning, panel members may question the

16 witness 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 accompanied and advised by an attorney. But

21 the attorney may not of record otherwise

22 participate in the 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 this  
3 condition shall be sufficient grounds for  
4 exclusion of the attorney from any further  
5 participation in the hearing.

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

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

17 To sequester means that the  
18 witnesses will be in another room, and will  
19 not be permitted to hear the testimony of any  
20 other witness until after their own testimony  
21 is completed.

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

24 It is an important matter to the  
25 participants;

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1 It is an important matter to the  
2 citizens of Philadelphia;

3 And, as such, everyone in  
4 attendance is asked to refrain from any  
5 outburst or expressions of emotion in order to  
6 maintain the dignity of the process so that  
7 this proceeding can be conducted with the same  
8 respect as accorded a judicial tribunal.

9 In that regard, I request that  
10 everyone remain seated during the testimony,  
11 and that all cell phones be turned off or onto  
12 vibrate.

13 I think before we start it's  
14 economical if we could swear in all of the  
15 witnesses at once. And if Mr. Stanshine, you  
16 can advise them of their Garrity warnings at  
17 the same time.

18 Are all the witnesses here  
19 present?

20 -----

21 (Detective Matthew Gillespie, Officer Raymond Diaz,  
22 Officer Mary Powell, sworn)

23 -----

24 PRESIDING OFFICER NIX:  
25 Would you be so kind,

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1 Mr. Stanshine, to administer the Garrity  
2 warnings?

3 MR. STANSHINE: Officers, you're  
4 aware -- and, Detective -- you're here today  
5 because you've been subpoenaed by the Police  
6 Advisory Commission through the Police  
7 Department, and you've all received subpoenas;  
8 is that correct?

9 DETECTIVE GILLESPIE: Yes.

10 OFFICER DIAZ: Yes.

11 OFFICER POWELL: Yes.

12 MR. STANSHINE: That, in addition  
13 to receiving your subpoenas, you have been  
14 instructed by your Captains or Commanders that  
15 you need to be here today, regardless of what  
16 shift you're working, and you need to give  
17 testimony as required by the subpoena; is that  
18 correct?

19 DETECTIVE GILLESPIE: Yes.

20 OFFICER DIAZ: Yes.

21 OFFICER POWELL: Yes.

22 MR. STANSHINE: Do you understand  
23 that by being subpoenaed today that the Police  
24 Department, and through Commissioner Sylvester  
25 Johnson, and before him Commissioner Timoney,

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1 and now the current Mayor, when the commission  
2 was first set up, that they would have the  
3 right to have any officers come and testify in  
4 front of them as to matters before the  
5 Commission.

6 That, as a result of that, your  
7 testimony here today is compelled. That is,  
8 you're forced to give testimony today because  
9 you are under subpoena, directed by the  
10 current police commissioner, as well as by the  
11 courts that have interpreted the commission's  
12 power to subpoena you.

13 Do you understand?

14 DETECTIVE GILLESPIE: Yes.

15 OFFICER DIAZ: Yes.

16 OFFICER POWELL: Yes.

17 MR. STANSHINE: Do you also  
18 understand that there's a U.S. Supreme Court  
19 case called Garrity which says that police  
20 officers can be compelled to testify at a  
21 hearing such as this, and that when you do  
22 testify at risk of job dismissal or job  
23 suspension it's considered compelled  
24 testimony.

25 Do you understand that?

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1 DETECTIVE GILLESPIE: Yes.

2 OFFICER DIAZ: Yes.  
3 OFFICER POWELL: Yes.  
4 MR. STANSHINE: Do you understand  
5 that because you are subpoenaed and you have  
6 been so instructed by your Commanders, this  
7 would be compelled testimony; you must comply  
8 and answer all questions put to you by the  
9 Board?  
10 DETECTIVE GILLESPIE: Yes.  
11 OFFICER DIAZ: Yes.  
12 OFFICER POWELL: Yes.  
13 PRESIDING OFFICER NIX: Thank  
14 you.  
15 Mr. Young, are you prepared to  
16 call your first witness?  
17 MR. STANSHINE: I believe that the  
18 two officers are sequestered and will remain  
19 outside.  
20 MR. YOUNG: Mr. Melendez, would  
21 you escort them out, please?  
22 Detective Gillespie, please.  
23 -----  
24 DETECTIVE MATTHEW GILLESPIE, Badge No. 829,  
25 Northwest Detective Division, after having been  
0010  
1 previously sworn, was examined and testified as  
2 follows:  
3 \*EXAMINATION BY MR. YOUNG\*  
4 Q. Good evening, Officer Gillespie.  
5 Would you state and spell your first and last  
6 name for the record, please.  
7 A. Police Detective Matthew Gillespie;  
8 G-I-L-L-E-S-P-I-E.  
9 Badge 829.  
10 Q. What district do you work out of?  
11 A. I am a Detective now assigned to the Northwest  
12 Detective Division.  
13 Q. Again, my name is Dennis Young. I am counsel  
14 for the Police Advisory Commission.  
15 And as you know, you're here to give testimony  
16 in regard to an incident that happened back on  
17 November 11th, 2005, which is in front of the  
18 Police Advisory Commission as a formal complaint.  
19 Do you do understand that?  
20 A. I do.  
21 Q. I would assume because of your status as a  
22 detective and an officer that you're aware of the  
23 court proceeding.  
24 You're aware that there's a court stenographer  
25 here, and all the informal rules that go along with  
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1 it?  
2 A. I am.  
3 Q. So we'll get right to the point.

4 You have an opportunity to give an opening  
5 statement of up to five minute before I begin my  
6 questioning session.

7 Would you like to give an opening statement?

8 A. No, I don't.

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

10 Once I get done, the panel members seated to  
11 my left may also have some questions for you.

12 Is that okay?

13 A. Okay.

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

16 A. I was working the 4:00 p.m. to midnight tour  
17 of duty.

18 Q. And what was your assignment?

19 A. I was assigned to Radio Patrol Car 246.

20 Q. And at some point during the course of your  
21 assignment duty, you were called to a -- I guess an  
22 incident at Dianna's Ballroom.

23 Do you recall that?

24 A. I do.

25 Q. Could you tell the panel what happened when

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1 you arrived on scene?

2 A. When I received on scene, I observed a large  
3 crowd, appeared to be juveniles, approximately 60  
4 to 70. And there was only three or four other  
5 police officers on location.

6 At that point, I proceeded to the middle of  
7 the block, the south side corner, where those three  
8 police officers were, to help disperse the crowd.

9 I began use voice commands to tell the crowd  
10 to disperse.

11 At that point, I turned around to face the  
12 front of the building, when I couldn't even tell  
13 you how many -- just -- it looked like a tidal wave  
14 of people came running out of this building, all in  
15 my direction.

16 At that point I notified police radio of the  
17 situation, and they instituted an assist, which  
18 meant all officers in the district and the  
19 neighboring district proceed up there.

20 Q. So you were one of the first responding  
21 officers?

22 A. In my estimate, I was probably the fourth or  
23 fifth one there.

24 Q. Go ahead.

25 A. Um, at that point, radio acknowledged my

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1 assist.

2 More police cars began arriving from all  
3 directions; from the neighboring 25th District to  
4 26th District.

5 And we began -- as best we could, since we

6 were outnumbered -- to disperse the participants of  
7 the dance hall from the area.

8 Q. You mentioned that at some point a bunch of  
9 students or people came running out of the  
10 ballroom?

11 A. Yes.

12 Q. At that time, can you give us an estimate of  
13 how many people we're talking about?

14 A. From what I saw, easily probably about 100 or  
15 so.

16 Q. And at that time that you saw about 100  
17 people, how many officers were on scene at that  
18 time?

19 A. Four or five.

20 Q. And you mentioned that officers obviously  
21 responded, additional officers responded, as an  
22 assist?

23 A. Correct.

24 Q. Do you how many officers finally showed up?

25 A. I can't give you an exact number. I just know

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1 the two surrounding districts initially showed up.

2 Q. Just to step back, you said that you saw an  
3 officer or officers that appeared to need  
4 assistance?

5 A. Correct.

6 Q. What officer was that that needed assistance?

7 A. I don't recall the officer's name.

8 Q. Was it more or more than one officer?

9 A. I observed two to three officers.

10 If you look at the picture over there on  
11 the -- see where the parking lot is, to the south  
12 of the building (indicating)?

13 Q. Sure.

14 A. They were directly across the street from the  
15 front entrance of the building, up against that  
16 fence (indicating).

17 Q. So about here (indicating)?

18 A. Correct, right there.

19 Q. And there were three or four officers.

20 Do you know if they were facing the ballroom  
21 or if they were facing the parking area?

22 A. They were facing -- each were facing a  
23 different direction, because the people were coming  
24 at them from all different directions.

25 Q. Okay.

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1 And because there were only two or three  
2 officers or three or four officers and there were a  
3 whole bunch of people, you felt as though the  
4 officer needed assistance?

5 A. Yes.

6 Q. What did you do to assist the officers?

7 A. Exited my vehicle with my baton. Proceeded

8 over there. And, using voice commands, told  
9 everyone to disperse, which several people did.  
10 Put my baton in a tactical position under my  
11 arm with my hands up, and proceeded to physically  
12 move people with my hands along, telling people to  
13 move.  
14 Q. So when you exited your car, your baton was in  
15 your hand?  
16 A. It actually was underneath my arm.  
17 Q. Is that how were you trained to hold your  
18 baton?  
19 A. Yes.  
20 Q. And did you use your crowd control methodology  
21 with your hands?  
22 A. Yes.  
23 Q. Could you please show the panel how you were  
24 holding the baton and using your hands?  
25 A. Sure.

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1 I'll stand up, if you don't mind.  
2 I just placed my baton underneath my armpit  
3 (indicating), and just told everyone, "Back up,  
4 back up. Go home." Which some people listened and  
5 others didn't.  
6 Q. At any point during the incident did you have  
7 to use your baton in a crowd control manner?  
8 A. I had it up at that point, but I didn't touch  
9 anybody with it.  
10 Q. So at some point it came from your armpit in a  
11 raised position across your chest?  
12 A. I believe so.  
13 Q. With both hands on it, as I'm demonstrating  
14 (indicating)?  
15 Do you remember?  
16 A. Possibly.  
17 Q. If you don't remember, just say you don't  
18 remember.  
19 I don't want to you guess.  
20 A. I don't remember.  
21 Q. Is that a formal technique that you in terms  
22 of training that you were taught to use in the  
23 Academy --  
24 A. Yes.  
25 Q. -- or through any other trainings that you

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1 had?  
2 A. The Police Academy does teach crowd control.  
3 Q. At some point during this incident, you came  
4 in contact with at least one young lady; is that  
5 correct?  
6 A. Yes.  
7 Q. Do you remember her name?  
8 A. I don't recall.  
9 Q. If I told you it was a Miss Panero, does that



10 ring a bell?  
11 A. Yes.  
12 Q. Can you tell the panel what happened between  
13 you and Miss Panero?  
14 A. Sure.  
15 I was standing -- again, at this time, I was  
16 back across the street in -- actually, directly in  
17 front of the ballroom, on the ballroom side of the  
18 street.  
19 And I saw Miss Panero --  
20 Q. So you were here (indicating)?  
21 A. Correct.  
22 Q. Okay.  
23 A. And there's a driveway in between the ballroom  
24 and that other building (indicating).  
25 Q. To our left?

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1 A. Right where the mouse is, right there  
2 (indicating).  
3 There was -- Miss Panero seemed like she was  
4 arguing and yelling with another female, and there  
5 was a crowd there forming.  
6 And at that time Sergeant Fraser, who was a  
7 24th District sergeant at the time, he was there  
8 trying to separate the fight.  
9 He also was not in uniform.  
10 So I proceeded over there for a uniformed  
11 presence.  
12 As I made my way through the crowd over there,  
13 I lost sight of her.  
14 And when I came to where she was, there's a  
15 car which was parked, but it was idling. And I saw  
16 the driver put the car in reverse and start to back  
17 up.  
18 Q. When you say the car was parked, I am assuming  
19 that the car was parked on the street somewhere in  
20 this area (indicating); is that correct?  
21 A. No.  
22 The car was actually parked in the driveway  
23 with its rear facing the street.  
24 So, like, he just pulled in the driveway.  
25 She was lying to the left of the vehicle on

0019

1 the driver's side when I got to her, and the driver  
2 was beginning to back his car up, like he was  
3 trying to leave. So she was in the path of the  
4 vehicle.  
5 Q. So she was somewhat behind the car, but to the  
6 --  
7 A. She actually was lying directly next to the  
8 driver's side door and the driver's side rear door.  
9 But the driver was pulling out on an angle, so if  
10 he kept going, I felt he would have ran over her  
11 legs.

12 Q. So what did you do?

13 A. I came up behind her, picked her up by her  
14 arms, told her who I was, a police officer. She  
15 was irate and upset and cursing. Not at me  
16 initially, but just cursing and yelling.

17 I told her to calm down.

18 I told her I was a police officer. And I  
19 began to pick her up and walk her back away from  
20 that area.

21 And, at that point, she turned around behind  
22 her like this (indicating), and she spit in my  
23 face.

24 Q. When you say you tried to pick her up -- and I  
25 know you demonstrated, and I just want to get this

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1 for the record -- I would imagine she was lying  
2 down.

3 Was she on her back or --

4 A. She was on her stomach prone, and her arms  
5 were out, and her legs were out, and she was  
6 flailing around.

7 And I put my arms underneath her arms to pick  
8 her up, which I did, and I started to walk  
9 backwards.

10 Q. At that time, prior to picking her up, or  
11 during the course of picking her up, did you ask  
12 her why she was on the ground?

13 A. I did not.

14 Q. Did she say why she was on the ground?

15 A. I don't -- I don't recall if she did.

16 Q. Do you recall whether she offered any  
17 resistance in helping her up?

18 A. She did initially towards me, but it might  
19 have been hard for her to hear I was a police  
20 officer initially.

21 Q. I'm sorry if I interrupted you, but you left  
22 off at, I guess she turned around, and I'm not sure  
23 --

24 A. And as we proceeded to walk -- I was walking  
25 backwards down the driveway -- she turned and she

0021

1 spit in my face onto my cheek.

2 And at that point I placed her in handcuffs  
3 and put her in the patrol wagon, which was parked  
4 in the middle of the highway.

5 Q. Did you tell her she was under arrest?

6 A. I did.

7 Q. What was her reaction to that?

8 A. She was not pleased with it.

9 She was upset and irate.

10 Q. At the time that you started walking over to,  
11 I guess, the officer and the car in that area, can  
12 you give the panel an estimate of, at that time,  
13 how many civilians do you think were outside; how

14 much -- how many people were in the crowd at that  
15 time?

16 A. In my estimate, in the entire block, I would  
17 probably say close to 200, if not over; 225.

18 Q. So, again, just so I'm clear, when you were  
19 standing at the parking lot area here (indicating),  
20 at some point you walked over here (indicating)?

21 A. Yes.

22 Q. At some point you walked here (indicating)?

23 A. Yes.

24 Q. Can you give the panel an estimate of the time  
25 that lapsed between the time you went from here to

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1 here (indicating)?

2 A. Couple of minutes.

3 Two, three minutes.

4 Q. I believe it was your testimony that when you  
5 were in this area there was probably, roughly, 100  
6 people outside at that time?

7 A. They were coming -- either coming outside or  
8 standing on the highway.

9 Q. So, between the time that you went from here  
10 to here (indicating), it was probably another 100  
11 people that came out of the ballroom?

12 A. I would have to say so.

13 Q. But there were so many people that you lost  
14 sight of the officer that wasn't in uniform when  
15 you saw he may have needed a uniformed presence?

16 A. I didn't lose sight of Sergeant Fraser.

17 I lost sight of the female.

18 Q. That was because of the number of people  
19 outside?

20 A. Well, she was on the ground, and people were  
21 obstructing my view, yes.

22 Q. Was the car also obstructing your view or just  
23 people?

24 A. Obstructing my view of?

25 Q. Of the young lady that was on the ground, Miss

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1 Panero.

2 A. Once she was lying on the ground I couldn't  
3 see her.

4 Q. Was that because of the people that were  
5 outside, or because of where she was situated with  
6 respect to the car?

7 A. Once she -- I would have to say once she was  
8 lying on the ground, I couldn't see her anymore  
9 because of the car.

10 When she was standing, I could kind of see her  
11 through the crowd.

12 Q. You arrested Miss Panero; is that correct?

13 A. Yes, I did.

14 Q. Was she charged, do you know?

15 A. As far as I know, she was.

16 Q. You didn't do the charging of Miss Panero?  
17 A. No, I didn't.  
18 Q. Did you drive her to the District?  
19 A. The wagon did; I did not.  
20 Q. After you arrested Miss Panero, what did you  
21 do?  
22 A. Um, the wagon crew dropped Miss Panero off in  
23 the back of the District.  
24 I met her back there.  
25 I did all the proper necessary and paperwork

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1 that needed to be done.  
2 I informed her that she was, in fact, under  
3 arrest again.  
4 I told her why.  
5 And then I went and continued the rest of the  
6 paperwork that I needed to do.  
7 Q. So after you arrested Miss Panero, you left  
8 the scene in order to complete the arrest process  
9 of Miss Panero?  
10 A. Well, once she was handcuffed and in the  
11 wagon, I stood by -- next to the wagon for another  
12 couple of minutes because the events were still  
13 unfolding.  
14 Q. And other than standing by the wagon, did you  
15 do anything else?

16 A. No.  
17 Q. Did you go and help any of the officers who  
18 you believe may have needed assistance?  
19 A. No. I just stood by the wagon.  
20 Q. During the course of this incident, did you  
21 have any other contact, physical contact, with any  
22 other civilian?  
23 A. Another female -- I can't remember her name --  
24 came up to the wagon where I was, and Sergeant  
25 Fraser was there. And she was upset and yelling

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1 and screaming. And Sergeant Fraser had her  
2 arrested, too. And I opened the wagon doors and  
3 was there when she was arrested.  
4 Q. Do you know why she was upset and yelling and  
5 screaming?  
6 A. I can't recall.  
7 Q. Can you recall what she was saying?  
8 A. No.  
9 Q. Did Sergeant Fraser tell you why he wanted her  
10 arrested?  
11 A. He did not.  
12 He just told me to arrest -- that she was  
13 under arrest.  
14 Q. Was she already in handcuffs?  
15 A. At what point?  
16 Q. At the point that, I guess, she came -- at  
17 whatever point you initially saw her next to the

18 wagon, and at the point that Sergeant Fraser said  
19 to put her in the wagon.

20 A. No, I don't recall that, to be honest.

21 I -- I don't recall.

22 Q. Do you recall handcuffing her?

23 A. I don't recall handcuffing her.

24 Q. Do you recall whether you saw Sergeant Fraser  
25 handcuff her?

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1 A. I don't recall if I saw him do that, either.

2 Q. But you placed her in the wagon?

3 A. I opened the doors and helped her into the  
4 wagon.

5 Q. Outside of those two individuals and your  
6 contact with them, did you have any contact with  
7 any other person?

8 A. No.

9 Q. During the course of this entire incident --  
10 excuse me, let me back up.

11 How long do you believe you were at the scene  
12 that night from the time you arrived to the time  
13 you went back to the District to complete the  
14 paperwork on Miss Panero's arrest?

15 A. If I had to estimate, 20, 25 minutes, maybe.

16 Q. During that 20 to 25 minute process -- and I  
17 know you briefly hinted on this -- but could you  
18 explain for the panel what the environment was  
19 like?

20 A. The environment was extremely chaotic.

21 Hectic.

22 A lot of people were upset.

23 The civilians that were there were upset.

24 Some appeared to be intoxicated.

25 Very few were listening to anything that the

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1 police had to say.

2 Just -- just chaotic.

3 And at some points it was -- officer safety  
4 was an issue because of the number of people.

5 Threats were being made towards the police.

6 Abusive language was being told towards the  
7 police.

8 And it was just very chaotic, very loud, and  
9 just a lot of people out there.

10 And it was a difficult situation to be in as a  
11 police officer.

12 Q. You mentioned that there was abusive language  
13 used towards the police.

14 Can you give us some examples of language that  
15 you heard?

16 A. Two that I remember specifically was one young  
17 male came right up to me and said, "Fuck you,  
18 bitch."

19 And another one said something to the effect

20 of, "Fuck you. Go ahead hit me, I'm going to have  
21 my lawyer get you fired."

22 Q. Where were you standing at that point?

23 Were you by the fence area, or in front of --

24 A. Those two sayings were when I first came, when  
25 I went across the street.

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1 But just a lot of curse words were being said  
2 by the crowd.

3 Q. Were the curse words back and forth; officers  
4 to civilians and civilians to officers?

5 A. I just heard a lot of cursing.

6 I didn't see or hear any officer directly say  
7 anything to anyone because I was pretty much  
8 focused on my safety.

9 Q. But it's safe to say, because of the crowd and  
10 everything that was going on, and because your  
11 focus was elsewhere, that the words you were  
12 hearing could have come from an officer or a  
13 civilian; you really didn't know, right?

14 A. Well, I mean, I'm telling you that I did hear  
15 and did see civilians use curse words.

16 Anything else, I mean, I'm not going to  
17 speculate.

18 I didn't hear any civilians use curse words,  
19 but a lot did.

20 Q. Did you hear any officer that you know of  
21 specifically use any derogatory language or abusive  
22 language towards any of the civilians?

23 A. I did not.

24 Q. Did you personally use any derogatory or  
25 abusive language?

0029

1 A. I did not.

2 Q. Miss Panero was arrested, and I'm assuming  
3 that she was charged with something, some type of  
4 criminal activity or offensive activity.

5 Did you ever testify at any trial on behalf of  
6 her?

7 A. I never went to court one time.

8 Q. Did you ever follow-up to see if she had any  
9 court dates or anything like that?

10 A. I did check several months later with the  
11 Detective Bureau, and just -- no one got back to  
12 me.

13 Q. Other than the time that Miss Panero spat on  
14 you, were you physically abused other than that  
15 instance?

16 A. No.

17 Q. You were interviewed by Internal Affairs on at  
18 least two occasions regarding that incident?

19 A. Yes. Twice.

20 Q. Were you ever disciplined by the Department of  
21 Internal Affairs?

22 A. No.  
23 Q. How long have you been a police officer?  
24 A. Four-and-a-half years.  
25 Q. And, just for the record, and I'm going tell  
0030  
1 you why I'm asking you this set of questions.  
2 We've had a number of witnesses come in who  
3 obviously may not remember, or even know, the  
4 officers' names that were involved because there  
5 were some officers, and they have been described by  
6 their physical features.  
7 So, for the record, what's your age?  
8 A. Twenty-seven.  
9 Q. And your height?  
10 A. 5'10".  
11 Q. At the time of the incident back in 2005 --  
12 you may have lost some weight -- how much did you  
13 weigh then?  
14 A. Probably 190, 195.  
15 Q. You had that same haircut that you have now?  
16 A. Yes.  
17 Q. Which is pretty low?  
18 A. Yes.  
19 Q. Did you have a hat on at the time?  
20 A. No, I didn't have my hat on.  
21 MR. YOUNG: Nothing else.  
22 PRESIDING OFFICER NIX:  
23 Commissioner Rosario, do you have  
24 any questions for this witness?

25 -----  
0031  
1 \*EXAMINATION BY COMMISSIONER ROSARIO\*  
2 Q. The woman, Miss Panero, how -- why was she on  
3 the floor? Any idea?  
4 A. That I can't tell you.  
5 I didn't see what caused her to be on the  
6 ground.  
7 Q. You just came and found her on the ground.  
8 Were you in uniform that day?  
9 A. Yes.  
10 Q. When you arrested Miss Panero, did you give  
11 the Miranda warning to her or no?  
12 A. No.  
13 COMMISSIONER ROSARIO: Nothing  
14 else.  
15 PRESIDING OFFICER NIX:  
16 Mr. Stapleton, do you have  
17 questions for this witness?  
18 COMMISSIONER STAPLETON: Yes.  
19 -----  
20 EXAMINATION BY COMMISSIONER STAPLETON:  
21 Q. Officer, the woman that was identified as Miss  
22 Panero, as I understand it, was arrested for  
23 spitting on you?

24 A. Disorderly conduct and spitting on me.  
25 Q. Was there anyone else who saw her spit on you?

0032

1 Sergeant Fraser, if we were to ask him the  
2 question, did he see this woman spitting on you,  
3 would he tell us?

4 A. I couldn't speculate on what he saw.

5 He didn't say anything to me about seeing it.

6 Q. So the arrest was based on your testimony that  
7 she -- or your verification -- that she spit on  
8 you.

9 It would come as no surprise to you the  
10 witness doesn't admit to spitting on you.

11 I want to know if there are other people who  
12 saw this.

13 Is there anybody else that's going to help us  
14 to understand, because it sounds like there were a  
15 lot of people there; Sergeant Fraser was there,  
16 disorderly conduct arises out of that conduct.

17 Is there anybody else that can help us, that  
18 you're aware of?

19 A. No.

20 Q. You were never called to testify as to that  
21 incident?

22 A. Yes, that's correct.

23 Q. The other thing we heard from a lay witness --  
24 and I'll ask you for your comment on this -- there  
25 was quite a bit of testimony about foul language

0033

1 that was being used by the officers, truly  
2 derogatory, and what seemed to be, in my mind,  
3 unacceptable.

4 I know that you're giving verbal commands. I  
5 know this was something near a riot with lots of  
6 people coming and trying to get control of the  
7 crowd.

8 A. Sure.

9 Q. The verbal commands obviously aren't going to  
10 be, "Please would you move onto the curb," or  
11 "Please, would you leave."

12 They were probably fairly strong.

13 Is it your testimony that you didn't hear  
14 anybody, any officers, using any commands that  
15 would include any language that would include the  
16 F-word, or that would include words like Spic, or  
17 anything of that nature?

18 A. When I was out on the scene I didn't hear or  
19 see any of the officers use any language like that.  
20 But I was just one of many officers.

21 Q. Sure. I just wanted to ask you whether you  
22 heard it, because we're hearing from lay witnesses  
23 that that was something they were hearing a lot of,  
24 and that it was not helping to control the crowd.  
25 That, in fact, it was inciting people to react to



0034

1 the officers using foul language, and this thing  
2 became very explosive very fast.

3 Did you happen to see anybody throw any  
4 bottles?

5 A. I don't recall that.

6 Q. We also heard testimony that in the course of  
7 this melee that there were bottles thrown at the  
8 officers which also would cause this reaction to  
9 get control of the crowd and maybe things are  
10 heating up quickly.

11 It was a very dangerous scene that was  
12 described to us, and I'm trying to get your sense  
13 of that.

14 A. Like I said, I was one of many officers out  
15 there.

16 There was a lot -- you can see it's a  
17 block-long area, and I was only in one particular  
18 area. So I'm just speaking on where I was. But I  
19 didn't see any bottles thrown, no.

20 Q. And you didn't hear any abusive language, at  
21 least coming from the officers?

22 It sounds like you did hear some of the people  
23 coming out confronting the police officers with  
24 derogatory comments.

25 A. That's correct.

0035

1 I just didn't hear or see any police officers  
2 use anything.

3 COMMISSIONER STAPLETON: Thank  
4 you.

5 PRESIDING OFFICER NIX:  
6 I have a few questions.

7 -----

8 \*EXAMINATION BY PRESIDING OFFICER NIX\*

9 Q. Officer Gillespie, back to some of your  
10 earlier testimony.

11 I'm trying to get a sense on was it you that  
12 made the call for assistance?

13 You made that call?

14 A. Well, there was three assist calls. I made  
15 the first one, yes.

16 Q. And the circumstances that led to you make  
17 that assist call, was it the outnumbering; was it  
18 the outnumbering, or describe it again what made  
19 you --

20 A. Sure.

21 Number one was the outnumbering. And it was  
22 the manner in which we were outnumbered.

23 They were -- the people coming out were very  
24 upset that we appeared -- they appeared to me to be  
25 very upset that we were there.

0036

1 They surrounded us.

2 They were cursing and yelling at us.

3 They were obstructing the highway.

4 They were ignoring anything and everything we  
5 said, and we needed more police officers there for  
6 their safety and for ours.

7 Q. Is assist a term of art? And I mean by that  
8 there are certain terms that go over the radio that  
9 would invoke different responses that are like, for  
10 instance, "officer down" is a very serious call and  
11 invokes all kinds of response.

12 What is the level that is associated with  
13 "assist officer?"

14 A. Well, when an assist goes out, first assist,  
15 that means everybody in that district should stop  
16 everything they're doing and go assist that police  
17 officer.

18 Second assist means everybody in the division  
19 which would be working, which is East Division,  
20 three districts, go.

21 And, ultimately, to a third assist, which is  
22 everybody in the city, no matter what unit,  
23 district you're in, goes to that location.

24 Q. There was a third assist in this situation?

25 A. There was a third assist.

0037

1 Q. Do you know how long between each call?

2 A. I couldn't tell you, to be honest.

3 Q. But you made the first one?

4 A. I made the first one.

5 Q. Do you need permission, for instance, from a  
6 sergeant from a higher ranking officer, or you can  
7 make that call yourself?

8 A. Yes, you can make it yourself.

9 Q. My question about assist it's a broad term; it  
10 seems like -- does it have any other invocation,  
11 such as officer in danger, in mortal danger; there  
12 are firearms involved; weapons? Anything like  
13 that?

14 A. Well, when we say assist, it means you're in  
15 trouble or I am in trouble. And a lot of times when  
16 you're in trouble you can't defend yourself and  
17 talk on the radio, so that's why you use that one  
18 word so you can quickly communicate on the radio  
19 and get back to concentrating on your safety.

20 So, assist, it is a broad term. It could mean  
21 anything from a huge crowd like this, up to you're  
22 chasing somebody possibly with a gun, or you're  
23 being hurt somehow.

24 Q. Did you -- to your knowledge, was there any  
25 call of an officer down that night in this

0038

1 situation?

2 A. To my knowledge, no.

3 Q. And you don't know of that call being made in

4 those terms?

5 A. I've never heard that about this night, no.

6 Q. There was testimony -- I guess by the third  
7 assist, did that mean helicopters as well?

8 There was testimony about helicopters coming  
9 that night.

10 A. Actually, that helicopter was out of fuel that  
11 night, I believe.

12 I don't remember seeing it. I think that's  
13 what police radio told us.

14 There might have been a news camera there -- a  
15 news helicopter.

16 Q. But you don't know that night whether there  
17 was a police helicopter there?

18 A. I don't know if there was a police helicopter  
19 there.

20 Q. My last question has to do with across the  
21 street when you first encountered -- what led you  
22 to believe officers needed assistance? There was a  
23 gathering across the street and officers, you  
24 testified, were being surrounded.

25 Was there any physical confrontation,

0039

1 fighting, going on between officers and civilians  
2 there?

3 A. I wouldn't say fighting.

4 But what I saw was officers trying to clear  
5 that sidewalk, and they -- there was three or four  
6 of them and multiple people, that's an officer  
7 safety issue.

8 But I didn't see any fists or batons being  
9 used or anything, no.

10 Q. You didn't see anybody get hit with a baton?

11 A. No.

12 Q. Did you see anybody fall to the ground at that  
13 point across the street?

14 A. No, not at that point.

15 Q. Do you know Officer Swift?

16 A. I don't think I do know him, no.

17 Q. My last question:

18 When Miss Panero turned and spit on your right  
19 cheek, did you say anything to her?

20 A. Probably told her she was under arrest.

21 Q. Did she say anything at that point in  
22 response?

23 A. Nothing that I recalled.

24 Q. When she was placed under arrest, was she ever  
25 on the ground?

0040

1 A. Once she had her handcuffs on, you mean?

2 Q. Yes.

3 A. No.

4 Q. Did you, by any chance, step on her face at  
5 all?

6 A. No.

7 Q. Did you see any officer step on her face?

8 A. I did not.

9 PRESIDING OFFICER NIX: Lawyers  
10 always have another question.

11 -----

12 \*EXAMINATION BY MR. YOUNG\*

13 Q. When Miss Panero spit on your face, she was in  
14 an upright position?

15 She was standing, right?

16 A. Yes.

17 Q. And in order to handcuff her, did you have to  
18 place her back down to the ground, or did you  
19 handcuff her while she was standing?

20 A. I handcuffed her while she was standing.

21 Q. Did you have to lean her up against the car  
22 that was there or against the wagon?

23 How did you handcuff her?

24 A. I kind of walked her and handcuffed her at the  
25 same time, and we stopped at the wagon.

0041

1 She was never pushed up against anything, or  
2 pushed down or over.

3 Q. By the time you got to the wagon she was  
4 handcuffed?

5 A. Yes.

6 Q. Where was the wagon located?

7 A. The wagon is parked in the middle of the  
8 highway -- if you can move the mouse to the right.

9 A little bit more.

10 In between the driveway and the front  
11 entrance of -- right where your finger is, sir.

12 Q. So you turned around and walked her back this  
13 way (indicating)?

14 A. Yes.

15 Q. Just so that I can get a sense of, and the  
16 panel can get a sense of, the crowd, you mentioned  
17 in response to a question by Mr. Stapleton that  
18 that seemed to suggest that the whole block was  
19 full of people.

20 Is that accurate?

21 A. Yes.

22 Q. So, I mean, even from this point to this point  
23 was pretty full of people (indicating)?

24 A. Give or take, yes.

25 Q. Do you know which officers made the second or

0042

1 third assist calls?

2 A. I do not.

3 Q. Did you hear the assist calls, that they came  
4 on the radio?

5 Did you have your radio on you?

6 Were you able to hear the assist calls?

7 A. The third assist was the only one I heard.

8 Q. And you weren't on scene for the entire time.  
9 So, once you made the arrest of Miss Panero,  
10 and then you went back to the District to fill out  
11 your paperwork, I'm assuming that there were still  
12 a number of people that were outside, or there were  
13 still a number of officers that were present on the  
14 scene; is that correct?

15 A. Not necessarily.

16 Once she was arrested, like I said, she was  
17 put in the wagon, and I stood next to the wagon for  
18 several minutes.

19 And, like I said, that second female, who was  
20 also arrested.

21 Then the crowd started to die down.

22 I -- you are correct in the fact that I did  
23 leave before the entire crowd dispersed.

24 But when I left it was ending, the incident.

25 Q. So, let me ask you a question:

0043

1 Was the informal procedure that the wagon  
2 stayed on site until the crowd was under control,  
3 any citizens who were arrested, or who officers  
4 believed were arrested, were put into that wagon  
5 and the wagon was sent off to the District.

6 Is that your understanding of the procedure  
7 with respect to the wagon and your arrest?

8 A. Can you ask me that again, please?

9 Q. Did the wagon remain on site until the crowd  
10 was controlled so that anyone who was arrested was  
11 able to be put into the wagon so that they could be  
12 sent to your District; or, was the wagon just there  
13 for a specific period of time; people were shoved  
14 off, and then maybe some people were arrested  
15 inside of another cop car or another wagon, et  
16 cetera?

17 A. That I can't answer.

18 And the reason why is because I wasn't part of  
19 the wagon crew that night, and I don't know what  
20 the sergeant or the lieutenants there told the  
21 officers who were operating the wagon.

22 A. The reason why I was standing there was  
23 because the operators of the wagon weren't in the  
24 wagon, they were helping to disperse the crowd. So  
25 that question I can't really answer.

0044

1 Q. How many wagons were on scene?

2 A. I could only guess. I know ours was there,  
3 but other than that, I could only guess.

4 Q. Was your supervisor on scene?

5 A. He was.

6 Q. Who your supervisor then?

7 Who was your supervisor?

8 A. Sergeant Murphy.

9 MR. YOUNG: Nothing else.

10 PRESIDING OFFICER NIX: Mr.

11 Stapleton.

12 -----

13 \*EXAMINATION BY COMMISSIONER STAPLETON\*

14 Q. Let me just ask you one more thing.

15 These things always really confuse me, because  
16 the scene that you described, this woman's on the  
17 ground, there's a car backing up, and you actually  
18 do something to help her; you lift her off the  
19 ground to prevent the car from backing up over her  
20 legs.

21 So, in my mind, this is a good thing; you're  
22 being helpful to move this person out of the way of  
23 a police car -- I'm sorry, the car backing up.

24 And then you continue to move her away from  
25 the crowd, which is what, as I understand it, the

0045

1 officers were trying to do to disperse this.

2 At some point she turns and she spits in your  
3 face.

4 Was there something that I'm missing here  
5 that -- here's somebody who was just rescued by  
6 somebody from getting backed over by a car moving  
7 out of the driveway.

8 A. That's what I would like to know.

9 I mean --

10 Q. But was there anything that happened in  
11 between when you lifted her up -- you have your  
12 baton under your arms, you have two hands to lift  
13 her up, and you started to escort her away from the  
14 crowd.

15 And I guess what has happened is she is on the  
16 ground for some reason, we don't know, and I guess  
17 we'll get to it as we talk to the other officers,  
18 when she associates you with what you're doing as  
19 some sort of improper police action.

20 But there's no event that caused her to turn  
21 around, and you're the guy helping her, and she  
22 intentionally spits in your face.

23 It wasn't like this was an excited utterance  
24 that all these people that spit while they're  
25 talking, this wasn't what happened.

0046

1 It sounds like she deliberately, according to  
2 your testimony, put a hocker right in your face for  
3 no reason.

4 A. I can't answer for her.

5 I mean, that's --

6 Q. I'm asking, was there anything that happened  
7 in this circle as you're moving away?

8 I'm asking if you saw or heard anything that  
9 would -- I understand why you arrested her, and  
10 that makes perfect sense.

11 There's something that's missing here that I

12 can't just get.  
13 She just has been helped out, she turns around  
14 and assaults the person that's helping her out.  
15 A. I saw her fighting, arguing, with another  
16 female over there (indicating), so that's one of  
17 the other reasons why I went over.  
18 And, other than that, from what I saw, that  
19 was the only kind of altercation with anybody that  
20 this woman had. And that's all I can say to you at  
21 this time.

22 I don't have an answer for you either.  
23 Q. When you picked her up, did she seem angry?  
24 Was she screaming?  
25 A. Initially when I picked her up she was pretty

0047

1 irate and hostile. She -- that's why I told her,  
2 "I'm a police officer, relax." And I think, in a  
3 way, it got her more agitated for whatever reason.  
4 I mean, I don't know.  
5 Q. This helps.  
6 This is one of those things you listen to and  
7 think how can that happen. I guess that's the  
8 question I'm asking.

9 Thank you.  
10 PRESIDING OFFICER NIX: Any other  
11 questions for this witness?  
12 Thank you for your time and  
13 testimony.

14 You're excused.  
15 MR. YOUNG: He's excused.

16 -----  
17 PRESIDING OFFICER NIX: We will  
18 now call Officer Diaz.

19 -----  
20 POLICE OFFICER RAYMOND DIAZ, Badge No. 1540,  
21 24th District, after having been previously sworn,  
22 was examined and testified as follows:

23 \*EXAMINATION BY MR. YOUNG\*

24 Q. Officer Diaz, good evening.  
25 My name is Dennis Young, and I am counsel for

0048

1 the Police Advisory Commission. And I am here to  
2 ask you some questions about what happened on  
3 November 11th, 2005, outside of the Dianna's  
4 Ballroom.

5 Do you recall that incident?  
6 A. At the time I was being interviewed, vaguely,  
7 yes.  
8 Q. Could you please state and spell your name for  
9 the record?  
10 A. Police Officer Raymond Diaz, D-I-A-Z; assigned  
11 to the 24th District.  
12 Q. And your Badge number, Officer?  
13 A. 1540.

14 Q. I am going to assume that you've given your  
15 testimony before, either to Internal Affairs or in  
16 court, and I am going to dispense with a lot of the  
17 formalities of question and answers sessions.

18 I would just ask that you give verbal answers  
19 to my questions.

20 Once I ask you some questions, the panel  
21 members may also have some questions for you.

22 Is that okay?

23 A. I understand.

24 Q. You have a right to give an opening statement  
25 of up to five minutes before I begin my questions.

0049

1 Would you like to give an opening statement?

2 A. No, thank you.

3 Q. What was your tour of duty on November 11th,  
4 2005?

5 A. 3:30 to 11:45 p.m.

6 Q. And what was your assignment that day?

7 A. Working at the -- I'm not sure on that part.

8 Q. I'm sorry, I didn't hear that.

9 A. I guess I was using 11 Car.

10 Sixteen.

11 I'm not sure on that car.

12 Q. And one of the instructions that I would have  
13 given you, if there's ever a -- if there's ever a  
14 question that you don't know the answer to, it's  
15 okay. If you don't remember, that's fine. We  
16 understand.

17 This incident happened two years ago almost to  
18 the day, so we understand that; is that okay?

19 A. I understand.

20 Q. At some point were you called to Dianna's  
21 Ballroom?

22 And you see a picture of the area, the block,  
23 up on the screen?

24 When you came on scene, how many officers were  
25 already present?

0050

1 A. Well, when the radio call came out, I was  
2 approaching on the second assist. And I bear left,  
3 like, in front of the ballroom.

4 So, where the yellow pin is.

5 Further down. In the middle of the  
6 intersection.

7 I kept my car there.

8 When I pulled up, there was a crowd of  
9 civilians, a crowd of officers.

10 There was fights that occurred with the  
11 civilians.

12 I seen the officers trying to break up the  
13 fights, and then I just made a whole U-turn towards  
14 the cops.

15 Q. You mentioned there was a crowd of civilians



16 and a crowd of officers.

17 Could you estimate for us the number of  
18 civilians you think were out on the street when you  
19 arrived?

20 A. Okay, when I arrived it was between 15 and 20  
21 people at the ballroom, when I moved up with the  
22 car.

23 To my left, I mean, it was over -- I would say  
24 over a hundred, in my estimation.

25 Q. When you left the scene, you mean that night?

0051

1 A. Oh when I left the scene --

2 Q. No, no. I'm sorry, I was confused. "When I  
3 left" I thought you had said.

4 Go ahead.

5 A. To my left.

6 Q. Oh, to your left.

7 A. Yes. because, like I said, I wasn't dealing  
8 with the crowd at the ballroom, I was dealing with  
9 15, 20 people there.

10 To the left of me there was more civilians and  
11 officers.

12 Q. So you pulled up directly in front of the  
13 ballroom; correct?

14 A. Like in an angle (indicating).

15 Q. In this area (indicating)?

16 A. Right where the hand is.

17 Like, in that area (indicating).

18 Q. You said you were dealing with the crowd, that  
19 was 15 to 20 or so people that --

20 A. There was still people coming out of the  
21 ballroom, which, at that time, I was telling them  
22 to the stay in the area.

23 Q. Were they coming out this way (indicating),  
24 or were they coming out this way (indicating)?

25 A. They were coming out from the front steps.

0052

1 Q. From this way (indicating)?

2 A. Front steps, yes.

3 Q. Were you assigned to do that, or did you pull  
4 up and recognize that I need to get these people  
5 back inside?

6 A. Yes.

7 From my experience with the East Division, if  
8 you see a crowd, you know you have to move the  
9 crowd.

10 Q. And you think there was a crowd of about a  
11 hundred or so civilians to the left of you?

12 A. I would say from the left of me completely,  
13 yeah, officers and civilians, over a hundred.

14 Q. Is this a one-way street going this way  
15 (indicating)?

16 A. It's a two-way, and two-way street.

17 Q. Okay.

18 And you came in through this way (indicating)?

19 A. I came in through I Street, towards Luzerne.

20 Q. Did you have any problems getting to this  
21 location from that block?

22 A. There was people, but I used the horn to, you  
23 know, move the car and park it there.

24 Q. You said you were called to the scene as a  
25 second assist?

0053

1 A. Everyone was.

2 When the second assist comes, everybody goes  
3 to it, yes.

4 Q. What's your understanding -- when you say  
5 "everyone," what's your understanding of second  
6 assist?

7 A. Second assist is more police officers go to  
8 the location.

9 And the third assist would be like a division  
10 of different cars or other police officers go to  
11 the location.

12 Q. So when you were called as a second assist,  
13 this wasn't the district that you normally patrol?

14 A. No, that's the district I work in, yes.

15 Q. I understand now.

16 A. But it was a first assist. And then a second  
17 assist. That's when everybody starts going.

18 Q. You said when you arrived on the scene you saw  
19 a lot of fighting?

20 A. Yes.

21 There was a group of fights out there, and the  
22 police officers were attempting to break up the  
23 fights.

24 Q. So the fights were among the civilians that  
25 were out on the street?

0054

1 A. In the beginning.

2 That's why we were called there, I guess.

3 Q. And that fighting occurred among the 15 to 20  
4 people that you were focusing on?

5 A. The 15 to 20 people I was focusing on was -- I  
6 was just making sure they didn't get involved with  
7 the rest of the fight that was behind me and to the  
8 left of me, which they did, they stood in that  
9 area.

10 Q. I guess prior to you trying to move that crowd  
11 back into the ballroom, you noticed that there were  
12 fights going on around you?

13 A. Yes.

14 Q. And you noticed other police officers trying  
15 to control those fights and trying to control the  
16 crowd; is that correct?

17 A. Yes.

18 Q. How many police officers do you think were  
19 there at that time?

20 A. Like I said, estimation, between a hundred  
21 with civilians and police officers.  
22 That's estimation.  
23 Q. And you don't think there was a hundred police  
24 officers there, do you?  
25 A. To be honest, I wasn't, you know, looking at  
0055

1 how many there were.  
2 I was just concentrating on controlling the  
3 crowd and trying to disperse the crowd, so that way  
4 at least whoever's going to be locked up can be  
5 locked up and everything would calm down and the  
6 street would get opened.

7 Q. You were interviewed by Internal Affairs in  
8 this case; right?

9 A. Yes.

10 Q. And during that interview you stated that you  
11 used some crowd control methods in order to control  
12 the 15 to 20 people that you had your eye on; is  
13 that correct?

14 A. That's correct.

15 Q. And tell the panel what type of crowd control  
16 methodology you used?

17 A. I had verbally, and I had my hand. Both ways.  
18 Like they teach us in the Academy, to move the  
19 crowd to the sides.

20 Q. And was that working?

21 Was it effective?

22 A. It was working on my part.

23 Then after that, I just, you know, put the  
24 stick to my side and verbally -- because they  
25 started to -- they stood there.

0056  
1 Q. And what type of verbal commands did you give?

2 A. I told them to just -- to please not to get  
3 involved with the other crowd, the fights, on the  
4 highway; please move on.

5 Verbal commands.

6 Q. Were you moving them back into the ballroom?

7 A. Towards I Street or in the ballroom.

8 I Street, go home, or ballroom.

9 Q. Is it fair to say that most of the crowd and  
10 most of the fighting that you were talking about  
11 earlier was occurring, I guess, in this area  
12 (indicating)?

13 A. Yes.

14 Most of it, yes.

15 Q. Do you recall whether you saw a civilian  
16 vehicle parked here (indicating)?

17 A. That I can't recall.

18 Q. Do you recall whether you saw any fighting or  
19 any other incidents that occurred in this area  
20 (indicating)?

21 A. There was a big crowd there. And there was a

22 person, like, on the top steps. They had a bat in  
23 their hand. But from there, when I turned around,  
24 that person left.

25 But there was a person there with a bat on the  
0057

1 top steps of the ballroom.

2 Q. In this direction (indicating)?

3 A. Yes.

4 The front direction, yes.

5 Q. Did you see -- did you see any police officers  
6 in this area (indicating)?

7 A. Yes.

8 I said to the left of me there was crowds,  
9 there was police officers there.

10 Q. Other than the civilian that you saw with the  
11 bat, did you see any other civilians with any other  
12 weapons, or what you would define as a weapon?

13 A. No.

14 Just a angry mob of people.

15 Q. Do you recall whether there was any bottles  
16 been thrown?

17 A. That I can't recall.

18 Q. How many other police cars and/or wagons were  
19 on the street during the time that you were there?

20 A. I mean, I could see probably 4, 5 of them on  
21 my angle. But I couldn't see, like, from further  
22 down.

23 Q. I want to briefly talk about what you may have  
24 heard and who you may have heard it from while you  
25 were there at the time.

0058

1 How long do you believe you were on scene, by  
2 the way?

3 A. Twenty, 30, 40 minutes, maybe.

4 Q. During that time, I am assuming that if there  
5 was fighting going on you also heard some type of  
6 language by other officers or civilians; is that  
7 correct?

8 A. There was yelling on both sides because you  
9 got the police officers doing the verbal commands,  
10 then you got the other side cursing at the police.  
11 And I don't want to say the words, but profanity  
12 towards the police.

13 Like I said, in this division we deal with  
14 that; people cursing at us or spitting at us or  
15 throwing bottles at us, and we still have to deal  
16 with the crowd.

17 Q. So it's your testimony that you heard some of  
18 the civilians use profanity and other derogatory  
19 words towards the officers?

20 A. Yes.

21 Yes.

22 Q. Did you hear any of the officers use any  
23 profanity in order to help them controlling the

24 crowd towards the civilians?

25 A. As far as just the verbal commands, like I

0059

1 said, from where I was at, if anybody was 15 feet  
2 from me, the verbal commands. Just trying to get  
3 the crowd, everybody, on the sidewalk and go home.

4 That's -- that's why I was there.

5 Q. And I understand your testimony about the  
6 verbal commands.

7 Did the verbal commands include any profanity?

8 A. No.

9 Q. We understand that officers are human, so --

10 A. Yeah, I understand; yes.

11 Q. -- and maybe in an effort to assist them with  
12 this crowd control, you're talking about hundreds  
13 of civilians, you're talking about a riot  
14 situation, perhaps some officer used some type of  
15 abusive language, or some type of profanity, in  
16 order to help them get the crowd to move.

17 You didn't hear any of that?

18 A. Like I said, all I -- I wasn't looking to who  
19 was saying them.

20 It could have been profanities said; but, like  
21 I said, there was crowds, police officers, and  
22 civilians yelling. And there was commands trying  
23 to be given to the civilians. So, I wasn't there  
24 to see who said what.

25 I did hear profanity and stuff, yes.

0060

1 Q. So you heard profanity, but because your  
2 attention and focus was on the 15 or 20 people that  
3 you were trying to control, you may not have heard  
4 who it was coming from?

5 A. Exactly.

6 Q. So it could have come from a civilian, or it  
7 could have come from a police officer?

8 A. Correct.

9 Q. Outside of using your baton in a crowd control  
10 manner, did you have -- did you ever have to use  
11 your baton in any other form for any other reason?

12 A. No.

13 Q. Did you have to strike a civilian in order to  
14 get them to comply with what you were trying to get  
15 them to do?

16 A. No.

17 Q. Did you observe any other officers using their  
18 batons in a crowd control manner?

19 A. No.

20 Like, I was in a situation where I was dealing  
21 with 15, 20. And they were dealing with the  
22 struggle with trying to arrest, I guess, a couple  
23 of people. So I was just making sure these people  
24 didn't, you know, add on to the crowd what they  
25 were doing.

0061

1 Q. Did you have to arrest anyone?

2 A. No.

3 Q. Did you see anyone else arrested?

4 Did you see anyone else --

5 A. Yeah. There was a couple of people getting  
6 locked up, yes.

7 Q. I mean, did you physically yourself see it?  
8 Did you witness it?

9 A. As far as when it started, I just seen the  
10 part when they were bringing the person into the  
11 patrol cars.

12 Q. But you didn't see the actual handcuffing?

13 A. No.

14 Q. Part of the complaint that was filed with the  
15 Police Advisory Commission was for abusive language  
16 by police officers using derogatory language.

17 There was testimony by some of the civilian  
18 witnesses that certain officers used the word Spic;  
19 certain officers used the N-word; certain officers  
20 used the F-word.

21 While were you there for that 30 to 40  
22 minutes, did you hear any of that?

23 A. I didn't hear that.

24 I would have gotten offended if I heard  
25 somebody say Spic, especially another police

0062

1 officer. I work with them every day.

2 Q. There was also testimony that some of the  
3 civilians were verbally abusive to the police  
4 officers either because people were getting  
5 arrested they didn't think should have been  
6 arrested, or because of just the environment that  
7 was created at the time.

8 Did you receive any verbal abuse from any  
9 other witnesses or any other civilians that were on  
10 the scene?

11 A. Not towards me, no.

12 Q. Do you know why you may not have received any  
13 verbal --

14 A. Maybe it's the way I speak to people.

15 I don't know.

16 But, I don't have a problem with the crowds I  
17 was dealing with at the ballroom.

18 I told them to disperse. I told them to take  
19 I Street; if they live nearby, go home.

20 Most of the people were waiting for rides to  
21 pick them up.

22 Q. Do you recall during the time that you were at  
23 the scene whether you witnessed any pregnant woman  
24 get arrested?

25 A. I didn't see a pregnant woman get arrested,

0063

1 but I saw a pregnant woman on location, yes.

2 Q. Can you describe for the panel, to the extent  
3 that you can, to the extent that you witnessed  
4 anything, just what that pregnant woman was doing;  
5 did she have any interaction with any police  
6 officers?

7 A. She was walking from the sidewalk towards the  
8 crowd area.

9 She was accompanied, I think, by two other  
10 males.

11 Q. And you said she was -- which sidewalk are you  
12 referring to?

13 A. Move the hand up a little.  
14 Right there; yes, yes.

15 Q. And you saw her walking in which direction?

16 A. I would say northbound, across the street into  
17 the crowd area.

18 In the middle.

19 In the middle.

20 Because a few minutes after that she was  
21 walking back because she was complaining about  
22 pains in her stomach.

23 Q. You saw her walk this way (indicating)?

24 A. Not all the way across the street, but in the  
25 middle of the crowd where the police were trying to

0064

1 place males in custody.

2 Q. Other than the two guys that were walking with  
3 her, did you see her have any other interaction  
4 with any other civilians?

5 A. Not at that point.

6 Q. Did you see her have any interaction with any  
7 police officers?

8 A. No, sir.

9 Q. Since the incident, have you had any  
10 discussions with any police officers regarding  
11 anything that may have happened with regard to the  
12 young lady that was pregnant?

13 A. I asked, but -- I really don't know what  
14 happened.

15 As far as I knew she was pregnant.

16 I know -- like I said, I was dealing with the  
17 crowd. When I turned my head, she was walking  
18 towards us about 15 or 20 feet away from us, and  
19 she was complaining about pains in her stomach.

20 Q. Did you see any officer assist her because she  
21 was complaining about pains in her stomach?

22 A. No.

23 She was walking towards two males that was  
24 with her.

25 MR. YOUNG: Nothing else.

0065

1 PRESIDING OFFICER NIX:

2 Commissioner Rosario, do you have  
3 any questions for Officer Diaz?

4 COMMISSIONER ROSARIO: Yes.

5 -----

6 \*EXAMINATION BY COMMISSIONER ROSARIO\*

7 Q. Officer Diaz, you observed the person with a  
8 baseball bat?

9 A. Yes.

10 Q. How close were you to this person?

11 A. I would say about 20, 23 feet.

12 Q. From here to the wall there, right  
13 (indicating)?

14 A. Yes.

15 Q. Do you know it was a baseball bat?

16 Could it have been a stick?

17 A. It was round on the bottom and flat on top.

18 As far as the shape of a bat, it's round on  
19 the bottom and flat on top; skinny on top where the  
20 handle is.

21 Q. How do you know that this person was Hispanic;  
22 because he looked like me, or because he spoke  
23 Spanish; what?

24 According to this here that you gave to  
25 Internal Affairs, you stated that that was a person

0066

1 with a baseball bat; he was a Hispanic male about  
2 26 to 27 years of age.

3 You must have been close to the person.

4 A. Yes.

5 Q. How do you know he was Hispanic?

6 A. Well, between my complexion -- I'm medium  
7 complexion -- so I consider myself Hispanic. So if  
8 I look at somebody with my complexion, I would say  
9 Hispanic.

10 Q. And also in another statement there was a  
11 person from Arabic?

12 A. Yes.

13 Q. How do you know they were Arabic?

14 A. No, I don't -- the thing is, they asked me,  
15 Internal Affairs, are they Arabic or Hispanic. At  
16 that time I don't know it would have been Hispanic.

17 Now the male that had my complexion that was  
18 standing with the bat looked Hispanic; yes.

19 Q. He looked Hispanic?

20 A. Yes.

21 Q. So I think that the record should read he  
22 looked Hispanic, not he was a Hispanic male, thin  
23 build, approximately 26 to 27 years of age.

24 COMMISSIONER ROSARIO: No further  
25 questions.

0067

1 PRESIDING OFFICER NIX:

2 Commissioner Stapleton, do you  
3 have any questions for this witness?

4 COMMISSIONER STAPLETON: I do.

5 -----



6 \*EXAMINATION BY COMMISSIONER STAPLETON\*

7 Q. Consistent with what we heard from the lay  
8 witnesses, it was determined that it was a angry  
9 mob of people is pretty much what we heard; a lot  
10 of people out on the street. And your crowd  
11 control technique, as you described it, is exactly  
12 what we would want to see in police officers, using  
13 language that is direct, clear. And if you're  
14 saying "please move along," that's exactly what we  
15 would expect.

16 The testimony, however, from the lay witnesses  
17 was there were officers using language that was  
18 much stronger than "please move along."

19 In fact, the language was derogatory, to say  
20 the least.

21 We heard testimony of profanity and use of the  
22 word Spic, which is offensive to all of us in this  
23 room.

24 And I want to make sure I understood correctly  
25 you didn't hear any police officers using verbal

0068

1 commands other than, "Please move along."

2 A. No, that was me --

3 Q. I know you were using that --

4 A. -- but the other officers? No. Because,  
5 like, you have officers 15, maybe 20 feet. I'm  
6 dealing with my crowd, so when you have other  
7 people yelling over you, you're not hearing what --  
8 you are just hearing both sides yelling. You don't  
9 know who said what.

10 But, yes, there was profanity used. I'm not  
11 going to say there wasn't.

12 Q. That's what it sounded like.

13 A. No, it was both sides, but I just didn't see  
14 who said it, and I can't picture who said it.

15 Q. That's fair enough.

16 But it sounded like this was a scene getting  
17 out of control.

18 A. It was out of control, yes.

19 Q. And officers were doing what they needed to  
20 do.

21 A. Tried the best we can, yes.

22 Q. To the extent you can't identify the officers  
23 using offensive language, we're trying to find out  
24 who it was, if anyone, in the Police Department who  
25 was using that language, because it's just -- that

0069

1 is shocking to me. And I can tell it would be  
2 shocking to you if one of your fellow officers used  
3 that kind of language. But if you didn't see them,  
4 you can't identify them; I understand that, too.

5 A. Exactly.

6 COMMISSIONER STAPLETON: That's  
7 it. Thank you.

8 PRESIDING OFFICER NIX: Officer  
9 Diaz, I have a few questions.

10 -----

11 \*EXAMINATION BY PRESIDING OFFICER NIX\*

12 Q. Officer Diaz, just a quick question about an  
13 earlier statement.

14 Do you know who Hector Serrano is?

15 A. I can't recall.

16 Q. If I told you that he was the person that had  
17 organized this event; it was some sort of a dance  
18 fundraising event at a dance hall?

19 A. I don't know.

20 Q. Do you know who he is, or do you know who I'm  
21 talking about?

22 A. No, sir.

23 Q. Did you observe anybody writing down police  
24 officers' badge numbers?

25 A. Yes, now I recall.

0070

1 Q. Did you see somebody writing down badge  
2 numbers?

3 A. Yes.

4 It was numerous people writing names and badge  
5 numbers out there. And, yes, he was one.

6 Q. Now, when I say Hector Serrano, how do you  
7 know that he was one of the ones?

8 A. Writing numbers and badge numbers.

9 Q. How did you come to find out that he was one  
10 of them?

11 A. Because he was one of them that was yelling  
12 and screaming within the crowd, and at the same  
13 time he was getting badge numbers.

14 He was probably, what, 10 feet away from me  
15 walking into the crowd.

16 Q. Did he write down your badge number?

17 A. No, sir.

18 Q. He didn't?

19 And did you observe him writing down badge  
20 numbers?

21 A. Yes, because he was -- in the beginning he was  
22 looking for a pen because he was with the pregnant  
23 girl. They were about, maybe, 10, 15, feet away  
24 from me, and she was talking to him about pains.  
25 That's when he started getting names and badge

0071

1 numbers down.

2 Q. When you say she was complaining about pains,  
3 she was pregnant, she was complaining about pains  
4 in her stomach?

5 A. Lower part of her leg.

6 Q. Was she complaining generally about pains?

7 There's testimony that she complained she had  
8 been hit.

9 Did you hear her complaining that she had been

10 hit by a police officer?  
11 A. She didn't come up to me and tell me that, no.  
12 Q. Did you hear that from anybody else on the --  
13 at the scene?  
14 A. No, sir.  
15 I just know that she was complaining about the  
16 pains.  
17 Q. But not specific as to what caused the pains?  
18 A. No, because I was dealing with the situation  
19 with the crowds, trying to keep the civilians off  
20 the police officers. So I was moving around, and I  
21 just wasn't staying in one spot. I was, like,  
22 moving around and trying to patrol the crowd.  
23 Q. Did you see, ultimately, what happened to the  
24 pregnant woman; where she went?  
25 A. Last time I saw, she was walking into the

0072

1 crowd. And then she was walking back and she was  
2 saying that she was having pains. But what  
3 happened between, no.  
4 Q. And do you know who Benny Martinez is?  
5 A. I think that was the person that they were  
6 trying to place into the patrol car.  
7 Q. Did you see him get hit at all?  
8 A. While he was in handcuffs he was not hit, no.  
9 Q. But did you see him get hit before he was  
10 place the in handcuffs?  
11 A. No.  
12 Q. Did you -- could you tell he had been in an  
13 altercation?  
14 A. Well, he was screaming and yelling, so I  
15 really didn't see at that time.  
16 The lighting was not too good out there in the  
17 middle of the street.  
18 Q. Did you see what happened to Hector Serrano  
19 after he wrote down some peoples' badge numbers?  
20 A. No, no, I didn't.  
21 Q. And my last question, again, concerns the idea  
22 of the assist call.  
23 You responded to the second assist call?  
24 A. Second assist, yes.  
25 Q. You were on site when a third assist call went

0073

1 out?  
2 A. When I approached, it was -- how you say --  
3 the beginning of the battle.  
4 I got in in the middle of the battle. And  
5 that's when they ended up calling for a third  
6 assist for more cops.  
7 Q. And how many more, in your estimation, police  
8 arrived at the third assist call?  
9 A. Like I said, there was only, maybe, about four  
10 or five cars. I couldn't tell what was in the  
11 other hand or what was on I Street.

12 I mean, there were plenty of patrol cars and  
13 paddy wagons, but I can't tell you the number of  
14 cars and wagons.

15 Q. How long did you stay at the scene?

16 A. Like I said, between 30 and 40 minutes.

17 Q. What did you do after that?

18 A. I went back to the district, went home.

19 Q. That's the 24th you said?

20 A. Yes.

21 PRESIDING OFFICER NIX: I don't  
22 have anything else.

23 -----

24 \*EXAMINATION BY MR. YOUNG\*

25 Q. You were on scene 30 or 40 minutes.

0074

1 Were you in the area and out in front of the  
2 ballroom the whole entire time?

3 A. Can I show you on there?

4 Q. Sure; sure.

5 A. I was parked right here (indicating). And  
6 this crowd here (indicating), crowd here  
7 (indicating).

8 I was basically here (indicating).

9 There's people still coming from other houses  
10 around the corner.

11 Like I said, the other people, they were  
12 waiting for their rides, to be picked up, so there  
13 were still cops coming this way (indicating).

14 I wanted the cars to go this way (indicating)  
15 where it wasn't already hectic.

16 I didn't want the cars to go this way  
17 (indicating).

18 Q. And I guess in response to my question, the  
19 entire time there was always crowds moving people  
20 towards this direction (indicating)?

21 A. This direction (indicating).

22 Q. Who was your supervisor at the time of the  
23 incident?

24 A. I think it was Sergeant Murphy.

25 Q. Was Sergeant Murphy at the scene?

0075

1 A. Yes.

2 Q. Did Sergeant Murphy give you any instructions?

3 A. Keep the crowd moving.

4 Q. That was your instructions?

5 So that was your assignment while you were  
6 there?

7 A. Yes.

8 Q. The Chairman mentioned Benny Martinez.

9 You witnessed -- you testified at your  
10 interview with Internal Affairs that you saw the  
11 struggle between Benny Martinez and I think it was  
12 Officer Drains or Masciocchi.

13 A. Masciocchi.

14 Now, on that part there I might have had  
15 Officer Drains mixed up with somebody.  
16 I don't know if he was there or not.  
17 To me it looked like Officer Drains on there.  
18 I just wanted to correct it on the report.  
19 Q. But you witnessed part of the struggle?  
20 A. Yes.  
21 I witnessed them struggling on the ground  
22 trying to place the male in custody.  
23 Q. And did they have their batons out when they  
24 were trying to put him in custody?  
25 A. That -- no, because just their hands were  
0076

1 moving around.  
2 He refused to be placed in custody, and at  
3 that time I just turned my head.  
4 Like I said, I was doing other things; making  
5 sure the crowds didn't get on top of the police  
6 officers.  
7 I was just making sure the crowds kept moving  
8 on towards I Street; if not, go back into the  
9 ballroom.  
10 Q. As you sit here tonight, do you know why Benny  
11 Martinez was arrested?  
12 A. To my knowledge, maybe disorderly conduct.  
13 I don't know.  
14 Q. I don't want you to guess.  
15 Did you talk to any other officer, or did any  
16 officer inform you as to why there was a struggle  
17 with Benny Martinez and why he was being arrested?  
18 A. No.  
19 I didn't ask. I just went out there and did  
20 crowd control.  
21 As far as I know, there was a fight on the  
22 highway, with civilians and police officers trying  
23 to break it up.  
24 Q. But you didn't see Benny Martinez get in a  
25 fight?

0077  
1 You saw the struggle with the officers, but  
2 you didn't necessarily see him fighting; is that  
3 correct?  
4 A. Exactly, that's correct.  
5 MR. YOUNG: Nothing else.  
6 PRESIDING OFFICER NIX: Officer,  
7 I have a couple other questions as well.  
8 -----  
9 \*EXAMINATION BY PRESIDING OFFICER NIX\*  
10 Q. Do you know Officer Swift?  
11 A. Swift?  
12 Q. Yes.  
13 A. Sounds familiar, yes.  
14 Q. Do you recognize him?  
15 Was he there at the scene that evening?

16 A. I didn't see him, no.  
17 Q. And do you know Officer Gillespie?  
18 A. Yes.  
19 Q. And prior to tonight, you worked with Officer  
20 Gillespie enough to recognize him?  
21 Was he at the scene that night?  
22 A. Yes.  
23 Oh, well, no. I didn't see Officer Gillespie  
24 there at that scene that night, no.  
25 Tonight.

0078

1 Q. Tonight he was here, but you did not see him  
2 at the scene?  
3 A. No, no, no, I didn't.  
4 PRESIDING OFFICER NIX: That's  
5 all.  
6 Anybody have any questions else?  
7 Thank you, Officer, for your time  
8 and your testimony.  
9 You're free to go.  
10 You're excused.  
11 Next will be Officer Powell.

12 -----  
13 MR. YOUNG: You can be seated,  
14 Officer Powell.

15 -----  
16 POLICE OFFICER MARY POWELL, Badge No. 3015,  
17 24th Police District, after having been previously  
18 sworn, was examined and testified as follows:

19 -----  
20 \*EXAMINATION BY MR. YOUNG\*

21 Q. Good evening, Officer.  
22 My name is Dennis Young, and I am counsel for  
23 the Police Advisory Commission.  
24 And, as you know, you were subpoenaed to give  
25 testimony today regarding the incident that

0079

1 happened on November 11th, 2005, outside of  
2 Dianna's Ballroom.  
3 Do you recall that incident?  
4 A. Yes.  
5 Q. Could you please state and spell your name for  
6 the record?  
7 A. Mary Powell; P-O-W-E-L-L.  
8 Q. What is your badge number and district,  
9 please?  
10 A. 3015; 24th District.  
11 Q. I am going to assume that you've given your  
12 testimony before, either in court deposition or  
13 some other judicial proceeding.  
14 I am going to dispense with the formalities of  
15 what I would normally tell folks who have never  
16 been deposed before.  
17 I just ask that you speak verbally when you

18 give an answer to a question.  
19 Is that okay?  
20 A. Yes.  
21 Q. You have a right to give an opening statement  
22 of up to five minutes before I begin my questions.  
23 Would you like to give an opening statement?  
24 A. It's hard for me to hear you.  
25 Q. Okay, I'm sorry.

0080  
1 A. That's my opening statement; it's hard for me  
2 to hear you.  
3 Q. That's a great opening statement.  
4 I think this is the first time in my life that  
5 someone has said it's hard for them to hear me.  
6 Normally I'm very loud.  
7 Can you hear me okay now?  
8 A. Yes, sir.  
9 Q. Okay.  
10 Would you like to give an opening statement  
11 other than it's hard for to you hear me?  
12 A. No, sir.  
13 Q. I am going to ask you some questions.  
14 Once I get done asking questions, the panel  
15 members may have some questions for you.  
16 We've heard testimony from witnesses --  
17 civilian witnesses and also officers -- regarding  
18 the environment at the time that you arrived on  
19 scene that there was probably well over 100, 200  
20 people there; it was very chaotic; it was a mob  
21 scene; there were a lot of people; a lot of words  
22 being used; a lot of profanity; perhaps a lot of  
23 fighting.  
24 Is that your recollection of the scene when  
25 you arrived?

0081  
1 A. No, sir.  
2 Q. Okay.  
3 Good, I'm glad I asked that question.  
4 What is your recollection of the scene when  
5 you arrived?  
6 A. My recollection of the scene when I arrived  
7 was a lot of young children there; more so just  
8 trying to disperse them.  
9 Q. Okay.  
10 Was there any fighting going on that you  
11 noticed, either among the young children that were  
12 there, or fighting among the police officers that  
13 were already on scene and the young children that  
14 were there?  
15 A. No, sir.  
16 Q. So you didn't witness any fighting by any  
17 children?  
18 A. No, sir.  
19 Q. Okay.

20 In terms of words being exchanged, did you  
21 hear any profanity at all?  
22 A. No.  
23 Q. Did you hear any derogatory comments made by  
24 either civilians towards police officers or police  
25 officers towards civilians?

0082

1 A. No.  
2 Q. Did you hear any racial ethnic slurs being  
3 used by either civilians or police officers?  
4 A. No.  
5 Q. Were you called to the scene as a first  
6 assist, second assist, or third assist?  
7 A. I don't recall.  
8 Q. When you arrived at the scene, how many  
9 civilians were there and how many officers were  
10 there?

11 MR. STRANGE: Approximately.

12 Q. If you could guess.  
13 A. Civilians, I would say 100, 150.  
14 Police officers, I couldn't tell you.  
15 Q. And I'm assuming you arrived in a cruiser, a  
16 police cruiser; is that correct?  
17 A. Yes.  
18 Q. Were you in a cruiser by yourself or were you  
19 with another officer?  
20 A. I was alone.  
21 Q. Where did you park your cruiser, if you could  
22 tell the panel, so that maybe I can point it out on  
23 the map?  
24 Can you still hear me?  
25 A. I can hear you better like that.

0083

1 Q. Does this scene look familiar to you  
2 (indicating)?  
3 A. Yes.  
4 Q. And this is Dianna's Ballroom; it's labeled  
5 Dianna's Ballroom (indicating).  
6 Do you know -- do you recall where you parked  
7 your police cruiser when you arrived on the scene?  
8 A. Okay, is this side the front of the building,  
9 or is that side the back of the building, or what?  
10 Q. I believe this is the front.  
11 A. See where the white car is -- okay, I'm sorry.  
12 I'm sorry.

13 MR. STRANGE: Would it be  
14 helpful, sir, if she approached and pointed at  
15 it?

16 MR. YOUNG: Sure.

17 Q. Dianna's Ballroom is on Luzerne Street.  
18 My understanding is that it's a two-way  
19 street.  
20 And this is I Street, which may be a one-way  
21 street (indicating).



22 A. Because you have a pin there, Dianna's  
23 Ballroom. But this is okay.  
24 That's the front of the building (indicating).  
25 Q. Right.

0084

1 You mean this is the front of the building, is  
2 that how you recall it (indicating)?  
3 A. You're saying this is the front of the  
4 building here (indicating).  
5 There were kids here; um, the steps -- okay, I  
6 just want to know where I am.  
7 Q. Do you remember where you parked?  
8 A. Thank you.  
9 Q. So that's the front of the building?

10 A. Yes.

11 Now I understand it.

12 Q. This is --

13 A. I was on that side of the street (indicating),  
14 on the side where the wall is. The ballroom is to  
15 the --

16 Q. To the front of the street or to the back?

17 A. To the back of the street.

18 MR. YOUNG: Can you give me the  
19 other picture Kelvin, please?

20 Q. So the previous picture is going this way,  
21 okay?

22 A. Okay.

23 Q. So you would have been --

24 A. Way back there (indicating).

25 Q. Keep going towards the end of the block?

0085

1 A. No.

2 Q. This is the end of the block.

3 Now, this appears to be another building.

4 Do you remember parking in front of this  
5 building (indicating)?

6 A. No, I don't.

7 I'm trying to recollect, because on -- in  
8 front of the building is a lot.

9 Q. Which is here (indicating)?

10 A. That's the lot right there? Okay.

11 Q. There's also a lot here (indicating)?

12 A. I'm more that (indicating).

13 Q. So this is the lot (indicating)?

14 A. So I was behind that lot.

15 Q. So you were somewhere in this area  
16 (indicating)?

17 A. Yes, sir.

18 I'm sorry.

19 Q. That's fine.

20 That clears up a lot of things, actually.

21 Again, this is Luzerne Street (indicating).

22 Do you recall when you arrived on the scene  
23 whether you were going towards the building,

24 Dianna's Ballroom, or whether you came off of I  
25 Street and went past the building and parked

0086

1 somewhere over here (indicating)?

2 Do you remember?

3 A. I came towards the building.

4 Q. So you came this way (indicating)?

5 A. Yes, sir.

6 Q. So you never fully got to the front of the  
7 building?

8 A. No, sir.

9 Q. Do you know why?

10 Was it because there was so many people you  
11 couldn't drive anymore?

12 A. That's correct.

13 Q. So had you to stop because of the crowd that  
14 was out on the street?

15 A. That's correct.

16 Q. Is it fair to say, then, that most of the  
17 crowd and most of the activity was in front of you  
18 and not necessarily behind you or on the side of  
19 you?

20 A. That's correct.

21 Q. You testified that you didn't necessarily hear  
22 any profanity, and you didn't necessarily see any  
23 fight, but you said that there was about 150, 200  
24 people around?

25 A. Yes.

0087

1 I'm just trying to get a feel of what was  
2 going on directly around you.

3 Was there a lot of people directly around you?

4 A. No.

5 Q. No?

6 A. No.

7 Q. At some point during the time that you were on  
8 scene -- do you recall how long you were on scene?

9 A. I don't know.

10 Forty-five minutes to an hour.

11 Q. At some point during that time you became  
12 involved with a young lady that was pregnant; do  
13 you recall that?

14 A. Yes.

15 Q. And do you recall her name?

16 A. No.

17 Q. Okay.

18 Does Miss Lebron sound familiar?

19 A. No.

20 Q. I'm going to -- for simplicity I am going to  
21 refer to her as Miss Lebron because I think that's  
22 who it was.

23 Tell me about your interaction with Miss  
24 Lebron.

25 A. When I arrived on the scene she was the first

0088

1 person I noticed.

2 Q. First person you noticed?

3 A. Yes, sir.

4 Q. I would imagine that was because she was  
5 pregnant?

6 A. No.

7 She was a cute little young lady.

8 Yes, she was pregnant. And she was roughly  
9 far gone; seven, eight months.

10 And I asked her what was she doing out here.

11 And I proceeded to get her out of harm's way,  
12 because there was no way for her to really, you  
13 know, get out of the situation because she was with  
14 her friends.

15 So I took her to her friends.

16 I got her out of harm's way and left her  
17 there.

18 Q. You mentioned that you got her out of harm's  
19 way, but you testified earlier that you didn't see  
20 any fighting?

21 A. No.

22 Q. You didn't necessarily hear profanity?

23 A. No.

24 Q. How about yelling?

25 A. No.

0089

1 Q. What kind of harm did you think she was in?

2 A. Too many kids out there.

3 Being seven or eight months pregnant around a  
4 bunch of people just moving about is harm's way.

5 Q. So you just wanted to get her out of -- away  
6 from the crowd?

7 A. That's correct.

8 Q. Was she with anyone?

9 A. She told me she came with her girlfriend.

10 Q. Was her girlfriend by her side at the time?

11 A. No.

12 Q. Okay.

13 And do you remember where she was at in  
14 relation to your police cruiser?

15 I'm assuming your police cruiser was somewhere  
16 in this area facing the ballroom (indicating).

17 Was she here (indicating), or was she here  
18 (indicating), or was she here (indicating), if you  
19 remember?

20 A. I don't remember.

21 She was just in my eyesight.

22 Q. Probably a more important question is: Did  
23 you move her, I guess, towards this way  
24 (indicating)?

25 A. No.

0090

1 I moved her across the street to where her

2 friends were.  
3 Q. Would that have been this way (indicating)?  
4 A. Yes, sir.  
5 Q. So you moved her towards the sidewalk on this  
6 side of the street (indicating)?  
7 A. Uh-huh.  
8 Q. And you said because that's where her friends  
9 were.  
10 Did she tell you they were her friends?  
11 How did you know they were her friends?  
12 A. She pointed them out.  
13 Q. You asked her what in order to find out who  
14 her friends were?  
15 A. What was she doing here.  
16 Q. And her response was?  
17 A. She was here with her friends.  
18 Q. And --  
19 A. She pointed them out.  
20 Q. What happened after you walked her over to her  
21 friends?  
22 A. I left her with her friends.  
23 Q. And when you left her with her friends, did  
24 you see her again at any time during the 40 to 45  
25 minutes that you were there?

0091

1 A. Yes.  
2 Q. When did you see her again?  
3 A. I don't know the time frame, but then she came  
4 back over to me -- well, not over to me. She came  
5 back out in the middle of the crowd. I noticed her  
6 again.  
7 Q. You left her with her friends and then, I  
8 guess, you went to do other things?  
9 A. Yes, sir.  
10 Q. Did you still maintain your position by your  
11 police cruiser, or were you walking closer towards  
12 the ballroom?  
13 A. Closer towards the ballroom.  
14 Q. Is that where you saw her at when you were --  
15 I guess you were helping other officers maintain  
16 the crowd?  
17 A. Yes.  
18 Q. So you were walking closer --  
19 A. To the ballroom.  
20 Q. Do you recall whether you were standing  
21 directly in front of the ballroom (indicating), or  
22 standing directly in front of the parking lot  
23 (indicating)?  
24 A. I'm not sure.  
25 Q. Do you recall where you were at when you again

0092

1 saw Miss Lebron?  
2 A. I'm not sure.  
3 Q. That was definitely near your police cruiser?

4 A. No.  
5 Q. It definitely wasn't on this side  
6 (indicating)?  
7 A. No.  
8 Q. So it was closer towards the crowd?  
9 A. Yes.  
10 Q. And when you ran into her again, what was the  
11 conversation?  
12 You're smiling.  
13 A. I'm -- my question to her again was "What are  
14 you doing out here?"  
15 Q. Is that the way you said it, "What are you  
16 doing out here;" it sounds like you were a little  
17 bit more animated, probably?  
18 A. I don't get angry.  
19 Q. I didn't say angry, I said animated; a little  
20 bit more excited.  
21 A. Just more so concerned.  
22 Q. So you asked her, "What are you doing out  
23 here?"  
24 A. Uh-huh.  
25 Q. Did you ask her, "didn't I tell you to go," or  
0093

1 "didn't I tell you to stay away?"  
2 Did you say anything like that?  
3 A. No.  
4 Q. What was her response?  
5 A. "I was looking for my friend."  
6 I have facial expressions.  
7 "I left you with your friends."  
8 Q. That's what your response to her response was,  
9 "I left you with your friends"?  
10 A. Yes.  
11 Q. And then what happened?  
12 A. And then I took her back over to her friends.  
13 Q. And was that in the same location that you  
14 took her --  
15 A. Same location, yes.  
16 Q. And you physically walked with her back to her  
17 friends?  
18 A. Yes.  
19 Q. Did you give her any instructions when you  
20 took her back to her friends?  
21 A. No.  
22 Q. Instructions like, "Don't let me see you  
23 again," or "It's time for you to go home," or "Go  
24 home," or anything like that?  
25 A. No.

0094

1 Q. What happened after that, after you took her  
2 back over to her friends?  
3 A. I started dispersing the crowd again.  
4 And then she walked over to me, came up to me  
5 at some point, and said her stomach was hurting.

6 Q. Do you remember where you were located when  
7 she said her stomach was hurting?  
8 A. Still in the same general vicinity.  
9 Q. But away from your police cruiser?  
10 A. Yes, sir.  
11 Q. You said yes?  
12 A. Yes.  
13 Q. And I'm asking you to speculate now:  
14 Based on where you were standing when she came  
15 up to you the third time, and based on the crowd  
16 that was still around, could you have seen her if  
17 you were looking at her?  
18 A. Speculating?  
19 Q. Yes.  
20 A. No.  
21 Q. Did you see her coming towards you?  
22 A. No.  
23 Q. So she came up to you.  
24 And did she tap you on your back; did she say,  
25 "Officer," or anything like that?

0095

1 A. I don't recall.  
2 I don't recall.  
3 Q. And she said, "My stomach's hurting?"  
4 A. Yes.  
5 Q. What did you say in response to that?  
6 A. Call the paramedics.  
7 Q. What?  
8 A. Call the paramedics.  
9 Q. You told her to call the paramedics?  
10 A. No. I called.  
11 Q. Did she say anything other than, "My stomach  
12 is hurting?"  
13 A. No.  
14 Q. Did she say -- and I know this may sound like  
15 a stupid question -- did she say why her stomach  
16 was hurting?  
17 A. No.  
18 Q. Did she, at any point in time, ever say that  
19 an officer either hit or kicked her in her stomach?  
20 A. No.  
21 Q. Did she, at any time, say that one of the  
22 civilians on the street hit or kicked her in her  
23 stomach?  
24 A. No.  
25 Q. And you called the paramedics from your radio?

0096

1 A. Yes, I did.  
2 Q. Is that on your shoulder or on your hip?  
3 A. On my shoulder.  
4 Q. And the paramedics arrived?  
5 A. The paramedics were on location.  
6 Q. Okay.  
7 Did you have to walk her to the paramedics, or

8 did the paramedics walk to you?  
9 A. We met in between.  
10 Q. And then what happened?  
11 A. And then they took her off to the medic.  
12 Q. You watched her go into the ambulance and  
13 drive off?  
14 A. I don't recall.  
15 I don't recall.  
16 Q. Do you recall ever seeing her have any  
17 interaction with anyone other than the friends that  
18 you testified about earlier?  
19 Did she have any interaction with any other  
20 individuals that you are aware of?  
21 A. Not that I'm aware of.  
22 Q. Did you see her having any conversations with  
23 any police officers while you were out there?  
24 A. Not that I can remember.  
25 Q. When she said to you that -- I guess she said  
0097

1 her stomach was hurting; is that correct?  
2 A. Yes.  
3 Q. When she said that to you, did you make  
4 certain assumptions about why her stomach was  
5 hurting?  
6 A. I don't understand the question.  
7 Q. You didn't ask her why her stomach was  
8 hurting, did you?  
9 A. No.  
10 She just said her stomach was hurting.  
11 Q. Did you assume that it was because she was  
12 pregnant and maybe she was going into labor, or  
13 maybe she was having complications, or anything  
14 like that?  
15 A. No, sir. I don't assume.  
16 Q. Did you witness any civilians being arrested  
17 while you were on scene?  
18 A. No.  
19 Q. Did you witness any officers using their  
20 batons in a crowd control manner?  
21 A. No.  
22 Q. Did you witness any -- did you witness any  
23 civilians with any weapons, like bats or sticks or  
24 pipes or anything like that?  
25 A. No.

0098  
1 Q. Did you witness any bottles being thrown in  
2 the air, or being thrown at officers, or officers'  
3 cars?  
4 A. No.  
5 Q. Were you there for the entire incident?  
6 Were you there until, basically, the crowd was  
7 controlled and everyone, I guess, dispersed?  
8 A. Yes.  
9 Q. So after Miss Lebron received the medical

10 attention, what was -- what else did you do?  
11 After Miss Lebron was taken care of, what else  
12 did you do?  
13 What were your other responsibilities?  
14 A. Disperse the children.  
15 Q. And in doing so, you didn't hear any profanity  
16 being used by the officers about the other  
17 civilians?  
18 A. No.  
19 Q. And you didn't witness any of the officers  
20 having to use their batons in order to control the  
21 crowd?  
22 A. No.  
23 Q. And you didn't witness any officers using  
24 profanity or racial ethnic slurs while they were  
25 trying to control the crowd?

0099

1 A. No.  
2 Q. How long do you think after the time that Miss  
3 Lebron was seen by the paramedics, how long were  
4 you at the scene after that?  
5 Twenty minutes?  
6 A. I'm not sure.  
7 Q. Was it longer than five minutes?  
8 A. It was longer than five minutes, yes.  
9 Q. At any point during the time that you were at  
10 the scene, did you ever make your way directly in  
11 front of Dianna's Ballroom?  
12 A. I'm not sure.  
13 Q. Do you understand the question?  
14 A. I understand the question.  
15 Q. So you're not sure -- I think you testified  
16 earlier that you may have gotten to about this far  
17 (indicating) --  
18 A. Uh-huh.  
19 Q. -- before Miss Lebron approached you for the  
20 second time?  
21 A. Yes.  
22 Q. Do you know -- after Miss Lebron was with the  
23 ambulance and taken care of, do you know whether  
24 your duties ever took you further down into the  
25 crowd directly in front of Dianna's Ballroom so

0100

1 that you could do some crowd control?  
2 A. I don't understand your question.  
3 Q. Do you ever recall just walking --  
4 A. I don't recall.  
5 Q. -- further down the street?  
6 A. I don't recall.  
7 Q. Do you ever recall that night looking up and  
8 seeing the ballroom?  
9 A. No.  
10 MR. YOUNG: I have no further  
11 questions.



12 Mr. Chairman.  
13 PRESIDING OFFICER NIX:  
14 Commissioner Rosario, any  
15 questions?  
16 COMMISSIONER ROSARIO: No.  
17 PRESIDING OFFICER NIX:  
18 Commissioner Stapleton, any  
19 questions?  
20 COMMISSIONER STAPLETON: Yes.

21 -----  
22 \*EXAMINATION BY COMMISSIONER STAPLETON\*  
23 Q. Officer Powell, you really have to help me out  
24 here.  
25 Just when I thought I had my arms around what  
0101

1 this scene looked like on November 11th of 2005, I  
2 now hear your testimony.

3 Am I correct that you saw no fighting?

4 A. No.

5 Q. You heard no profanity?

6 A. No.

7 Q. You heard no ethnic slurs?

8 A. No.

9 Q. No derogatory comments?

10 A. No.

11 Q. Any yelling?

12 A. No.

13 Q. Any screaming?

14 Talking loud?

15 A. No.

16 Q. Would it surprise you if I told you that the  
17 testimony up to this point described, at various  
18 times, an angry mob?

19 MR. STRANGE: You have to answer.

20 A. Sorry, I thought you -- excuse me.

21 Q. Because the scene you that described was  
22 almost as if it's a schoolyard letting out at  
23 lunchtime with officers coming around and helping  
24 people move out of the way.

25 Quite different than what was heard from every  
0102

1 witness up to this point. And I'm trying to  
2 understand the scene in your mind's eye.

3 A. In my mind, yes.

4 Q. And it's a lot different than what was heard.

5 A. I'm sure it is, because I see things  
6 differently.

7 I see a bunch of children out at a party,  
8 unruly at the end of the party; disperse the  
9 children, get them home.

10 That's what I see. And that's who I am.

11 Q. Okay.

12 I'll leave it at that. Thank you.

13 -----

14 PRESIDING OFFICER NIX: Officer  
15 Powell, I just have a couple of questions for  
16 you.

17 -----

18 \*EXAMINATION BY PRESIDING OFFICER NIX\*

19 Q. Did you see anybody writing down any badge  
20 numbers; any civilians writing down police  
21 officers' badge numbers?

22 A. No.

23 Q. And you said after you had given Miss Lebron  
24 into the custody of the paramedics, you went back  
25 to dispersing the crowd?

0103

1 A. Uh-huh.

2 Q. How did you disperse the crowd?

3 A. By telling them to go home.

4 Q. By telling them to go home?

5 A. Yes.

6 Q. And what exactly did you say, "Go home?"

7 A. "Go home."

8 Q. And did you have your baton out?

9 A. No.

10 Q. And did you use your hands at all to push  
11 anybody or guide them along?

12 A. No.

13 Q. And besides "Go home," did you say anything  
14 else?

15 A. No.

16 Q. "Go home right now", Go home?" Nothing else,  
17 just, "Go home?"

18 A. "Go home."

19 Q. And have you been involved in other incidents  
20 where you have had to disperse crowds?

21 A. Yes, sir.

22 Q. You have?

23 A. Yes, sir.

24 Q. And in those instances, have you used other  
25 ways to disperse crowds different than you did this

0104

1 night?

2 A. No.

3 Q. It's always the same, "Go home?"

4 A. "Go home."

5 Q. Have you used your baton in other crowd  
6 dispersing incidents?

7 A. No.

8 Q. And have you had to push people in other crowd  
9 dispersing incidents other than this one?

10 A. No.

11 Q. And then my other question is: Do you know  
12 Officer Swift?

13 A. Officer who?

14 Q. Swift.

15 A. No.

16 Q. Okay.  
17 And do you know Officer Diaz, who was here  
18 this evening?  
19 A. Yes.  
20 Q. Did you know him so that you would recognize  
21 him that evening of the event?  
22 A. I didn't see him there.  
23 Q. But you knew him as of November of 2005?  
24 A. Yes.  
25 Q. But you didn't see him there this evening?

0105

1 A. Yes.  
2 Q. What about Sergeant Fraser; do you know him?  
3 A. Yes.  
4 Q. Did you know him that evening of November of  
5 2005?  
6 A. Yes.  
7 Q. Did you see him there?  
8 A. Yes.  
9 Q. What was he wearing?  
10 Let me change that.  
11 Was he in uniform or was he in civilian  
12 clothes?  
13 A. I don't recall.  
14 Q. And what does Sergeant Fraser look like?  
15 Describe him generally.  
16 Is he --  
17 A. Tall, dark-skinned, medium build,  
18 African-American male.  
19 Q. And do you know Officer Gillespie, other than  
20 seeing him tonight?  
21 A. Yes.  
22 Q. Did you know him in November of 2005?  
23 A. Yes.  
24 Q. Did you see him there that night?  
25 A. No.

0106

1 Q. Ma'am, you also said that you had -- no,  
2 actually, your testimony is you don't remember  
3 which assist call you responded to; is that right?  
4 A. That's correct.  
5 Q. Do you know that now there were three assist  
6 calls?  
7 A. I don't know.  
8 Q. But you're not sure which one you responded  
9 to?  
10 A. No.  
11 Q. Now, do you recall if there was a helicopter,  
12 a police helicopter, or any helicopter, shining a  
13 light down on that scene?  
14 A. I don't recall.  
15 PRESIDING OFFICER NIX: I don't  
16 have any other questions.  
17 Anybody else?

18 All right.  
19 Thank you for your time.  
20 MR. YOUNG: I have a few  
21 questions.  
22 PRESIDING OFFICER NIX: Lawyers  
23 always have one more.

24 -----  
25 \*EXAMINATION BY MR. YOUNG\*

0107

1 Q. Officer Powell, I do have a few questions.  
2 You were interviewed by Internal Affairs  
3 regarding this?  
4 A. Yes.  
5 Q. Yes?  
6 A. Yes.  
7 Q. Do you remember that interview?  
8 Do you remember statements that you gave?  
9 A. Yes.  
10 Q. This would have been back on September 19th,  
11 2006?  
12 A. Yes.  
13 Q. Does that ring a bell?  
14 A. Yes.  
15 Q. Your testimony today was that Officer  
16 Lebron -- not Officer Lebron, Miss Lebron -- told  
17 you that her stomach hurt but she didn't tell you  
18 why; is that correct?  
19 A. That's correct.  
20 Q. According to your statement during the  
21 interview, you recall that she was at her friend's  
22 car and she told you she had been hit in the  
23 stomach.  
24 Do you recall her telling you that?  
25 A. I don't recall.

0108

1 Q. Excuse me?  
2 A. I don't recall.  
3 Q. You do not recall that because you don't think  
4 she said it, or you don't recall because you don't  
5 remember?  
6 A. I don't remember.  
7 Q. As you sit here today, based upon what I just  
8 told you, which is in this statement, do you think  
9 that she may have told you that she was hit in the  
10 stomach?  
11 A. She may have told me that.  
12 Q. By me telling you that -- and if you want to  
13 look at your transcript of your statement I can  
14 show it to you -- but, by me telling you that, does  
15 that recollect anything that you've testified to  
16 today that maybe you just didn't remember?  
17 A. No.  
18 Q. So is there anything else that she may have  
19 told that now that I told you about that you now

20 recall?  
21 A. No.  
22 Q. But she may have told you that she was hit in  
23 the stomach?  
24 A. Yes.  
25 Q. Okay.

0109

1 Do you know if she told you who hit her in the  
2 stomach?  
3 A. No.  
4 Q. Do you know officer Brian Williams?  
5 A. Yes.  
6 Q. By the way, how long have you been a police  
7 officer?  
8 A. Twelve years.  
9 Q. Do you know how long Officer Williams has been  
10 a police officer?  
11 A. No.  
12 Q. How long have you known Officer Williams?  
13 A. Roughly, a year or two.  
14 Q. And you met him while on the force, I'm  
15 assuming?  
16 A. Yes.  
17 Q. And do you and Officer Williams work together  
18 now or --  
19 A. We're in the same platoon, yes.  
20 Q. Would it surprise you to learn that Officer  
21 Williams gave a statement that he called you over  
22 so that you could assist Miss Lebron?  
23 Do you remember that?  
24 A. No.  
25 Q. Do you remember having any interaction with

0110

1 Officer Williams the night of the incident?  
2 A. No, I don't.  
3 Q. So, I mean, is Officer Williams lying when he  
4 says he had an interaction with you?  
5 A. I don't recall.  
6 Q. Do you recall Miss Lebron telling you that  
7 Officer Williams was the officer that hit her in  
8 the stomach?  
9 A. No, I don't recall that.  
10 Q. Would it surprise you if Miss Lebron told you  
11 that it was Officer Williams that hit her in the  
12 stomach?  
13 A. I don't understand the question.  
14 Q. The night that you were at the scene, if Miss  
15 Lebron walked up to you and said, "My stomach hurts  
16 because Officer Williams hit me in the stomach,"  
17 would that surprise you?  
18 Would you have been surprised at that time?  
19 A. I would have just had to do my job, sir.  
20 Q. What would your job have been if she had  
21 walked up to you and told you that an officer hit

22 her in the stomach?  
23 A. Write the report and --  
24 Q. And what report would that have been?  
25 A. 75-48.  
0111  
1 Q. And you did, in fact, fill out a 75-48; right?  
2 A. Hospital patient.  
3 Q. It's the same report, it's just a different  
4 check on the report?  
5 A. Excuse me?  
6 Q. You said -- initially you said if Miss Lebron  
7 told you that an officer hit her in the stomach you  
8 would have filled out a report; correct?  
9 A. Yes.  
10 Q. And that report would have been a 75-48?  
11 A. The initial report.  
12 Q. And you, in fact, filled out a 75-48?  
13 A. Yes.  
14 Q. But it was because of a hospital case?  
15 A. Yes.  
16 Q. On your report, do you recall the reason  
17 why -- do you recall giving a reason why it was a  
18 hospital case?  
19 A. I don't recall.  
20 Q. Do you ever recall Officer Williams having any  
21 contact with Miss Lebron?  
22 A. No, sir.  
23 Q. And you don't recall Miss Lebron coming up to  
24 you saying, "Officer Williams hit me in the  
25 stomach?"

0112  
1 A. No, I don't recall.  
2 Q. When you initially confronted Miss Lebron on  
3 the street, when you first pulled up, did she  
4 complain about her stomach then?  
5 A. No.  
6 Q. And when you, I guess, walked her to her  
7 friends, or told her to go to her friends, and the  
8 second time you saw her when she came back, was she  
9 complaining of her stomach then?  
10 A. No.  
11 Q. And it was the third time that you had your  
12 interaction with her, she actually approached you  
13 and that's when she complained of her stomach;  
14 correct?  
15 A. Yes.  
16 MR. YOUNG: I have no further  
17 questions.  
18 PRESIDING OFFICER NIX: No  
19 further questions.  
20 You're excused for the evening.  
21 Thank you for your testimony and  
22 your time, Officer.  
23 And with no other witnesses this

24 evening, we'll stand in recess until tomorrow  
25 evening.

0113

1 (Hearing concluded)  
2 (Time noted: 8:45 p.m.)  
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I HEREBY CERTIFY that the proceedings  
and evidence are contained fully and  
accurately in the Notes taken by me on the  
argument, hearing, or trial of the above  
cause, and that this is a correct transcript  
of same.

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LISA J. AMATUCCI, RPR, CSR\*  
Registered Professional Reporter  
and  
Certified Shorthand Reporter  
State of New Jersey

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