UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

CIERRA DUNN, VERCHON DEBROSSARD, MICHAEL KLINGENBERG, TRENTAE FUGATE, CAMERON LARD, SOPHIA JACOBSEN, JIVONTE JOHNSON, JAYVIONE LEWIS, MAKENZIE MOLER, JAQUAN PATTON, JOSHUA PETEFISH, TYLER ROBINSON McCUDDIN, EMMA TIMBERLAKE, HARRISON WOODS, and TONY YOUNG,	:	
Plaintiffs,	:	No. 4:21-cv-53
vs.	:	
JOHN DOE 1-20, BRIAN BUCK, BRANDON HOLTAN, CHRIS HARDY, BRENDAN EGAN, JEREMY BETTS, TYLER PALMER, JARED UNDERWOOD, DAVE CHIODO, MARK WESSELS, TIMOTHY COUGHENNOWER, BENJAMIN MCCARTHY, THOMAS GARCIA, DANIEL DEMPSY, BRAD HOOK, SCOTT NEWMAN, NICK SMITH, ADAM HERMAN, TODD WILSHUSHEN, KEN CALLAHAN, JAMES GRIMES, JACOB LOVELL, BRYAN BACH, DANIEL DEMPSEY, MYLES SCHRAGE, RYAN ARMSTRONG, TRUDY PAULSON, TYLER MOFFATT, JACOB HEDLUND, KYLE GRUVER, NICHOLAS VALENTINE, DEB VANVELZEN, JEREMY SPRAGUE, CLARK ALLEN, ERNESTO ESCOBAR HERNANDEZ, CHAD NICOLINO, JEFFREY GEORGE, BRADLEY YOUNGBLUT, JAKE FORRESTER, KIRK BAGBY, DANA WINGERT, CITY OF DES MOINES, IOWA, POLK COUNTY, IOWA, CITY OF WEST DES MOINES, IOWA, CITY OF JOHNSTON, CITY OF PLEASANT	:	DEPOSITION OF JACOB HEDLUND

IOWA, :
:
Defendants. :
_____:

DEPOSITION OF JACOB HEDLUND, taken before SueAnn Jones, Certified Shorthand Reporter and Notary Public, at the First Floor Conference Room of Des Moines City Hall, Des Moines, Iowa, commencing at 1:00 p.m. on May 31, 2022.

Reported by: SueAnn Jones, CSR, RPR

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I N D E X

EXAMINATION BY	DIRECT	CROSS	REDIRECT
Ms. Messamer	6		

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JACOB HEDLUND,

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

DIRECT EXAMINATION

BY MS. MESSAMER:

Q. Good afternoon. Could you please start out by stating and spelling your name for the record.

A. Jacob Hedlund, H-e-d-l-u-n-d.

Q. What did you review in order to prepare for today's deposition?

A. Reviewed some body camera footage as well as my reports that I authored.

Q. What body camera footage did you review?

A. I reviewed some footage of the arrest of Jayvione Lewis and then periodically have viewed my other camera footage from the night of the riots.

Q. What time did you go on duty that day?

A. I believe we went on duty on the -- we're talking about the 31st; correct?

Q. Yes.

A. I believe we were called to respond at 1 o'clock p.m.

Q. What was your regular assignment back then?

A. Back then I was in the traffic unit.

Q. What shift did you work?

A. Noon to eight.

Q. Did you work your regular shift that day?

A. No.

Q. So your Metro S.T.A.R. call trumped your regular duties that day?

A. So I believe this was a Saturday, and my primary hours in the traffic unit was I only worked one weekend a month. I believe that was my weekend off.

Q. And you indicate some reports, and you brought those with you. Could I take --

A. Yes.

Q. -- a look at those?

A. Yes, ma'am.

Q. Thanks.

What year did you graduate high school?

A. 2002.

Q. What year did you start with DMPD?

A. 2007.

Q. What did you do in between graduating and starting with DMPD?

A. I went to Buena Vista University.

Q. Did you graduate?

A. I did.

Q. What was your degree?

A. Criminal justice with a minor in coaching.

Q. Was your intention always to go into police work?
A. Yes.
Q. Since how long?
A. Since I was probably five years old.
Q. How come?
A. My father was in law enforcement, grew up around it.
Q. Where was that?
A. Poweshiek County.
Q. Are you a coach?
A. I don't have the time to do it anymore. I did my senior year of college, and then in between getting -- graduating from high school -- or graduating from college and joining the police department, I did coach in a volunteer capacity.
Q. What sport?
A. Wrestling.
Q. How long have you been on Metro S.T.A.R.?
A. I believe I joined in 2012. I'm no longer on Metro S.T.A.R.
Q. Since when?
A. Since March 8, 2021.
Q. How come you got off?
A. I was promoted to sergeant.
Q. What was your rank back in May 2020?

A. Senior police officer.
Q. When were you promoted to sergeant?
A. March 8, 2021.
Q. What's your beat now?
A. Currently assigned to third watch patrol.
Q. And that starts what time?
A. It starts at 13:00, so 1 o'clock p.m. until 11 o'clock at night.
Q. How many guys do you supervise?
A. Right now -- so recently we just had a big promotional ceremony and promotional process, so my duties have recently changed.

I was in charge of the south side squad, which was 14 officers. I'm now considered a floater, so when other sergeants are on their regular days off, I will fill in and supervise their squads.

Q. Is that a better gig?
A. I wouldn't say better. It just allows a little bit more freedom and moving sides of town, and I wouldn't say it's better or -- there's perks to each -- each side of it.
Q. Did you want to be a floater?
A. I was fine with being a floater, yeah. Whatever the squad needed from me, you know, I'm willing to step in and help.

Q. Do you have any fake social media accounts that you use for work?

A. No.

Q. Have you ever been on summer enforcement team?

A. No. Yes, the very first year, which would have been 2010, I believe.

Q. Do you have any other special assignments now that you are a sergeant?

A. No.

Q. Did you have to get off Metro S.T.A.R. because you became a sergeant, or was that --

A. Yes.

Q. So there are no sergeants on Metro S.T.A.R. teams. It's all just regular officers?

A. Correct.

Q. Why can't you be on Metro S.T.A.R. now that you're a sergeant?

A. There was issues with kind of assistant team leaders and maybe sergeants not necessarily being a team leader.

So therefore you kind of had that conflict of interest of you have an SPO that is giving an order to a sergeant, and apparently there was an issue before I was even on the team that created the current situation of once you're promoted, you're off the team.

Q. Are some of the team leads sergeants?
A. No.
Q. So even the team leads are just regular police officers?
A. Correct.
Q. Be sure to wait until I finish my sentence before you answer just so she can get everything down.
I take it you have not served in the military?
A. No.
Q. You think you are pretty good at your job?
A. Yes.
Q. What makes you good at your job?
A. I'm a hard worker. I'm dedicated. I think things through. I'm a pretty calm, rational person.
Q. Have you ever used Voxer to communicate for work?
A. No.
Q. So you think you started work around 1 p.m. on the Saturday we're talking about for this case; is that right?
A. I believe so.
Q. Was that when everybody from Metro S.T.A.R. was called in?
A. I believe so.
Q. How did you get -- how was it communicated to you

that you needed to come in?

A. I believe by pager.

Q. Like old-fashioned pager like a doctor has?

A. Old school 1990 pager.

Q. Is that what you always use for Metro S.T.A.R.?

A. Yes.

Q. Did you have to call in to somebody when you got a notification on your pager?

A. No.

Q. So like, what would it say on your pager, and how would you know what to do?

A. So obviously the previous night we knew that tensions were high. So we were told, you know, "Effective immediately we're all on-call, standby. We'll let you know when you need to come in" at which point a page came out, and typically it would say something like "All teams report to Metro S.T.A.R. building" at whatever time.

Q. I have never had a pager, but it just says all that in text on your pager?

A. Yes.

Q. Did you have a text stream with other Metro S.T.A.R. guys?

A. I don't believe so.

Q. Never used a text stream with any of your team

leads?

A. I don't believe our team did, no.

Q. Are you aware of other teams doing that?

A. There may have been.

Q. Are you aware of it?

A. I'm not aware.

Q. So I understand you did work Friday the first night of the protests when it was going on by the police station and the East Village; is that correct?

A. Correct.

Q. And you were on a skirmish line there?

A. Yes.

Q. Where was that?

A. East Second and Court.

Q. Was that after protesters had been around surrounding the cop car?

A. Yes. So the officer that was in the cop car had radioed for help that he was being surrounded at which point we deployed from the Metro S.T.A.R. building and formed the skirmish line at East Second and Court.

Q. And pushed those people back with that line?

A. Initially we just held.

Q. Friday night and then Saturday night, the night this lawsuit is about, on Saturday night did you recognize anybody that you had seen on Friday night in

the protester crowd?

A. Not that I recall.

Q. When you were working Metro S.T.A.R., who did you report to?

A. My team leader was Scott Newman, and then the sergeant was either Sergeant Nydam or Sergeant Wellman.

Q. On that Saturday, do you remember having any communication with Nydam or Wellman?

A. I don't remember.

Q. How did you get orders on that night? How were orders communicated to you?

A. I believe one of the commanders would give out orders over the radio.

Q. What team were you on?

A. Team 4.

Q. And I understand that's a training team?

A. Yes. You could -- you could call it a training team. We still deploy, but it's primarily younger officers to the Metro S.T.A.R. team to kind of get them up to speed with our tactics.

Q. But you and Jared Underwood were not newer officers. You were the most seasoned people to bring on and onboard these younger people?

A. Correct.

Q. How long had that team been formed? Do you have

a certain time of year when people are brought on?

A. No. It just kind of depends when there's a vacancy. Obviously, like I alluded to earlier with promotions, if somebody gets promoted, then we'll have a vacancy.

It will get filled or, you know, with County or other agencies, people might come. They might leave. And so it just kind of -- there's no set date in stone that this is when we get new people.

Q. And why were you on Metro S.T.A.R.?

A. I joined Metro S.T.A.R. because I enjoyed training and learning tactics, being more tactically sound and being involved in higher-risk situations.

Q. If you had not been promoted, would you still be on Metro S.T.A.R.?

A. Yes.

Q. What year did you become a team lead?

A. I became an assistant team leader in -- I believe January of 2020.

Q. What training did you receive in order to become a team lead?

A. None, just my regular training that I had -- and experience that I had incurred over the previous eight years.

Q. Did you have to apply for that position?

A. No.

Q. Are those seniority based?

A. No, not necessarily.

Q. What's your understanding of the relationship between Metro S.T.A.R. and Des Moines police?

A. I guess I need some clarification on the question. I mean --

Q. Does Metro S.T.A.R. report to Des Moines?

A. My understanding, Des Moines is kind of the head of Metro S.T.A.R. We provide the command and the leadership of Metro S.T.A.R.

Now, there is a Polk County sergeant that is also assigned to the Metro S.T.A.R. team, but I would say that Des Moines does a majority of the command level executive decisions.

Q. And in terms of the protest response, was it also Des Moines who was taking the lead on that?

A. I believe it was a coordinated effort between Des Moines, Polk County, the SERT team, and Iowa State Patrol.

Q. Who was in charge of coordinating those efforts?

A. That's a decision made above me. I have no idea.

Q. So on the Saturday, the 31st when you got your pager message about when to come in, you show up. Where do you go?

A. To the Metro S.T.A.R. tactical office.

Q. And who was there?

A. The entire team.

Q. When you say "entire team," do you mean just Team 4, or do you mean other teams?

A. I believe everybody on Metro S.T.A.R. was called in.

Q. You believe all the teams --

A. Correct.

Q. -- were called in, including the -- what does MO stand for, MO team?

A. Marksman observer team.

Q. And you think those were called in too?

A. Yep.

Q. Who led the pow-wow when you got to the office?

A. I believe SPO Latcham. He is the training coordinator and kind of the lead, go-between between management and then, as I would call it, the -- the operators.

Q. So it was Latcham you were getting orders from, not from Schafnitz or Wellman?

A. I believe the orders went from Schafnitz or Wellman down to Latcham, and then Latcham disperses it out to the group of us about what our mission is for the day and what our goals are for the day.

Q. Did you participate in any arrests on the Friday night, the first night?

A. I did not arrest anybody on Friday night, no.

Q. So Saturday when you were having your pow-wow in the tac office, what instructions were you given?

A. I believe our orders were essentially to -- we're going to kind of just wait and see what's going on, and we'd been given some intel that, you know, there was going to be another, you know, potential riot and that we were going to be doing all we could to protect life and property in the city of Des Moines.

Q. Who gave you your first orders on you need to leave the tac office and go somewhere else?

A. I believe my first orders were to deploy to the Polk County courthouse area.

Q. Who did you get those orders from?

A. I don't recall.

Q. When you got to the courthouse area, who was giving orders?

A. I don't know who was giving the command orders at that time, at that location.

Q. How did you get down there?

A. Rode in the RDV, the rapid deployment vehicle.

Q. Is that the same thing as a BearCat?

A. No.

Q. Who else was in the RDV with you?

A. I know it was myself, I believe Jared Underwood, Jake Forrester, Scott Newman. I'm not sure who else was -- there was other officers, but I don't remember all for sure who was down there.

Q. Was it a Metro S.T.A.R. RDV?

A. It's one of the ones that we -- yes, Metro S.T.A.R's.

Q. What did you do after leaving there?

A. Once we left the courthouse area?

Q. Yes.

A. I believe we went back to the tac office.

Q. And tell me about the experience of arresting that man that you thought was Michael Klingenberg. Where did you take him after arresting him?

A. I walked him over to the paddy wagon.

Q. Where was that?

A. I believe it was located at -- I believe Sixth -- the corner of Sixth and -- it would be the south side of the courthouse, right at the corner where the new Polk County courthouse is.

Q. By the DART station?

A. Yes, right across -- just north of the DART station. If you have a map, I could point right to it. I'm not -- I'm drawing a blank on the street. I believe

it might be Mulberry.

(Exhibit No. 1 was marked for identification.)

Q. Okay. Marked this as Exhibit 1 for you just so you can orient yourself.

A. Okay.

Q. Maybe go ahead and put an X on here where the paddy wagon was.

A. So we walked him -- he was arrested approximately right here on Cherry, and we walked him over here to where we met up with the paddy wagon.

Q. Why don't you mark where you arrested him too just so the record is clear. Do a circle there maybe.

A. (The witness complied.)

Q. Was there anybody else that you had arrested that you were walking over there?

A. No.

Q. What was the communication when you took him to the paddy wagon?

A. He was apologetic. He apologized, stated that he was down in the area, just to make sure that everybody was safe, said that we were doing an excellent job, and I agreed with him, and he stated he was just down there to make sure everybody was safe.

Q. What was your communication with the people at

the paddy wagon?

A. I believe I just told them -- just handed him off to them because once again, we were -- our attention was drawn back towards the crowd.

Q. Did you give your name to the paddy wagon people as the arresting officer?

A. I believe Officer Scarlett -- I had spoken with her, and she knows me on a personal level, so she knew that I was the one that arrested him.

Q. What did you understand the charges were going to be against him?

A. I believe failure to disperse and rioting.

Q. Did you give those directions to the paddy wagon?

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

Q. Did anybody talk to you that day about potential charges to put on these people?

A. I believe the command decision was made higher up than me after conferring with the county attorney's office on what charges would be appropriate.

Q. Was that communicated to you before you went on duty that day?

A. They may have. I don't remember.

Q. So as of when you're making these arrests, did you consider yourself the arresting officer for that man?

A. In this case, yes. I considered myself to be the arresting officer.

Q. When you are the arresting officer, is it typically your decision to decide the charges?

A. Yeah.

Q. Do you recall when you made that arrest if you specifically had in mind the charges of failure to disperse in writing, or is that something you kind of learned about afterwards?

A. No. I'm pretty sure that there had been discussions made that these were the charges that were going to be appropriate.

Q. Why do you say that?

A. Well, the -- if you look up the code section, failure to disperse, he was given a lawful order.

Q. My question is more like why do you say you think it had been decided, or what do you remember about the communication there about what the charges were going to be?

A. From what I remember was we were told this is what we're charging people with. The paddy wagon will pick them up, bring them down to the booking area, and that was what they were deciding.

Q. Were you given any instructions on whether or not you were supposed to write reports?

A. At that time, no, I don't believe we were given any instructions.

Q. When were you given instructions about report writing?

A. I believe maybe on the Sunday. So I had authored both of my -- or all of my reports the day that I arrested the person because I knew that for legal purposes it would be better to have a report documenting my actions.

Q. Well, it looks to me like this report wasn't authored until June 10.

A. You're correct.

Q. But you're saying you wrote it the day of?

A. I wrote my original case. I had to do an amended version because he was misidentified as Michael Klingenberg when he was actually Michael Wolf.

Q. Did you get the man's name when you took him to the paddy wagon?

A. I did not.

Q. Is there a reason you didn't get his name?

A. It was a chaotic scene, and we still had officers being assaulted with bricks and bottles.

Q. Down by the courthouse?

A. Yes, ma'am.

Q. Where were those assaults happening?

A. I believe we were standing there, and the crowd was still assaultive, yelling and screaming at officers. It was a chaotic time, and I handed him off so that I could rejoin my team.

Q. You are saying bricks and bottles were thrown at the time you were down at the courthouse?

A. During that time, yes, we were being assaulted, yes.

Q. How long between when you got down there and when tear gas was thrown?

A. I don't recall how long it was.

Q. Were you there for some period of time, though, before gas was thrown?

A. I believe so, yes.

Q. Did you personally see a brick thrown down there?

A. I don't recall on whether or not I remember seeing it down there at that location. I know that we had been taking debris thrown at us.

Q. Well, down here at the courthouse, did you personally observe anything thrown?

A. I don't recall.

Q. So when you said earlier that bricks and bottles were thrown, that's not actually your specific memory from the courthouse period?

A. I remember that it was a chaotic scene, and at

that point he was in custody. I had handed him over to the paddy wagon and that my responsibility was to go back to my team and to assist my team with a hostile crowd.

Q. Was it your intent to do a follow-up report with regard to that individual as the arresting officer?

A. Once I learned that he had been misidentified, then yes, I did a supplemental report identifying him as the correct person.

Q. How did you identify him as Michael Klingenberg to begin with?

A. I had gone on the Polk County inmates on the Web. Michael Klingenberg and Michael Wolf appeared to be -- they're very similar characteristics as far as their appearance, and I believed it to be him.

Q. And tell me, when did you write your report recording that Michael Klingenberg/Michael Wolf person?

A. It was a few days later. I'm not exactly sure when the date was.

Q. What prompted you to write that report?

A. I was contacted by one of the detectives who told me that he had been misidentified.

Q. Which detective contacted you?

A. I believe it was Darin Miller.

Q. I guess I'm confused. How did he get

misidentified if you hadn't done a report yet that misidentified him?

A. I guess I'm confused by your question now.

Q. How was this person identified as Michael Klingenberg to begin with?

A. Once again, at the end of that night, I had gone on Inmates Online to try to identify who he was and looked through the list of arrestees.

Looking at the picture of Michael Klingenberg, I clicked on it, and I went yes, that is the person that I arrested, or so I thought. I was wrong in that and was told later on no. It was actually Michael Wolf that I arrested.

Q. Okay. So the night of, you look up the booking photos, and then who do you tell, or how do you get that information into the system that the person you arrested was Michael Klingenberg?

A. I authored a report.

Q. And you are saying you did that that night?

A. I believe it was the morning of, the next morning, yes.

Q. After you had gone home?

A. No. I was still at the Metro S.T.A.R. office.

Q. So before you got off duty from this whole time period, you authored a report saying "I participated in

the arrest of Michael Klingenberg"?

A. Agree, yes, I believe so.

(Exhibit No. 2 was marked for identification.)

Q. Okay. So I marked this as Exhibit 2, and I think that this matches up with one of the reports that you brought with you too.

A. Okay.

Q. Is that right?

A. Yeah.

Q. So this report says it's dated June 10.

A. Yes, it does.

Q. And there's a Bate Stamp on the side that says June 11. Do you see that?

A. Yes, ma'am.

Q. How does that Bate Stamp get on there?

A. When reports are turned in to the records management section, they time stamp it on there.

Q. And the date June 10, that's labeled as the date of this report. How does that date get put in there?

A. That would have been put in by the reporting officer, which would have been me in this case.

Q. Is that something that's automatically populated when you go to create a report or you manually type that in?

A. Manually type it in.

Q. So after seeing this, is it still your testimony that you wrote this on May 30, May 31?

A. Well, looking at it now, I could have -- I believe that I had done the report that night, but obviously I wouldn't have picked out June 10 as the date. I'm not sure. But I did believe that I had done the report the night of.

Q. Well, now looking at this, do you think that belief was wrong?

A. I believe it was more than likely probably the June 10 date.

Q. And I guess that's my question is assuming this June 10 date is correct, what prompted you to write this report on June 10?

A. I'm guessing we had been told that we needed reports on people we had arrested.

Q. Do you recall getting that instruction?

A. I don't recall off the top of my head, no.

Q. Do you recall having any communication with anybody within Metro S.T.A.R. or DMPD more generally about "Hey, we need to identify these people"?

A. I believe we were given an order by -- that came down through the chain of command that "Hey, if you arrested somebody, you need to do a supplemental report

on them."

Q. Who do you remember getting that order from?

A. I don't recall, to be honest with you.

Q. Is it something you think was communicated verbally, or was there e-mail sent out with mug shots?

A. I believe it was verbally.

Q. Were you given any instruction about use of force reports and whether those should be filed?

A. I believe we were told we didn't have to do use of force reports.

Q. Who told you that?

A. I believe it was Metro S.T.A.R. command.

Q. That would be Schafnitz?

A. Yeah, Schafnitz, Wellman, the commanders in Metro S.T.A.R., yes.

Q. You think both of them communicated that to you?

A. I believe it was communicated to the team leaders and then down throughout the team, yes.

Q. So does that mean you got that information through Scott Newman?

A. It was either Scott Newman or Chris Latcham or, you know -- I don't recall. It was, you know, two years ago. I don't remember every single conversation that was had.

Q. Generally speaking, if you were on traffic duty

and you tackled somebody, would you have to do a use of force report?

A. Yes.

Q. So the instructions you were being given about that you didn't have to do a use of force report, that was kind of an exception to the general rule?

A. Yes.

Q. Okay. And so then after this report, you think Darin Miller called you and told you you misidentified the person?

A. I believe so.

Q. What do you remember about that communication?

A. I believe it was just "Hey, I think you misidentified this person. I don't think it's Michael Klingenberg. I think it's Michael -- Michael Wolf."

Q. Did you do anything to verify if that was correct?

A. I believe I may have pulled up his photo as well and then saw that they were very similar in appearance.

Q. Did you have any body camera footage that you referenced regarding that?

A. I had body camera footage of myself down there, yes.

Q. Was there anything on your body camera footage that confirmed to you one way or the other if it was

Michael Klingenberg or Michael Wolf?

A. I don't believe so because he was wearing a gas mask, and we were in the middle of a fog of gas, and I didn't find it appropriate to remove his gas mask so that he had to sit there and suffer in pain.

Q. Had he been pepper-sprayed?

A. Yes.

Q. By you?

A. Oh, had he -- I thought you asked if I had been pepper-sprayed?

Q. No.

A. No, I don't believe so.

Q. So it was just the gas?

A. No. I don't believe he was pepper-sprayed. He was wearing a gas mask.

Q. Did you have a gas mask on then?

A. I did.

Q. Did you get exposed to any of the gas down there?

A. Well, I guess what is your -- what are you defining as exposed? Like, is it taking an effect on me?

Q. Yes.

A. At that time, no.

Q. Was there a later time when you did get exposed and actually had it on you?

A. Had symptoms? Yes.

Q. When was that?

A. I believe at the capitol grounds I had some exposure up there.

Q. Was that the same night?

A. Yes.

Q. Okay.

A. I can't recall any others off the top of my head.

Q. What's that like when it's tear gas as opposed to OC spray?

A. OC spray, in my opinion, is more of a burning sensation, an irritant where the gas is an irritant, but it can also kind of cause coughing and that type of thing.

Q. How long does OC spray typically affect someone?

A. It really depends on the individual person. I do not like it. It doesn't sit well with me where there's other people that can be exposed to it, be sprayed by it, and they can wash and decontaminate and be fine 30, 40 minutes later.

Q. How long for someone who's more sensitive like you before you feel better?

A. I mean it's really hard to say, but proper decontamination, people should be able to be fairly normal, be able to function normally probably within,

you know, a half hour, 35 minutes.

Q. And that's true for you too?

A. Yeah, typically.

Q. What is proper decontamination?

A. Water, air, time.

Q. Is it just one water, or is it something where if you repeatedly wash it out, it helps?

A. So I'll give an example. I was -- I had been pepper-sprayed in a previous job when I worked down in Dallas, Texas, as a security guard.

That was a -- that was in August in Texas, and it was extremely hot, so I had been pepper-sprayed, and the decontamination for me was a lot worse at that time.

And then when I was sprayed at the police academy, the decontamination, I did a lot better. The weather was cooler. So it was not as long for the second time.

Q. When did you work in Dallas?

A. 2006, right after I graduated from college. I went to Dallas from June until December.

Q. So and like in the Dallas instance then, how long did it take you before you felt better?

A. Like, a couple of hours.

Q. Have you ever had an experience where you have

not washed out with water and decontaminated that way?

A. No. I've always been able to wash out and decontaminate with water.

Q. Did you pepper-spray anybody in the course of the protests?

A. Yes.

Q. Who? What day? Maybe I'll start there. What day? You can just tell me, like, where the protest was.

A. I believe Sunday on Locust Street. I had pepper-sprayed an individual.

Q. Is that a day where there were protesters at the capitol that were dispersed by state patrol?

A. Correct.

Q. And whereabouts on Locust did you pepper-spray somebody?

A. I'll say maybe, like, the 6 or 700 block of Locust. East Locust. Sorry.

Q. Would you have been in that box truck with Armstrong and Holtan and a bunch of guys that got out there by city hall and ran down to Embassy Suites?

A. No.

Q. So tell me the context then of you pepper-spraying someone on Locust.

A. We formed a skirmish line. We were pushing the crowd away from the capitol at which point we were

confronted by an individual on the sidewalk yelling profanities at us.

He was told to move, leave the area. He flipped me off, and he was pepper-sprayed and taken into custody.

Q. Do you know that individual's name?

A. Paxton Williams.

Q. Okay. And if it's in the 6 or 700 block, that's a little ways away from the capitol; is that right?

A. Correct.

Q. What were his charges?

A. I don't have his paperwork in front of me. I believe failure to disperse.

Q. Is he someone who was at the capitol?

A. I'm not sure.

Q. Your interactions with him was just when you met him on that sidewalk there?

A. Correct.

Q. Any other charges that you thought would have been appropriate?

A. Not that I can recall off the top of my head that we charged him with.

Q. And by that Sunday had you gotten any more training on "Here are the crimes that are generally applicable. Here's what they are"?

A. I don't believe so.

Q. Since that Sunday -- I think that might have been June 1 of 2020 -- have you gotten any training from DMPD or the city attorneys or the county attorney's office about these crimes and what they are?

A. Not really.

Q. When you say "not really," is that just no, or have you gotten some training?

A. We've -- I guess we've changed our tactics a little bit. We do a lot more of we sit back, observe, and collect the evidence, and then we'll file warrants for people later rather than, you know, having to go hands-on right away.

So there's more, I think, conferring with the county attorney on appropriate charges.

Q. Is that something you have actually done in the context of protests?

A. About two weeks ago.

Q. What protests were two weeks ago?

A. It wasn't a protest. It was -- I guess they call themselves civilian auditors. We were investigating a shots fired trip at a Quik Trip at which point myself and my officers were surrounded by people yelling and screaming profanities at us and impeding the ability for us to do our job.

We actually -- due to the fact that our attention was diverted towards these people yelling and screaming at us, we actually let somebody that fired a shot in the city of Des Moines go because we were unable to do our full investigation.

So in that instance, rather than grabbing ahold of somebody, placing them under arrest, we left the scene. We left the area, documented all that on body camera, and we'll file warrants later.

Q. How was it communicated to you that you were going to take a different tactic toward these situations?

A. I guess it was just kind of word-of-mouth training throughout the department that "Hey, we're going to -- rather than engage people that are hostile toward us, we'll just back off, and we'll deal with it later."

Q. Is that Metro S.T.A.R. training or DMPD training?

A. I believe it's DMPD.

Q. And you don't recall having a sit-down training or there being any written communication? This is just verbal?

A. I don't recall.

Q. You don't recall at all how you got this information?

A. I don't. I mean I'm trying to think. Because when I was -- when I was part of the traffic unit, we operate out of a different building. We're not at the main police station, and we don't have, like, a daily, like, roll call briefing.

There may have been a written memo -- memorandum that has come down through, I guess, PowerDMS on riot control training, and now that I'm talking about it, we did have some in-service training out at the academy for annual in-service on riot and protest control.

Q. When would that have been?

A. January or February of 2021.

Q. What did you learn from that?

A. Kind of like I explained about more taking a hands-off approach and kind of doing the just documenting, and obviously we still have a duty to protect life and property, but if they're just marching, yelling, screaming, let them do that, but if they start damaging property, then we will take action.

Q. That was the gist of the in-service?

A. Essentially, yes.

Q. Okay. So where did you go after the courthouse?

A. I believe we went back to the Metro S.T.A.R. building for a short period.

Q. In the RDV?

A. I believe so, yes.

Q. Then what?

A. And then we were deployed up to the courthouse to assist state patrol. Or not the courthouse. Sorry. The capitol building.

Q. Did you have any interactions with civilians up there?

A. I believe I was stationed at the top of the stairs with a shield, just providing a skirmish line.

Q. Did you participate in any arrests there?

A. No.

Q. Are you aware if anybody was arrested at the capitol?

A. I'm sure that there was. I don't have anybody's name or any arresting officer's information but --

Q. Do you recall witnessing arrests at the capitol?

A. I don't because as I was walking down the stairs, I was in a cloud of fog.

Q. Where did you go from there?

A. From I recall, we then went back down to the police department area.

Q. Did you help out with the skirmish line on the Court Avenue bridge?

A. Yes.

Q. So I understand there was, like, the main line, and then at one point there was kind of, like, a T-bone line that was trying to grab people that were at the front of the crowd?

A. Okay.

Q. Do you know what I'm talking about?

A. I believe an arrest team is what -- what we refer to it as.

Q. You don't call it a T-bone line?

A. We don't.

Q. Were you in that side arrest team, or were you in the main skirmish line?

A. I was on the main front line, skirmish line.

Q. Did you have any hands on anybody there?

A. No.

Q. Were you around when Wingert gave his speech at the end of the night?

A. Yes.

Q. What was the nature of his remarks?

A. Just thanking the surrounding agencies and officers for their assistance in helping us.

Q. What was your understanding at that point of where the crowd had been pushed?

A. At that point I had understood that they were over around the Court Avenue district, the bar district

area.

Q. Were you aware if there were any officers down there?

A. I don't believe so.

Q. Typically how many officers work the downtown bar scene?

A. On Friday and Saturday nights? Like the ODT?

Q. Yes.

A. Typically -- I would say anywhere from two to eight.

Q. Have you ever worked ODT?

A. Yes.

Q. When was that?

A. I worked it once back in maybe 2008 or '9, and then I worked it again about three weeks ago.

Q. So you worked it, like, two nights is what you are saying?

A. Correct. It's not for me.

Q. And that's something you volunteer for; right?

A. Yes.

Q. It's overtime?

A. Yes.

Q. With that assignment, what time does it typically get over?

A. Usually about 2 -- 2:15, 2:30-ish.

Q. Right after bar close is when that assignment ends?

A. Once the -- once the crowd has left the downtown area, yes.

Q. So if there's still a crowd around, you still have to stay?

A. Right. Until the crowd disperses, yep.

Q. Okay. So let's skip ahead to then after Wingert gives his speech, at some point it's radioed in that people are breaking into Hy-Vee?

A. Uh-huh.

Q. What do you remember next about, like, what your instructions were, what you did?

A. Essentially we were told to regear back up and deploy to the Court Avenue district.

Q. Did you ride in the box truck down there?

A. No.

Q. How did you get down there?

A. I walked on foot.

Q. How was it determined that you were going to walk on foot instead of being in the box truck?

A. The box truck had been loaded up, and they were taking off, so I, along with a handful of officers, walked over to that area.

Q. How many people can fit in the box truck?

A. Comfortably, probably 12.
Q. And you recall it was totally full?
A. I don't know. Alls I know is that when I went to leave, it probably was gone because I didn't jump in it so --
Q. Who walked over there with you?
A. I know for sure that it was me, Lieutenant Schafnitz, and Jared Underwood.
Q. Do you remember if Lawler was with you?
A. I don't recall.
Q. And how many people did you say were with you walking?
A. I don't recall off the top of my head. I would assume -- I believe it was, like, five to six maybe.
Q. Did you encounter anybody on your walk over there?
A. Not until we got to the area of Third and -- or until we got to the intersection of Third and Court.
Q. What's the first thing you remember when you arrived there on Third and Court?
A. As we came up to the intersection, I looked to my north -- or to the north up Third, and I saw two officers chasing a female and placing her into custody.
Q. Where were they chasing her?
A. Looked like they were kind of running southbound

direction.

Q. In the street or on the sidewalk?

A. I think they were just right along the curb.

Q. What happened next with those two people?

A. I saw that they had her in custody, and then I just kind of stood there with Schafnitz and waited for our next directions.

Q. Did that woman fall down?

A. I believe she was taken to the ground, yes.

Q. How was she taken to the ground?

A. I don't recall if she tripped or if she was tackled or -- I don't recall.

Q. Is this a woman that had a gallon of milk with her?

A. I don't recall that. It's possible. I just don't recall.

Q. All right. So were you standing stationary at the corner while that happened?

A. Yes, at that time.

Q. And you were standing with Schafnitz there?

A. Yes.

Q. Do you remember being with Underwood then too?

A. I believe he was standing there with me as well.

Q. So after the woman was taken down, then what did you observe?

A. Then we just started kind of pushing the crowd -- or pushing the crowd and walking through the crowd and telling people to leave the area, and I think a couple of other arrests were made. Not by myself but --

Q. Which way were you walking?

A. I believe I walked diagonal, so southwest, diagonal over to where, like, Johnny's is.

Q. Did you deploy any tear gas?

A. No.

Q. Did you have any tear gas canisters?

A. I believe I -- I can't remember if I -- no. I believe all I had was flash bangs. I didn't have any tear gas canisters.

Q. How did you get the flash bangs?

A. They're given to the team.

Q. By who?

A. Our team leaders.

Q. What's the process for getting those? Is there a checkout office?

A. So initially it used to be we were assigned. Once you came onto the team, you went through the training, and then we were assigned two flash bangs.

Since the process has changed a little bit. We went to a different type of flash bang, so now -- or the understanding when I left the team was that

essentially everybody -- whoever was going to be using the flash bang, like on high-risk warrants, they would be assigned a flash bang.

Q. When did that process change?

A. I believe -- I'm not sure. It would have been after the kind of new implementation of Metro S.T.A.R. which is when SPO Latcham took over as the training coordinator.

Q. And I understand he was the training coordinator back in May 2020 when these protests were happening?

A. Correct, but I believe we didn't get the new style of flash bangs until after the protests had happened.

Q. What's the difference in the style?

A. They're kind of a rechargeable, reloadable style.

Q. So you want to collect them after you throw them?

A. Yeah, because they're -- they have a serial number on them.

Q. The flash bangs that you had during the protests, those were just one-use disposables, though?

A. You couldn't use them multiple times, yes.

Q. Do you have to recover them after you use those to get the serial number?

A. Typically in best case scenario, yes, we do.

Q. Okay. And that's something you were trained to

do through Metro S.T.A.R.?

A. Like, when we do high-risk warrants, obviously that's a more controlled environment. So when you're deploying them in a house, once you get everybody in custody, then the flash bang would be sitting right there, so you'd be able to retrieve that.

Q. What do you do with it after you retrieve it?

A. I believe it's collected and documented what the serial number was.

Q. Who do you give it to?

A. I believe you give it to your team leader so that you can get a new one.

Q. So as of May 2020, everybody on Metro S.T.A.R. would have two flash bangs?

A. Yes, I believe so.

Q. But not everybody had gas?

A. No.

Q. Did you have a particular munitions person on Team 4?

A. No, I don't believe we did on Team 4.

Q. So did anybody on your team get the chemical hand-held munitions?

A. No, I don't believe so.

Q. And you are not aware of anybody on your team having gas canisters then?

A. No, but our teams were split up, so Team -- so Team 4-1, which would be Underwood's section of Team 4, they were primarily deployed with Team 1. We would primarily be deployed with Team 2.

Q. Do you remember being with Team 2 that night?

A. I think it was a hodgepodge of a bunch of officers kind of just together. Like I said, it was kind of a chaotic scene.

Q. Which officers would have been assigned to you then on Team 4-2?

A. Nobody on Team 4-2 was authorized to be using gas, I believe.

Q. But who are the 4-2 people as opposed to 4-1?

A. At that time I know it was myself. I believe Jake Forrester was on my team. And it was primarily Polk County guys. I don't remember.

I'm horrible with names and been two years ago, and I don't work with the Polk County guys a whole lot other than the Metro S.T.A.R. aspect of things.

Q. Would your 4-2 guys have stuck with you that night?

A. Like I said, it was kind of a mismatch of everybody going kind of everywhere at that time. That would have been -- best case scenario, yes, we would have all stuck together, but like I said, it was -- it

was a chaotic scene.

Q. Did you try to keep your guys with you as a supervisor?

A. As much as I could.

Q. And I have got a list. I believe it's from back then. Maybe just look through this and tell me who you remember being on 4-2.

A. So yes. Palmer and Bach and myself for sure. I don't think -- I don't think I had anybody else at that time.

Q. But you said Forrester too was on yours?

A. I thought he was, but he -- looking at this now, I believe he may have been on 4-1. I don't -- I don't recall, but like I said, I know we -- Team 4 trained together a lot so -- and I went to a training with Forrester before, so that's where I kind of thought maybe he was on my team but --

Q. Before these protests, do you recall getting any training on what the crimes of failure to disperse, unlawful assembly, and rioting were?

A. Not really other than just code sections.

Q. And when you say "code sections," you mean you looked them up?

A. Some, yes. I know it was kind of one of the questions on the sergeant's test, the difference between

loitering, failure to disperse, and rioting.

Q. When did you take the sergeant's test?

A. May of -- or it would have been November of 2020 -- yeah, November of 2020.

Q. Do you recall looking those charges up when the protests were going on?

A. I don't believe so.

Q. All right. So going back to when you come down to Court after the Hy-Vee break-in, you see the woman getting arrested. You walked diagonally to Johnny's.

Is this captured on any body cam?

A. I don't recall if it was or not.

Q. From what you are testifying today, this is just based on your memory?

A. This part, yes.

Q. Have you watched any of the security footage from that evening?

A. No. Other than I was called to the Office of Professional Standards to review some video of the area.

Q. And what was that process like? Did you -- I know that you talked to Sergeant Robinson, and he indicated that prior to the interview you reviewed two videos.

What was the process like when you looked at those videos?

A. Went up to his office. He said "Hey, we're going to play some video. Let us know if you recognize anybody in this video, any of the officers."

Q. And that was all prior to kind of when you went on the record with the formal interview?

A. The what interview?

Q. The OPS interview.

A. I guess I'm confused what the OPS interview is that you're talking about.

Q. Did you have any union representation with you when you did that interview?

A. I guess what interview are you talking about, ma'am? I'm confused.

Q. When you talked to Sergeant Robinson.

A. No, I did not.

Q. And here's just a copy of it. This is what I'm referring to.

A. Okay. Apparently I did. I didn't believe that I did.

Q. Didn't believe that you did what?

A. Have a union rep with me.

Q. Who was it?

A. I don't recall. I obviously didn't recall --

Q. What makes you say that you had a union rep with you?

A. Because you wrote on there "Union rep with him."
Q. That was a question that I had.
A. I don't recall if -- I don't recall if I had a union rep with me or not.
Q. Anyway, so this interview starts, and it says "Just prior to this interview, we reviewed two videos." So that's what I'm asking, you know. Like, this is what I'm calling the formal interview is starting after a Garrity warning.
A. Okay.
Q. Tell me about what happened before this started.
A. He showed me the videos.
Q. Was anybody else there besides Robinson? Was Entrekin there?
A. I don't recall.
Q. How many times did you watch the videos with him?
A. I believe once.
Q. Did you witness any other arrests down on that Third and Court area?
A. Not that I recall, no.
Q. Did you see Officer Holtan and Officer Herman arresting anyone?
A. Not that I recall.
Q. Did you see a man in an orange shirt get arrested?

A. Not that I recall.

Q. Do you recall seeing anybody getting pepper-sprayed down at that corner?

A. I want to say maybe somebody did get pepper-sprayed, but I don't recall who it was or the circumstances around it.

Q. Whereabouts would that have been?

A. Maybe right around the intersection of Third and Court.

Q. Well, tell me what you remember about it.

A. If I remember right, I think maybe somebody had -- there was a crowd, and they had gone up to the crowd and told them to leave and sprayed. I don't recall the exact details of it.

Q. When you got to Third and Court, was there a crowd there?

A. There were little -- little clusters of people. I wouldn't call it the huge mob that we had dealt with beforehand.

Q. In your OPS interview, you talked about there was a man yelling "Is that a woman? Is that a woman?"

A. Yes.

Q. Tell me about that.

A. I believe when we were stationary there, first arriving, so I told you about the female that was being

chased north of my location. I believe there was a man that came up from our south screaming "Is that a woman? Is that a woman?"

At which point -- I want to say maybe he was pepper-sprayed, and he -- or was told to leave the area, and then I kind of turned, looked back his direction, and he was laying on the ground.

Q. Then what happened?

A. I believe he got told "Get out of the area. Get up. Get out of here," and he took off.

Q. Did you talk to anybody when you got down to the Court Avenue area?

A. I don't believe so, no, other than just telling people "Leave. Leave the area. Get out of here."

Q. All right. So you walk catty-corner to Johnny's. Then what?

A. Then I believe -- I believe we may have walked southbound down Third.

Q. Did you run into anyone?

A. I didn't have any personal contact with anybody, no.

Q. Where did you go from there?

A. I believe we ended up meeting back up with the RDV around the Cowles Commons area.

Q. Did you have any interaction with anyone up

there?

A. I believe there was a gentleman that was in the Cowles Commons area that we told he needed to leave the area.

Q. Was he by himself?

A. I believe so.

Q. Did he leave?

A. Yes.

Q. Did you observe anybody else in the Cowles Commons area?

A. Not that I recall.

Q. And by the time you are walking back from south of Court up to Cowles, had the area been cleared by then pretty much?

A. Yeah, pretty much for the most part that I could see in my immediate area.

Q. And you are just telling a couple stragglers to get out of here?

A. Yeah.

Q. Okay. How long do you think you were at Cowles Commons?

A. Maybe five minutes.

Q. Then what?

A. Like I said, then we met back up with the RDV, and I got in the RDV.

Q. Who was driving?

A. I do not recall.

Q. Whereabouts were you sitting in the RDV or standing? I don't know how it works.

A. Alls I can tell you is the back somewhere.

Q. What did you guys do after you loaded back up?

A. I believe at that point our -- our direction was to kind of do a roaming patrol of the area, look for any -- anybody that was left in the area causing issues.

Q. And when you walked over to Court Avenue, like to Third and Court, had orders been given at that point to arrest anybody who was still down there?

A. Our orders were to clear the downtown area and make arrests.

Q. Who gave you those orders?

A. I believe it came from the commander above me. I don't recall who exactly the commander was but --

Q. A Metro S.T.A.R. commander?

A. I believe so.

Q. Would it have been Schafnitz then?

A. Could have been. I don't recall exactly who it was.

Q. Did you have your shield with you when you went back to Court?

A. No.

Q. Did you have a helmet?
A. Yes.
Q. Did you have a gas mask on?
A. I believe I had it with me. I don't believe I had it on.
Q. How do you carry it if you're not wearing it?
A. I have a, like, carabineer that I clip it onto my vest.
Q. Are you pretty confident about that, that you had a helmet and no gas mask?
A. Not 100 percent. I know I had my helmet. I don't know if I had the gas mask on or if it was clipped on.
Q. Do you recall getting exposed to any gas down there?
A. No, I don't believe I did.
Q. Okay. So after you get back in the box truck with everybody, what's your next interaction with a civilian?
A. We're traveling eastbound on Locust in approximately the 400 block when we drove past a crowd of about five to six individuals on the north side of the road.
Q. What do you recall? You know, seeing them first, what did you see?

A. Well, as -- we went past them, and then as we went past, they saw that it was a bunch of police officers inside of the vehicle at which point they started yelling profanities in our direction, flipping us off, thing of that nature.

Q. When you saw them, where were they?

A. On the north side of the road, on the sidewalk.

Q. Was anyone in that group getting out of the car?

A. I don't believe so.

Q. Did you see them immediately before the box truck even stopped?

A. Like I said, we went past, and then we heard them saying stuff in our direction at which point somebody gave an order to stop the truck, and we got out and approached them.

Q. Who gave the order to stop the truck?

A. I don't recall who it was.

Q. What did you hear these people saying?

A. I know that they were yelling profanities, and I believe they were flipping us off.

Q. You believe or you actually remember that?

A. I believe they were. I know they were yelling profanities in our direction.

Q. Do you have a specific memory of one of the individuals flipping you off?

A. No, I don't.

Q. How many of the group were yelling?

A. I don't recall.

Q. Where were they when you saw them? Were they on the sidewalk?

A. Yes.

Q. How many did you observe?

A. I believe it was five or six.

Q. How many girls versus guys?

A. Three females and at least two males.

Q. Did you see them doing any vandalism, anything like that?

A. No, not at that time.

Q. Did you observe anybody in that group do anything illegal?

A. They were in the area where multiple dispersal orders had been given.

Q. Were you aware one way or the other if these people had been given a dispersal order?

A. I'm not aware.

Q. And I know you are saying that you kind of told people to get out of there when you ran into them when you were walking around.

Were you aware of any more official dispersal order being given, anything on a bullhorn,

anything like that?

A. I mean I don't -- I don't recall. I don't have any firsthand knowledge of it, no.

Q. And how long do you think between when you were at Cowles Commons and then when you ran into this group? Like, how long were you guys driving around?

A. Off the top of my head, I'd say within five minutes.

Q. Okay. So you didn't know one way or another if these people had heard a dispersal order; is that correct?

A. Like I said, there was multiple dispersal orders given in that area. So -- but firsthand knowledge of whether or not they were standing right in front of somebody as they were given a dispersal order, no, I don't have any firsthand knowledge of that.

Q. And you didn't observe this group when you were in Cowles Commons earlier; correct?

A. No.

Q. Do you know which direction this group was coming from?

A. I believe they were walking from the west to the east.

Q. So after somebody says to stop the box truck, what happens next?

A. So a bunch of us deploy out of the back of the box truck and make contact with the individuals.

Q. Were you one of the first ones to make contact?

A. I was one of the first group of officers, yes.

Q. What interaction was had with those people then when you first approached them?

A. We asked them where they were coming from, where they were going to, why they were still in the area. Pretty much what they were up to.

Q. What did you learn?

A. They told us -- they couldn't tell us where they were coming, couldn't tell us where they were coming from, very argumentative with us.

Q. Did anyone in that group say they were going to the apartment across the street?

A. Not that I recall.

Q. Did you interact with the whole group, or did you kind of split off one person that you were dealing with?

A. I primarily interacted with one individual.

Q. And is that true, like, from the beginning?

A. For the most part, yes.

Q. So you guys get out, split up these people, and ask them about where they've been?

A. Correct.

Q. Did you ever learn that they were going to the

apartment building across the street?

A. Not that I recall ever hearing.

Q. Did you talk to the other officers about what they were learning from their individuals they had detained?

A. We were all of the same mind-set. Nobody told us where they were going and where they were coming from.

Q. Were you within earshot of the entire group?

A. Yeah. I mean we were within probably 10 to 15 feet of everybody.

Q. Did you hear the interactions then that the officers on the west end were having with individuals?

A. No, because I was having an interaction with the individual that I was talking with.

Q. Did you have any communication with the other officers about "This is what we're being told about what's going on"?

A. I mean we -- we kind of had been talking about that nobody knows where they're going or can tell us where they're going or anything like that or where they're coming from.

Q. Okay. So then what happened next?

A. At that point a decision was made that they were going to be placed under arrest for the failure to disperse.

Q. Did you already have hands on these people before then?

A. Yeah, we had done -- I believe we had grabbed ahold of them and done just a pat-down for weapons and stuff.

Q. Okay. So when you get out, do you immediately go detain them?

A. I wouldn't say that we immediately throw our hands on them, no. I would say that we -- we get out. We approach them, talk to them.

Q. How long did you talk to them before having hands on and it being more of a formal detention?

A. I'd say probably 20 to 30 seconds maybe.

Q. Okay. And then you do a pat-down at that point?

A. Yeah. I believe I placed -- who I later identified as Jayvione Lewis, placed him in a set of FlexiCuffs and told him that he was under arrest for the failure to disperse.

Q. And you said a decision was made that these arrests were going to be made. Who made that decision?

A. I believe one of the team leaders. I'm not sure.

Q. And from what I've been able to tell, it was Team 1. I think everybody from Team 1 was there, so a team lead from that team would have been Armstrong; is that correct?

A. Yes.

Q. Do you think it was Armstrong that gave the order?

A. I don't recall off the top of my head, bud I would believe that it would have been a team leader, yes.

Q. Was Scott Newman there?

A. I don't believe he was, no.

Q. So the only team lead who would have been there at the time would have been Ryan Armstrong?

A. I believe so.

Q. Okay. So by process of elimination, you think it was Ryan Armstrong that gave that order?

A. Yeah, could have been, yes.

Q. Am I correct that the bars had reopened at this point? Like, COVID had been going on, but the bars were open this night; is that right?

A. I have no idea. I don't keep track of whether the bars are open or not.

Q. That's not your scene?

A. It's not.

Q. Do you recall getting any orders from Blom when you were down on Court Avenue?

A. No.

Q. How about Hardy?

A. No.
Q. Bagby?
A. Nope.
Q. Do you remember having interactions with those guys?
A. No.
(Off-the-record discussion.)
Q. So the video I'm showing you here is the Third and Court northeast/north remote surveillance video. And this is Outlaws. This is The Stuffed Olive. This would be Annie's down this way. Over here is the parking garage.
A. Okay.
Q. Do you recognize this?
A. Yes.
Q. I'm going to skip ahead to 48:16, and I want you to watch up here. Around about here there's going to be something that explodes, and I want you to tell me what it is.
(The video was played at this time.)
Q. Did you see that?
A. Yes, ma'am.
Q. Do you want to watch it again?
A. If you could, please.
(The video was played at this time.)

A. Appears to either be a flash bang or some type of other chemical, you know, explosive.

Q. Do you have other types of chemical explosives that look like that?

A. Might be a stinger ball.

Q. Are stinger balls things that were issued to Metro S.T.A.R.?

A. Some people that have the training in them.

Q. Was there anyone on your team with that training?

A. I don't believe there was.

Q. Would that be, like, Brad Hook on Team 1?

A. Yeah. People that are trained in the chemical munitions and other distraction devices and things like that, of that nature.

Q. And I could just ask maybe the leadership of Metro S.T.A.R., and they could tell me who has munitions training?

A. I would assume so, yes.

Q. Did you ever go into this parking garage at Third and Court?

A. No.

Q. Are you sure about that?

A. Yes.

Q. Now I am going to open up the Third and Court northeast/southwest camera. This shows the Third and

Court corner. Up here in the middle would be Johnny's. Over here on the right is Annie's.

Do you recognize this?

A. Yes.

Q. Skipping ahead to 43:11, there are a couple officers that look like come from the east around the corner. Would that have been you?

A. It's possible, yes, that I was in that group. Yes, because I believe there was -- yeah, I believe I was in this group.

Q. Are you able to identify yourself by your gait and what you were wearing? We can watch this a few times too.

(The video was played at this time.)

Q. I'll back up a little bit so we can watch when there are more officers on here.

(The video was played at this time.)

Q. And if you can identify anybody by their carriage, just point them out to me.

A. Very difficult to identify anybody. I can't even point myself out. If you could tell by the height, I would be -- that would be easier but --

Q. But we know at least that you are not any of the people with shields; correct?

A. I don't believe I did have a shield, no.

Q. And then at 44:20, would this be what you were describing about walking over to Johnny's?

A. Correct.

Q. So you would have been somewhere in this group of people walking that way?

A. Yes.

(The video was played at this time.)

Q. We'll back up and watch one more time together.

(The video was played at this time.)

Q. How about this guy here that doesn't have a helmet on in the corner at 43:35?

A. I believe that's Blom there without the helmet on.

Q. With the black gloves?

A. Yes.

Q. At 44:08?

A. Yes, I believe so, just by his walk and his gait that he has.

Q. This guy over here at 44:25 at the bottom right corner, he seems like he might be the next low-hanging fruit. Maybe he won't move, though.

So what you were describing earlier about a man saying "Is that a woman?" --

A. Uh-huh.

Q. -- where was that man standing?

A. I believe it's the gentleman that was actually pepper-sprayed and then proned out, that gentleman right there.

Q. So I am backed up to 43:20 and this man in the white shirt in the middle?

A. Yes.

(The video was played at this time.)

Q. Did you observe when he actually got pepper-sprayed?

A. I believe I observed him after he was already, like -- as the spray went out, I think I kind of turned and then saw him lie down on the ground. From my recollection, that's what I remember.

Q. Whereabouts do you remember standing when that happened?

A. I want to say I was kind of close to that crosswalk sign there, so right in that area maybe.

Q. Would that be you that's pointing?

A. I don't believe so.

Q. You think you'd be one of these guys behind?

A. That's what I'm thinking. I'm wondering --

Q. This one?

A. No. Maybe that one is going just out -- onto the right of there. Possibly. Like I said, I don't remember having a shield, but it's very likely that I

may have.

Once again, it's two years later, so I'm trying to remember things.

Q. Skipping ahead to 48:20. Okay. So at 48:24, this officer throws that flash bang.

A. Okay.

Q. I'd like you to see if you can identify who that is or who it isn't. Let me back up some more.

(The video was played at this time.)

Q. And this is a group of guys that's coming up from the south. Do you think you would have been with that group?

A. Yeah, it's quite possible.

Q. Would you have been a person jogging?

A. No.

(The video was played at this time.)

Q. Okay. Did you see that again?

A. I did.

Q. Any idea who that is or is not?

A. I don't know.

Q. Can you say one way or the other if that is Brad Hook?

A. I can't say one way or the other.

Q. Can you say that is or is not Ben McCarthy?

A. I can't say one way or the other.

Q. Could that be Jason Tart based on his appearance?
A. Once again, I can't say one way or the other.
Q. And watching here the tail end of the guys coming up from the south, see if you can identify yourself.
(The video was played at this time.)
Q. Do you recall hanging out in this area for a little bit, or did you keep heading straight north after you came up from the south?
A. I believe I headed straight north, but I don't -- I'm not 100 percent on that, to be honest with you.
Q. And backing up a little bit here to 48:35, there's going to be an arrest, and I want to know if you recall seeing that?
(The video was played at this time.)
Q. Okay. So at 48:54 a man comes out here, and these two officers grab him. Do you recall seeing this or being a part of it?
A. I don't remember that at all.
Q. Would you affirmatively say you were not one of these four officers?
A. I can say that with a hundred percent certainty that I was not one of those four officers.
Q. Going back to the Third and Court northeast/north video and going to 48:24, 48:47 now, these are all the officers walking north.

(The video was played at this time.)

Q. Nearly all of them go into the parking garage a little bit. Did you go into the parking garage with that group?

A. Not that I recall. I don't recall going into the parking garage.

Q. Does this help refresh your memory at all, watching this video?

A. Not really.

Q. Could you have gone in the parking garage?

A. It's possible, but I don't recall going in there at all.

Q. All right. So the group that was arrested by Splash, after they were in custody, there were a few other people that came out of a hotel and went to their cars across the street.

Do you recall that?

A. I do recall that.

Q. What do you remember about that?

A. I remember I still was dealing with Mr. Lewis, and then I know some other officers had gone off and was dealing with people over by the car.

Q. Did you have any interaction with the individuals that were by the car?

A. So I believe when they were talking with them,

and I believe at that point I had maybe handed off Mr. Lewis to the transport van, and then I believe one of the individuals took off running from them at which point I kind of ran diagonal to try to cut that individual off.

But once again, I'm wearing 60 pounds worth of gear, and this person was faster than me, so I had just relayed that location over the air, and I think a patrol officer had gone to the area and located him.

Q. Anyone else that you interacted with that night after those events?

A. No, I don't believe so. Yeah, because after we -- after Mr. Lewis was arrested, I believe then shortly after that we went back to the tac office, and we geared down for the evening.

Q. I'm going to open up your video from 3:24 in the morning on May 31.

A. Okay.

Q. Skipping ahead to 2:26, there's Callahan standing here, and then there's a man with a gas mask on who's holding a flashlight for Wilshusen as he frisks Jayvione Lewis, and I'd like to know who this person with the flashlight is.

(The video was played at this time.)

Q. Are you able to tell who that person is?

A. I can't, ma'am.
Q. Do you recall Bryan Wenck being with you at all that night?
A. Who?
Q. Bryan Wenck? He's Polk County.
A. It's possible. I don't recall off the top of my head, no.
Q. Do you know who that is?
A. I've heard the name. If he was standing in here in a lineup, I probably couldn't identify him, but I believe he's a sergeant with Polk County.
Q. Do you socialize with any of the Metro S.T.A.R. guys?
A. Occasionally, yes.
Q. Who?
A. Adam Herman. Let's see. More occasional, like, workplace gatherings but not on an every weekend basis type of thing, no.
Q. Like, your families hang out with any of these officers, kids?
A. Like I said, Adam Herman. He's got a kid about my age -- my kids' ages, so we'll hang out with them every once in a while. Ben McCarthy every once in a while.
Q. Anybody else?

A. Not really.

Q. I take it you also must have gone and plugged in your body camera after you got done working that night; correct?

A. At some point, yes.

Q. Is that your standard practice?

A. Typically, yes.

Q. When you are on Metro S.T.A.R., do you have different policies on when you are supposed to have your body camera running?

A. We're supposed to follow our usual Des Moines Police Department policies. Other agencies follow what their department policy is.

Q. And I have that you recorded one, two, three, four, five, six, seven different videos that night. Does that sound about right?

A. Sure.

Q. Are you pretty diligent generally about recording?

A. I try to be, yes.

Q. Why is that?

A. I believe it helps us more than it hurts us.

Q. Were other Metro S.T.A.R. officers on duty for longer than you were that day, or did you all report at the same time?

A. Roughly the same time, yeah.

Q. Do you do anything special to preserve your camera battery?

A. I'm diligent with, you know, once any evidentiary stuff is done, I will turn it off. That tends to let the battery last a little bit longer.

Also, kind of just -- each camera kind of varies from camera to camera as far as battery life. I've had different body cameras that I've checked out that had crappy batteries, so I'll check out -- or I'll swap that camera out until I find one that has a longer-lasting battery.

Q. And you say you will turn it off if you are not doing anything of evidentiary value. Do you mean power it all the way down or --

A. Stop the recording.

Q. Do some officers have it recording the entire time?

A. They may have. I can't -- I can't tell you exactly how every officer runs or deploys their stuff. I can only attest to how I operate my camera.

Q. Did you charge yours in the middle of the day that day?

A. Not that I recall.

Q. Besides the contact you had with -- I think you

said Darin Miller about the Michael Klingenberg mix-up, did you talk to anybody from the county attorney's office or within DMPD about arrests that were made that night?

A. I believe I had some contact with the county attorney's office reference the Jayvione Lewis case.

Q. What do you recall about that?

A. I believe just conversations about, like, where they were going and coming from as far as the case -- proceeding with the criminal trial.

Q. Did you ever testify in that case?

A. I did not.

Q. Are you aware what happened with that case?

A. I believe it was dismissed.

Q. How come?

A. That's a decision made above me.

Q. Were you aware there was a Motion to Suppress filed?

A. No.

MS. MESSAMER: That's all I have. Thank you.

MS. GAVIN: Nothing.

MR. HARALDSON: We'll read and sign.

(Deposition concluded at 2:40 p.m.)

SIGNATURE PAGE

I, JACOB HEDLUND, do hereby certify that I have reviewed the above-transcribed testimony of my deposition and certify that the foregoing is true and correct with the corrections I have noted on the correction sheet, if any.

Dated this _____ day of _____, 2022.

_____

JACOB HEDLUND

Subscribed and sworn to before me this _____ day of _____, 2022.

_____

NOTARY PUBLIC

CORRECTIONS

PAGE	LINE	CORRECTION

C E R T I F I C A T E

I, SueAnn Jones, a Certified Shorthand Reporter and Notary Public in and for the State of Iowa, do hereby certify that prior to the commencement of the deposition, JACOB HEDLUND was duly sworn by me to testify to the truth;

That the foregoing is a true and accurate computer-aided transcription of the testimony as taken stenographically by and before me at the time and place indicated on the title page;

That I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am not financially interested in the action.

Dated this 1st day of June, 2022.

/s/ SueAnn Jones

SueAnn Jones, CSR, RPR

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