

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF TEXAS  
3 SAN ANTONIO DIVISION

3 INTERNATIONAL WOMAN'S DAY )  
4 MARCH PLANNING COMMITTEE, ET )  
4 AL )  
5 )  
5 PLAINTIFFS )  
6 VS. ) CIVIL ACTION NO.  
7 ) SA-07-CA-971-XR  
7 CITY OF SAN ANTONIO, )  
8 )  
8 DEFENDANT )  
9 )  
10 )

11 -----

12 ORAL DEPOSITION OF  
13 CHARLES THOMAS O'DELL  
14 JULY 29, 2008

15 -----

16 ORAL DEPOSITION OF CHARLES THOMAS O'DELL, produced as a  
17 witness at the instance of the Plaintiffs, and duly sworn, was  
18 taken in the above-styled and numbered cause on the 29th day of  
19 July 2008, from 9:06 a.m. to 1:51 p.m., before George N.  
20 Taylor, CSR in and for the State of Texas, reported by machine  
21 shorthand, at the offices of The City Attorney Litigation  
22 Division, 111 Soledad, 10th Floor, San Antonio, Texas, 78205,  
23 pursuant to the Federal Rules of Civil Procedure.

24

25

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25           MS. GENEVIEVE RODRIGUEZ

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CERTIFIED QUESTIONS -- NONE

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1 THE COURT REPORTER: Today is July 29th, 2008.  
2 We're here at 111 Soledad to depose Officer Charles O'Dell, in  
3 the case styled International Woman's Day March Planning  
4 Committee, et al Versus City of San Antonio.

5 Officer O'Dell, raise your right hand to be  
6 sworn in.

7 CHARLES T. O'DELL,  
8 having been first duly sworn, testified as follows:

9 EXAMINATION

10 Q. BY MS. KASTELY: Officer O'Dell, my name is Amy  
11 Kastely and I represent the International Woman's Day Planning  
12 Committee and the Coalition for Free Speech in San Antonio.

13 And with me today is Nisha Jagtiani, who is a  
14 teaching fellow at St. Mary's, and Chris Clapham, who is a law  
15 student there. And we will be joined by Genevieve Rodriguez,  
16 who's a representative of the Coalition.

17 Officer O'Dell, have you had your deposition  
18 taken before?

19 A. It's been a while since I've given one.

20 Q. Okay. Well, it's just like in court, your testimony.

21 Of course, everything is being taken down. So we need to be  
22 careful to not talk over each other.

23 A. Okay.

24 Q. And if I ask you a question that you don't  
25 understand, please just let me know and I'll rephrase it. And

1 of course, if you want to take a break, just let me know at any  
2 time.

3 A. Thank you.

4 Q. Now, could you state your name for the, please.

5 A. Charles Thomas O'Dell.

6 Q. And what is your current position?

7 A. I'm a lieutenant in charge of one of the traffic  
8 shifts.

9 Q. And what traffic shift is that. Is it -- are they  
10 identified?

11 A. They're identified by numbers. I'm, I'm in charge of  
12 TCB.

13 Q. And how long have you been in that position?

14 A. A little over eight years.

15 Q. And what was your position before that?

16 A. I was a sergeant -- well, actually, I was lieutenant  
17 on patrol after I got promoted for about six months --

18 Q. Okay.

19 A. -- as a patrol lieutenant.

20 Q. And before that?

21 A. Sergeant in the traffic shift, same shift.

22 Q. So all together how many years do you have with S.A.  
23 P.D.?

24 A. 33.

25 Q. Okay. And could you describe briefly what your

1 responsibilities are in your current position?

2 A. I'm not sure we have enough time to cover all my  
3 responsibilities. I run the traffic shift. And that covers --  
4 our responsibilities are many and varied. Our day-to-day job  
5 is to run traffic control on the highway system. I run 10  
6 motorcycles on surface streets.

7 But we do things, everything from hurricane  
8 evacuations to dignitary protection for a presidential visit to  
9 -- I mean, pretty much anything that would affect traffic flow  
10 we're gonna be involved in, no matter what that would look  
11 like.

12 Q. And, and how many divisions -- I'm sorry. Did you  
13 call it traffic shift?

14 A. Traffic shifts.

15 Q. How many traffic shifts are there?

16 A. There are two primary traffic shifts and what we call  
17 a supplemental traffic shift.

18 Q. And who are the -- are your colleagues in comparable  
19 positions in those other shifts?

20 A. On TCA, which would be the other primary traffic  
21 shift, would be Lieutenant Edward Quintanilla.

22 Q. Okay. And is there someone who is in charge of the  
23 supplemental shift?

24 A. That would be Lieutenant Timothy Vaughn.

25 Q. Okay. And is part of your responsibilities as head

1 of the traffic shift to approve parade permits?

2 A. From time to time.

3 Q. How does that work, when are you called in to approve  
4 or disapprove such a permit?

5 A. When, when the paper work is complete -- it's more --  
6 when, when we say approval, it's more like a notification,  
7 unless I have a scheduling conflict. It's kind of a -- it just  
8 comes to me to notify me that this event has been scheduled,  
9 and I'll sign off that I can, I can get it done.

10 Q. I see. And so you don't evaluate in substance the  
11 applications?

12 A. For the most part, no.

13 Q. And so the applications would typically come to you  
14 from Officer Jenkins; is that correct?

15 A. That would be his responsibility. Now, it's been  
16 other officers in the past. But he has that responsibility  
17 now.

18 Q. Okay. Is there anyone else now who has that  
19 responsibility?

20 A. No.

21 Q. And in the past who had that responsibility?

22 A. Officer Eric Shuey.

23 Q. And do you recall when Officer Jenkins replaced  
24 Officer Shuey?

25 A. I don't. It's been several years.

1 Q. Okay. Do you recall anyone before Officer Shuey?

2 A. That would go back a lot of years, and that would  
3 have been Detective George Davis. But he's been retired for  
4 probably 15 years.

5 Q. Okay. Do you need to stop for that?

6 A. I need to turn this off, is what I need to do.

7 Excuse me.

8 Q. So when a permit, a parade permit application comes  
9 in, is it evaluated by the police department in terms of the  
10 traffic control requirements that will -- that it evokes?

11 A. Yes. That would be part of the process.

12 Q. Okay. And who does that evaluation?

13 A. It would generally be Officer Jenkins, since he's on  
14 the, the intake end of it.

15 Q. Okay. And so would Officer Jenkins prepare a traffic  
16 control plan?

17 A. No.

18 Q. Who would prepare a traffic control plan?

19 A. It would be the responsible shift for, for executing  
20 the permit. Whatever shift it falls on, it would fall into  
21 their responsibility.

22 Q. So would that be you if it fell under --

23 A. That's correct. Me or whoever I designated under me  
24 to take care of it.

25 Q. So when I asked you whether you looked at the

1 substance of the parade permit -- let me ask you another  
2 question, and that is: Do you look at the traffic control  
3 requirements?

4 A. That's a, that's a fair statement. What I -- the  
5 requirements would be what I would need to get done to do the  
6 parade or march or whatever it is.

7 Q. Okay. Let me just show you and maybe I can  
8 understand better. This was produced by the City of San  
9 Antonio and marked IWDM 00733 through 00740. Do you recognize  
10 that?

11 A. It looks like the permit for the 4th of July Parade  
12 from 2007.

13 Q. Okay. Is there a traffic control plan associated  
14 with that parade?

15 A. No.

16 Q. Okay. And what about -- I'm now gonna pass you  
17 what's marked as 05299 through 05308 and ask you if you  
18 recognize what that would be?

19 A. This would be a march held on February 12th by the --  
20 the name of the event is a Woman's Day March.

21 Q. And is there a traffic control plan associated with  
22 that?

23 A. Yes.

24 Q. And how do you know that?

25 A. Because I did this event.

1 Q. Okay. And is the traffic control plan in that packet  
2 that I handed you?

3 A. It is.

4 Q. Okay. And what page are you looking at when you say  
5 that?

6 A. Well, then I'd have to count to get to the page in  
7 the packet. But it's -- page number 1 would be the beginning  
8 of the plan. Are these numbered -- this is -- okay. It would  
9 be IWDM 05307.

10 Q. Okay. And that's a list of officers; is that  
11 correct?

12 A. That's correct.

13 Q. And so when you, when you say traffic control plan,  
14 you mean a list of officers who will be assigned to work the  
15 parade; is that correct?

16 A. Well, I would separate that. The plan is the plan  
17 regardless of who works it, as I wouldn't consider the list of  
18 people that actually worked it the plan.

19 Q. Okay. I'm sorry. Maybe I'm not understanding. Were  
20 you pointing to this sheet or this sheet?

21 A. This sheet here.

22 Q. Oh this sheet here.

23 A. Uh-huh.

24 Q. Okay. And what is the relationship between this  
25 sheet on 5301 and 5307?

1 A. The sheet on the top here, is this what we're talking  
2 about?

3 Q. Yeah.

4 A. This looks like the list of barricades associated  
5 with this event.

6 Q. Okay.

7 A. I did not prepare this document. That's what it  
8 looks like.

9 Q. Okay. And do you -- in, in preparing your traffic  
10 control plan, do you determine the traffic control devices that  
11 would be required?

12 A. For the most part? No.

13 Q. Okay. So what part of the traffic control do you  
14 determine?

15 A. The postings and the post instructions.

16 Q. Okay. And who would determine the traffic control  
17 devices?

18 A. That would be Bill Jenkins and also another city  
19 employee named Tony Pizzi. But he doesn't participate -- and  
20 most of the time, he's only participating in very large events.  
21 He doesn't work for the police department.

22 Q. Well, where does he work?

23 A. Traffic engineers office, I believe.

24 Q. So for something that was fairly small like this  
25 march that we've just been talking about that would be Officer

1 Jenkins who determines --

2 A. That's correct.

3 Q. And do you evaluate his determination of the need for  
4 traffic control devices?

5 A. I do not. Because I'm not certified to make that  
6 determination.

7 Q. Is Officer Jenkins certified?

8 A. Yes, he is.

9 Q. Is there anyone else in the department that's  
10 certified to make that determination?

11 A. There are a number of officers that work in off duty  
12 activities doing road closures as a private business in an off  
13 duty capacity that I have heard they are certified. I don't  
14 know that for a fact.

15 Q. Okay. And do you -- or have you received specific  
16 training in order for you to make the determination of the  
17 personnel assignments that are required for a, for a particular  
18 march?

19 A. I'm not sure I understand the question. Training to  
20 determine how to draw up a traffic plan?

21 Q. Yes.

22 A. I'm not sure that training exists.

23 Q. Okay. For example, in some cases you may have a  
24 march in which an officer is assigned to stop traffic. And in  
25 another march -- or in another place you may have an officer

1 assigned to stand by a barricade and be sure that cars don't,  
2 you know, make U-turns and things like that. How do you make  
3 those determinations?

4 A. As to who does what?

5 Q. Or as to what is needed?

6 A. I'm not sure I can explain in a way that's  
7 understandable how that's done. It's just based on experience.  
8 It's based on the circumstances of the particular intersection,  
9 the time of day, how many people are -- how much of the roadway  
10 we're using. It would be a, a lot of factors -- there would be  
11 a ton of factors to try to figure out what you needed in any  
12 particular location.

13 Q. Okay. Well, let me ask you, among those factors, is  
14 it fair to say and -- well, let me show you this. This is the  
15 ordinance that was in existence before November of 2007. Do  
16 you recognize that?

17 A. That's what it appears to be, the ordinance.

18 Q. Okay. And is it fair to say that when you made  
19 determinations for traffic control personnel needs under that  
20 ordinance you were considering the size and type of roadway and  
21 the number of traffic lanes that a march would require?

22 A. Among other things.

23 Q. Okay. And did you consider the number of  
24 participants and vehicles?

25 A. Yes.

1 Q. And did you consider the number of traffic control  
2 personnel needed to staff particular traffic control points  
3 along the way?

4 A. Yes.

5 Q. And did you consider the number of barricades or  
6 traffic control devices that would be there?

7 A. No.

8 Q. That was Officer Jenkins?

9 A. That's correct.

10 Q. And did you consider if other roadways or public  
11 transportation and emergency vehicle routes may be affected by  
12 the procession?

13 A. That's pretty standard.

14 Q. And did you consider whether intersections must be  
15 individually barricaded or whether traffic control personnel  
16 can be assigned to move along the procession?

17 A. If I understand your correct -- your question, are  
18 you asking what we would call a lead and a tail if it flows as  
19 a unit?

20 Q. Yes. Did you consider the possibility of either a  
21 lead and a tail or what they call leap frogging?

22 A. Yes. Well, again, it depends on where it's  
23 occurring. If it's in a neighborhood, that's easy to do. In a  
24 more congested or confined area or a bigger heavier used  
25 roadways or in the downtown area, that's pretty much not gonna

1 be possible.

2 Q. Right.

3 A. It's hard to do.

4 Q. Right. And I guess the final factor, do you consider

5 -- or did you under this ordinance consider the volume of

6 vehicular and pedestrian traffic that's typical along the

7 roadway --

8 A. That's one of the things that would be, would be

9 considered.

10 Q. Okay. Do you recognize this ordinance?

11 A. No, I don't.

12 (Ms. Rodriguez walked in)

13 MS. KASTELY: Genevieve Rodriguez has just

14 joined us, representing the coalition.

15 MS. KLEIN: Right.

16 THE WITNESS: I'm not familiar with this ordinance.

17 Q. BY MS. KASTELY: Okay. I was showing you what's

18 marked as IWDM 00156 through 00167.

19 MS. KASTELY: I don't think, Debbie, that we

20 have Bates stamped the standard operating procedure.

21 MS. KLEIN: Bill is supposed to have those Bates

22 stamped and send another copy to you. If you want to go ahead

23 and proceed and when we take a break, I can go and see and we

24 can --

25 MS. KASTELY: I'm just gonna try to save money

1 so I don't have to enter them as exhibits.

2 Q. BY MS. KASTELY: Do you recognize this?

3 A. This looks like the standard operating procedure for  
4 the traffic units regarding parades.

5 Q. Okay. Did you participate in the preparation of this  
6 document?

7 A. Yes, ma'am.

8 Q. And who else participated with you?

9 A. Oh, I probably consulted with several people. I  
10 basically did the writing. Other -- Bill Jenkins. I don't  
11 know of anybody else that I can think of off the top of my  
12 head.

13 Q. So you are the principal author?

14 A. Yes, ma'am.

15 Q. And in the process of -- oh, no, I might have --  
16 well, we'll have to make do without it. In the process of  
17 drafting the standard operating procedures, did you consult  
18 with a Texas Manual of Uniform Traffic Control Devices?

19 A. No. I did not.

20 Q. And is there a reason why you felt it wasn't  
21 necessary to consult with that?

22 A. Why I didn't look at the manual on traffic control  
23 devices?

24 Q. Yes.

25 A. Because I think the terminology that all traffic

1 control devices meet the requirements is pretty much all that's  
2 necessary for our SOP. I don't know that I -- we really need  
3 to quote from it.

4 Q. Well, I'm not asking you whether you quoted from it.  
5 I'm asking whether you consulted?

6 A. No. I did not.

7 Q. Okay. Thank you. And does this standard operating  
8 procedure represent a change from your practice prior to  
9 November of 2007 -- or I'm sorry --

10 A. That's a pretty broad statement. If you could narrow  
11 that down, I --

12 Q. Actually, I wanted to ask you whether it represents a  
13 change from your practice prior to March 2008?

14 A. Well, our practice in what regard?

15 Q. In determining traffic control procedures?

16 A. Pretty much as far as writing the traffic control  
17 plan, that really didn't have much bearing on it.

18 Q. And so what, what do you see as the purpose for this  
19 document?

20 A. For the ordinance?

21 Q. No. For the standard operating procedure?

22 A. Oh, we have standard operating procedures covering  
23 pretty much everything we do on the shifts, all the way from  
24 how to pick up the mail out of the mail box. And it's  
25 basically an instruction to give somebody some guidelines on

1 how to proceed for this particular type of function.

2 Q. And that would be how to proceed in, in writing a  
3 traffic control plan?

4 A. There was some intent to have some guidance in there  
5 as to the thought process behind how, how it's done.

6 Q. Okay. Was there some other purpose as well as  
7 guiding how a traffic control plan is done?

8 A. As far as why the procedure was written?

9 Q. Yes.

10 A. Well, it was basically to bring everything in line  
11 with the new ordinance and make the wording, the wording in our  
12 procedure align with the wording in the ordinance.

13 Q. I see. So, for example, there are new definitions of  
14 First Amendment Activity, for example?

15 A. As far as what the ordinance says, I believe so. I'm  
16 not an expert on the new ordinance.

17 Q. Okay. And how, how would this standard operating  
18 procedure be implemented? Would Officer Jenkins consult with  
19 the standard operating procedure when he determines the number  
20 of traffic control devices that are required?

21 A. I don't believe that would be necessary for him to  
22 look at this document to make that determination.

23 Q. Okay. Would his determination be made in line with  
24 this document?

25 A. Well, I think his determination on traffic control

1 devices would be made in compliance with the Texas Manual of  
2 Uniform Traffic Control Devices more than this document.

3 Q. So, so what is the significance of this document?

4 A. Again, it's a -- if something happens to me tomorrow  
5 and somebody has to come in and take my, my place, it's a  
6 starting point for them to start trying pick up on what the  
7 thought process is and basically kinda walk them through on how  
8 to put an event together.

9 Q. Okay.

10 A. And some of the issues involved with making sure that  
11 what we do complies with the city ordinance.

12 Q. Okay. And I suppose this -- would this document be  
13 available to the public?

14 A. I don't think our standard operating procedures are.

15 Q. And it says that it's the policy of the San Antonio  
16 Police Department to ensure the public's right to the lawful  
17 use of public roadways to conduct walks, or runs, walks,  
18 cycling events, parades and other processions permitted by the  
19 city ordinances and state law. How was that policy determined?

20 A. How was that statement made?

21 Q. Yes. Who decided that that was a policy of the San  
22 Antonio Police Department?

23 A. Well, it's just a general -- I would think that's a  
24 generic statement about law enforcement in general, to ensure  
25 the public's right to do what they need to do. It's not meant

1 as a, as a guidant (Phonetic) statement. It's just a general  
2 statement that we're gonna comply with the law and ensure the  
3 public's right to do lawful things.

4 Q. Okay.

5 A. That would be about the best way I could put it.

6 Q. Okay. I'm just trying to find, find the place. It

7 says here, it shall be the responsibility of the traffic

8 section permit officer to receive and process all applications

9 and develop a barricade plan when required for procession

10 permits. So that's Officer Jenkins that we talked about as the

11 traffic section permit officer?

12 A. Yes, ma'am. That's correct.

13 Q. And does Officer Jenkins receive a written

14 application from people who want to hold a march?

15 A. I'm sure he does. I'm not familiar with what his

16 requirements are.

17 Q. Do you know whether Officer Jenkins requires every

18 applicant to meet with him?

19 A. I don't know that.

20 Q. Would you think that it would be necessary for every

21 applicant to meet with Officer Jenkins?

22 A. I have no opinion on that.

23 Q. And under the standard operating procedure, it

24 provides that insurance is required for Non-First Amendment

25 Activity Parades; is that correct?

1 A. I believe that's wording from the ordinance.

2 Q. And how, how -- well, does the standard operating  
3 procedure tell the traffic section permit officer how to  
4 determine which applications are for First Amendment Activity  
5 and which are for Non-First Amendment Activity?

6 A. I don't personally believe we're qualified to make  
7 that determination. I think that is a legal decision.

8 Q. Well, then how in practice would you or Officer  
9 Jenkins make that determination?

10 A. I don't make that determination as to whether  
11 something is a First Amendment issue or not. It's not my  
12 decision.

13 Q. Under the standard operating procedure that you  
14 wrote, is it Officer Jenkins' decision?

15 A. I wouldn't think so.

16 Q. Doesn't he have to determine under the standard  
17 operating procedure whether an activity is a First Amendment  
18 Activity for the purpose of determining whether insurance is  
19 required?

20 A. Someone would have to make that determination.  
21 Whether it's him or someone he consults with, I don't know how  
22 he makes that decision. I'm sure he consults with someone  
23 before he would make that determination.

24 In actuality, the standard operating procedure  
25 and the ordinance are not even being applied right now and

1 never have been. So I think all this is up for discussion

2 about how that will actually work.

3 Q. Okay. Now, in the standard operating procedure, it

4 describes a set of typical processions, types of processions.

5 And I wanted to go through those. The first is a lead car and

6 a tail car with flankers.

7 Now, let's say you have a march of -- let me

8 see. I'm trying to see what the criteria is. Do you recall --

9 well, let's say a march of 100 people that goes for a quarter

10 mile. Describe how that would happen, what would that traffic

11 control plan look like.

12 A. Well, in the first place, one of the first questions

13 I'm gonna ask is, what streets are we talking about, what time

14 of day is it, what day of the week is it? You know, what's the

15 average traffic flow on the cross streets, or any number of

16 other factors that are gonna be factored into that. I can't

17 make a generic -- there is no such thing as a generic plan to

18 cover what you just described. They are all -- every single

19 one of these traffic plans are all individually tailored.

20 Q. Okay. But in here it indicates that this type of

21 procession would be appropriate when the applicant's estimate

22 of pedestrians is less than 250 and there are no vehicles,

23 floats or animals and the procession covers distances less than

24 one half mile. That's under A-5.

25 A. May I see that.

1 Q. Under .07.

2 A. And I believe, if you go on down and read the next  
3 paragraph is, causes no inconvenience to motoring public,  
4 businesses or residences along the route. Those are factors  
5 that would be considered.

6 Q. Okay.

7 A. And that the determination of traffic control devices  
8 were not required.

9 Q. So is it possible that a march of 100 people for a  
10 quarter mile may cause some inconvenience to businesses along  
11 the way?

12 A. Again, it would depend on where it was being held.  
13 If it's -- to clarify things a little bit. This type of  
14 procession is generally considered for what we would call a  
15 neighborhood parade. If a group of people wanted to go around  
16 the block and pull their wagons with their children in it and  
17 put some doilies on it, that's pretty much what we're gonna be  
18 looking at. If you are talking about any major non-residential  
19 street, we're probably not gonna be looking at that. This  
20 would be basically a residential street type of event.

21 Q. Okay. So you have in, in section .0711 examples of  
22 lead car, tail car and flankers processions include, as you  
23 said, neighborhood processions, B, the Monte Vista 4th of July  
24 Parade, C, processions of 50 people or less along two or more  
25 lane feeder streets. Okay. What, what are lane feeder

1 streets?

2 A. A feeder street would be -- let me see if I can give  
3 you an example. A residential street that doesn't go to --  
4 have any particular destination that feeds into another  
5 collector street going through a residence that would  
6 eventually feed out of a neighborhood and on to an exit point.  
7 The street leading out to the exit street would be a feeder  
8 street. It's primarily not a residential street, but it's  
9 still in a residential area.

10 Q. I see. So none of the downtown streets would be  
11 feeder streets?

12 A. I wouldn't consider any of them to be feeder streets.

13 Q. Okay. And the standard operating procedure  
14 specifically mentions the Monte Vista 4th of July Parade. And  
15 that's the application that you looked at already. And in that  
16 parade the estimated number of people, at least in 2007, was  
17 400.

18 Do you think that that would be -- do you still  
19 think knowing that, that it's still appropriate for a lead car  
20 and tail car with flankers?

21 A. Yes, ma'am, I do. And let me clarify something.  
22 This is a guideline. It is not a chiseled in stone rule.  
23 There's nothing in there that's meant to limit our ability to  
24 take all the events into consideration and either move up or  
25 down a notch in how we're gonna approach it.

1           This is basically a neighborhood street. If you  
2 look at the streets, it's Mistletoe, Belknap, West French.  
3 These are residential streets. We can do this in a residential  
4 street moving in that fashion. So this is just a, a  
5 determination. And again, this is not meant to be --

6       Q. So even though --

7       A. -- tied to a number. I believe the determination  
8 there is not, this will be done. It would be appropriate to do  
9 this. It doesn't limit our ability to make a determination  
10 that something else might be more appropriate under the  
11 circumstances.

12      Q. Okay. And then for -- the next category is a single  
13 lane closure. And what does that look like?

14      A. Well, it would basically be -- and again -- excuse  
15 me. I'm losing my voice. It would depend a lot on what the  
16 applicant asked for when they applied for the permit with  
17 Officer Jenkins. But a single lane closure would be where it  
18 would not be necessary to take over the whole street or even  
19 part of the street, that the parade could be conducted in one  
20 traffic lane.

21      Q. Okay. And if it -- in, in this instance, in the  
22 guidelines it says, this would be for -- is appropriate when  
23 the number of vehicles, animals and pedestrians and runners,  
24 cyclists exceeds 250 and/or the procession covers distances  
25 exceeding one half mile.

1           So if there was a march of a thousand people  
2 covering a mile and they requested that only one lane be  
3 closed, under this standard operating procedure, would that be  
4 possible?

5       A. Yes. Again, this is a guideline. It is not a  
6 chiseled in stone requirement. Any of these that we're  
7 discussing as far as the different types are negotiable, and  
8 we're gonna consider what's appropriate.

9       Q. Okay. And typically would there be less officers  
10 required to staff a single lane closure than would be required  
11 to staff a multiple lane closure?

12      A. Not necessarily. It could be exactly the same  
13 number.

14      Q. And would there be more traffic or less traffic  
15 control devices required to enable a single lane closure than a  
16 multiple lane closure?

17      A. Again, I'm not certified in the manual. So I  
18 couldn't answer that question.

19      Q. Okay.

20           MS. KLEIN: Amy, could I take a brief break to  
21 get him some water?

22           MS. KASTELY: Sure.

23           (Whereupon, a break was taken)

24      Q. BY MS. KASTELY: It is true though that the standard  
25 operating procedure does address issues of traffic control

1 devices? Isn't that correct?

2 A. The procedure mentions traffic control devices.

3 Q. So for the lead car and with flankers, no traffic

4 control devices are required?

5 A. Generally, no.

6 Q. And for the single lane closure, there may be traffic

7 control devices. Typically, there would be cones?

8 A. Most likely there would be cones. It would be a rare

9 occasion where that wouldn't be appropriate.

10 Q. Okay. And in most cases there would not be large

11 type 1 or type 2, 3 barricades; is that correct?

12 A. Again, I don't feel qualified to speak to even

13 generically what would be required. I'm not an expert in

14 barricading.

15 Q. Okay. Although, the illustrations in the standard

16 operating procedures do include some demonstrations of

17 barricades; isn't that correct?

18 A. Well, I do know what they look like when they're in

19 place. Yes.

20 Q. Okay. And you have, you have provided guidance on

21 essentially what they would look like in the typical

22 processions that are talked about in the standard operating

23 procedure?

24 A. I don't know that that provides guidance. It's

25 merely an example to show what it might look like. I don't

1 know that anyone would take guidance in -- again, you would  
2 have to comply with the manual, whether you would -- and that's  
3 where you would get your guidance, would be from the manual,  
4 not from this illustration.

5 Q. I see. And an example of the single lane closure,  
6 can you give me an example of a single lane closure? Nothing  
7 in the standard operating procedures.

8 A. An event that we do that would be an example of that?

9 Q. Yes.

10 A. The one we did yesterday is probably pretty close,  
11 the Americans with Disabilities Act Walk.

12 Q. And in 2007 that, that walk listed, I believe,  
13 approximately 255 walkers and three quarters of a mile; is that  
14 correct?

15 A. That's correct.

16 Q. What about the Holy Redeemer Good Friday, which at  
17 least in 2007 had 80 participants and they walked for one mile.  
18 Would that be a --

19 A. Ma'am, I do so many of these. That has no -- to  
20 mention a name has no meaning to me whatsoever. I don't recall  
21 that one.

22 Q. Okay. And what about the various running activities  
23 that we have, 5Ks. Are those sometimes single lane  
24 processions?

25 A. I'm trying to think of the last one that I remember

1 doing. It's been a long time. But it's possible that they  
2 could, depending on the number of runners, that that could be a  
3 single lane.

4 Q. And so earlier you testified that it was really -- it  
5 would often depend on what the applicant requested. So if an  
6 applicant requests a single lane closure, in most cases the  
7 S.A.P.D. would try to accommodate that; is that correct?

8 A. There would be some negotiation. I have had permits  
9 brought to me where they requested things that I didn't think  
10 they needed, and I've actually scaled it back and said, we're  
11 not gonna close an entire roadway so -- whatever the  
12 circumstances were would, would happen.

13 It's a negotiation generally between the permit  
14 officer and the person trying to hold the event. We're not  
15 gonna close Broadway so 100 people can walk down Broadway.  
16 That's more appropriate for a single lane closure.

17 Q. Okay. That makes sense. And in the instances that  
18 you are talking about, it would be where an applicant requested  
19 a full closure and your sense was that it could be accommodated  
20 with a single lane. Can you think of an instance where an  
21 applicant would request a single lane closure and S.A.P.D.  
22 would say, no, we really have to have a full road closure?

23 A. I don't know that I've ever made that determination.  
24 I can't think of a time when that's happened. It's possible it  
25 could have happened, but I can't recall one.

1 Q. Okay. Now, in the multiple lane closures which are  
2 described here as less than, or generally less than 500 and/or  
3 the procession covers distances of less than one mile. And it  
4 says, in this type of procession may require the closure of  
5 city streets or some travel lanes as well as adjacent private  
6 property. In a, in a multi-lane closure -- well, let's --  
7 first -- can you think of an example of a multi lane closure?

8 A. You put me on the spot here. I do hundreds of these  
9 and I get all muddled up in my mind.

10 Q. I can understand. What about the Hemisfair Run?

11 A. I don't do that one. And I was under the impression  
12 that was done. I don't know. I'm not familiar with, with that  
13 one.

14 Q. Okay. Did you do the Museo Alameda Grand Opening?

15 A. Yes, we did.

16 Q. And was that a multi-lane closure?

17 A. I believe that was a total closure.

18 Q. A total closure. And can you explain the difference  
19 between a multi lane closure and a total closure?

20 A. Well, a total closure would, would be where no  
21 traffic ran on that street.

22 Q. Okay.

23 A. A multiple lane closure would be where some traffic  
24 was still running at least in one direction.

25 Q. I see. Okay. So, for example, on a four lane

1 highway the march could -- or a four lane road, the march could  
2 go in the northbound lanes and, and traffic would flow in the  
3 southbound?

4 A. That's correct.

5 Q. Okay. And so in a, in a total road closure, let's  
6 think of a total road closure, can you think of, of one  
7 recently?

8 A. Probably the last one that I was involved in would  
9 have been one of the Fiesta parades.

10 Q. Okay. And under the -- I'm a little confused. If,  
11 if you had a march downtown -- there are very few streets in  
12 what we call the downtown area where you would have a multi-  
13 lane closure; is that correct?

14 A. Few streets where you would have multiple lanes?

15 Q. Yeah.

16 A. Well, most of the parades that come through downtown  
17 are gonna want to use either Market or Commerce Street,  
18 generally speaking. We don't do a whole lot outside of those  
19 two streets. And both of those are multiple lane streets.

20 Q. Okay. And how many -- are they four lanes? I'm  
21 trying to remember. Is Commerce --

22 A. You put me on a spot again. I know that in some  
23 parts Market Street is at least five lanes. And I believe  
24 Commerce for the most part is four. It may be five in some  
25 spots.

1 Q. So you could have a multiple lane closure there. And  
2 Houston Street is two lanes?

3 A. Two lanes. That's correct.

4 Q. All right. So if you have a multiple lane closure  
5 let's say on Commerce Street, is it necessary to close down any  
6 of the streets leading on to Commerce Street?

7 A. It would depend on the street and depend on the  
8 event, depend, again, on the time of day, day of the week,  
9 number of participants, what type of -- whether there were  
10 marchers or floats or animals involved. Lots of considerations  
11 that would go into making that decision.

12 Q. And would the standard operating procedure give any  
13 guidance on that issue?

14 A. As far as how to make that determination?

15 Q. Yes.

16 A. Hopefully. I think most of what I just mentioned is  
17 covered in there, that you need to consider all of these  
18 factors in anything that you do. Ultimately, the ultimate goal  
19 is traffic safety and to make sure that you're not tangling up  
20 people with pedestrians. And a lot of that applies to some  
21 common sense things about what can and can't happen.

22 Q. Uh-huh. Do you consider how long a particular march  
23 is going to take to pass a particular intersection?

24 A. That does come into play from time to time.

25 Q. And how, how does that come into play?

1 A. Experience generally, that we have experiences with  
2 certain groups that we know are gonna go as slow as they can  
3 possibly go and still maintain forward progress, which is one  
4 of the requirements of the ordinance. So we've had experience  
5 with them in the past. We know it's gonna take a long time.  
6 So we have to take that into account when we plan for it.

7 Q. Okay. So how long is the longest -- let's take a  
8 march of 600 people going on a mile. Okay? How long would  
9 that march typically take on the streets itself?

10 A. The best way that I can answer that question would  
11 be, how fast can people walk that distance at the fastest pace  
12 they could possibly go, and how slow could they walk it and  
13 maintain forward progress as slow as they wanted to go. So I  
14 don't think there's an answer to that. I don't think I can  
15 answer that question.

16 Q. Okay. Do you think that it could take someone 45  
17 minutes to walk one mile?

18 A. Sure.

19 Q. Do you think it could take someone an hour to walk a  
20 mile?

21 A. I could probably shuffle my feet and take three hours  
22 to walk a mile.

23 Q. But is it -- well, can you, can you think of a march  
24 where -- that covered a distance at a pace slower than one mile  
25 an hour?

1 A. Cesar Chavez.

2 Q. Can you think of any other?

3 A. That's the one that comes to mind immediately. I'm  
4 sure there may be others that proceeded at a slower pace.

5 Q. Okay. And, and in our hypothetical of 600 people --  
6 let's say there's 600 people at the Cesar Chavez March and they  
7 are marching a mile --

8 A. Uh-huh.

9 Q. -- so how long -- this is some math for you, right?

10 A. I'm not good at math.

11 Q. Do you think that group of 600 would pass the first  
12 intersection in less than an hour?

13 A. That's possible. Oh, yes.

14 Q. Okay. And would the group pass the second  
15 intersection in less than an hour?

16 A. Again, it's more than likely.

17 Q. Okay. And, and even going very slow, they are going  
18 to pass the first set of intersections in less than an hour?

19 A. Yes.

20 Q. Okay. And if you look at the end of the march,  
21 they're gonna arrive there at some point?

22 A. That's correct.

23 Q. And then they're gonna pass the intersection in less  
24 than an hour?

25 A. That's correct.

1 Q. And are you aware that under the Texas Manual of  
2 Uniform Traffic Control Devices that when a interference with  
3 traffic is going to last for less than an hour no traffic  
4 control devices should be used?

5 A. Again, I have, I have absolutely no idea what that --  
6 I've never even seen one. So I couldn't tell what's in it.

7 Q. Now, in many of the parades that occur in San Antonio  
8 police services are actually provided by other than the San  
9 Antonio Police Department; is that correct?

10 A. In some cases.

11 Q. And in those cases -- well, I've seen looking through  
12 the, the permits that sometimes it's off duty San Antonio  
13 police officers, sometimes it's Bexar County Sheriff's Office,  
14 sometimes it's constables, sometimes it's park police,  
15 sometimes it's school district police.

16 A. That's correct.

17 Q. That pretty much covers it.

18 A. That's correct.

19 Q. And in those cases, who, who drafts the traffic  
20 control plan?

21 A. In those cases, I'm not sure who drafts the traffic  
22 control plan. It would not be me.

23 Q. Okay. Does the San Antonio Police Department, to  
24 your knowledge, review those traffic control plans?

25 A. Not to my knowledge.

1 Q. And this is one -- there's just a few oddities that I  
2 wanted to ask you about.

3 MS. KASTELY: Could we take a break?

4 MS. KLEIN: Sure.

5 (Whereupon, a break was taken)

6 Q. BY MS. KASTELY: Officer Jenkins, I wanted to --

7 A. Excuse me. O'Dell.

8 Q. I'm sorry. Thank you. Officer O'Dell --

9 A. Please, don't confuse me with Bill.

10 Q. Now, I want to direct your attention back to this  
11 application for the International Woman's Day March of -- it's  
12 permit 2008-10 that you looked at before. And you said that  
13 this was the traffic control plan on page 05307. And I wanted  
14 to ask you just a little bit about, more about that.

15 When you are doing your part of the process and  
16 that is determining -- you determine both the number of  
17 officers and which officers; is that correct?

18 A. Well, that's not exactly correct. I determine the  
19 number of officers, which officers are gonna be depending on a  
20 variety of factors. I don't necessarily have control over who  
21 it is.

22 Q. Okay. Do you -- who determines who it is?

23 A. Well, to the extent possible, we use the on duty  
24 traffic shift, and that's determined by who's on duty.

25 Q. And when Officer Jenkins typically makes an estimate,

1 for example, in this case on the second page 05300 there's a  
2 form where he typically estimates how many officers and how  
3 many on duty and off duty officers there will be; is that  
4 correct?

5 A. There's a spot for that. Yes, ma'am.

6 Q. And is that determined by Officer Jenkins? Is that  
7 written by Officer Jenkins?

8 A. This form is filled out by Officer Jenkins. That's  
9 correct.

10 Q. Okay. And when you receive the application, do you  
11 receive the whole packet?

12 A. Generally speaking, all I get is this cover page and  
13 sometimes I'll get another page of the route details. If  
14 there's a lot of details on the route, he'll attach a second  
15 page with the route details on it. And then I also get this  
16 cover sheet on the back. This is my cover sheet. I would get  
17 this --

18 MS. KLEIN: What is the page number?

19 THE WITNESS: IWDM 05303. That would be the top  
20 page. The next page would be IWDM 05299. And then I would get  
21 another sheet if the route details couldn't fit on that. I  
22 would get those three pages.

23 Q. Okay. And that first sheet also has a space for the  
24 number of officers on duty and off duty and the number of  
25 supervisors on duty and off duty, correct?

1 A. Correct.

2 Q. And when you receive that, an application, are those  
3 filled out?

4 A. It would depend on -- to clarify that a little bit.

5 If it's something we had done before, the numbers are already  
6 established from the prior year. It would be filled out. If  
7 it's something we've never done before, it would come to me and  
8 I would try to make that determination and give it back to him.

9 Q. And so your testimony is that you don't receive what  
10 is the second page in this packet, 05300?

11 A. No, I don't get that.

12 Q. Which is Officer Jenkins' estimate, you don't receive  
13 that?

14 A. No. I don't see that.

15 Q. And looking now at 05303, you said that if an event  
16 happened the year before. So for example, the Diez y Seis  
17 March or the Alameda Guadalupe Parade, in that instance would  
18 the number of officers be filled out?

19 A. Most likely they would be. He generally would  
20 research that for me and put the numbers in from the prior  
21 year.

22 Q. Okay. And that would include the number of on duty  
23 or off duty supervisors and officers?

24 A. For an estimate, yes.

25 Q. And when would off duty officers or supervisors be

1 used?

2 A. When the total number of people that, that I need to  
3 do the event exceeds the number that I have available on duty  
4 that day.

5 Q. Okay. So wouldn't Officer Jenkins have to consult  
6 with the current staffing?

7 A. Our current staffing doesn't change much from year to  
8 year. And again, it's an estimate. It's not a chiseled in  
9 stone number. It's just an estimate. It's meant to be an  
10 approximation.

11 Q. Okay. And if that is filled out or, or if it's  
12 blank, do you then either approve or change or fill in those  
13 numbers?

14 A. I generally -- yes. I would fill 'em in if they  
15 weren't there, again as an estimate. A lot of things happen  
16 that affect that total number. I may have -- I may think I'm  
17 gonna have 18 people at work on any given day, and then  
18 somebody may have a death in the family, and they're gone.  
19 Somebody may be sick that day, and they're gone. Those numbers  
20 are -- they fluctuate. It is just an estimate.

21 Q. And so -- but you do approve that estimate?

22 A. I don't approve the estimate as much as I approve the  
23 permit. I don't view what I do as approving an estimate of a  
24 number. This is more like a courtesy that we're going back and  
25 telling people, we think this is what it's gonna look like.

1 It's not an approval or disapproval, in my mind.

2 Q. And is that document, is that piece of paper given to  
3 the applicant?

4 A. I don't believe so. I believe this is for in-house  
5 use. But again, I don't know what he gives, I don't know what  
6 he gives them.

7 Q. Okay. So --

8 A. It's not part of the permit. Generally, I think the  
9 applicant gets, the applicant gets the permit, which would be  
10 the pages that we talked about earlier. IWDM 05299 would be  
11 what the applicant would be given.

12 Q. Okay. So the page with the number of estimated  
13 officers is not given -- or is not in your knowledge given to  
14 the applicant?

15 A. Don't believe so.

16 Q. And so to your knowledge, is the applicant given an  
17 estimate of the number of on duty and off duty officers that  
18 will be required?

19 A. To my knowledge, that's what Bill uses when they're  
20 discussing the issuance of the permit to give them some kind of  
21 idea about what if they hold the event what an approximate  
22 amount of money of what it's gonna cost.

23 Q. Okay.

24 A. It's just an estimate. It's like going to a dealer  
25 and wanting your car worked on and you get an estimate before

1 you approve the work.

2 Q. Okay. And if it's an event that did not happen the  
3 year before, how does -- how do you or Officer Jenkins  
4 determine in advance how many on duty officers will be  
5 available?

6 A. How do we determine in advance how many are  
7 available? Again, that would just be an estimate. I have, I  
8 have manpower numbers available for everyday of the week that  
9 should be here in a perfect world. But it's never a perfect  
10 world.

11 They're gonna be people that are either in  
12 training. They are gonna be on vacation. They are gonna be  
13 gone. They're gonna be somewhere else for some other reason  
14 other than available to me on any given day. The further out  
15 you plan your event the more likely that that estimate will not  
16 be correct.

17 Q. Are there some events where Officer Jenkins or  
18 yourself are particularly concerned to be sure that they're  
19 staffed by on duty as opposed to off duty officers?

20 A. If I'm understanding your question correctly, all  
21 events are always 100 percent of the time are staffed with on  
22 duty officers before they ever go to off duty officers. There  
23 are no -- there is no such thing as an event where we would go  
24 to off duty officers before we exhausted all the on duty.

25 Q. And, and that's true prior to November of 2007 as

1 well as --

2 A. That's been true the whole time I've been on the  
3 traffic unit, since 1990.

4 Q. Okay. And when, when the day comes and you are  
5 making -- do you actually make the assignments of particular  
6 officers to do the parade work?

7 A. Yes.

8 Q. And do you select officers with any particular  
9 qualities or characteristics?

10 A. To the extent possible, we want to use traffic  
11 control officers from the traffic control shifts. And the  
12 reason for that is because they have expertise in what they are  
13 doing. They know how to do it and they perform their duties a  
14 lot better than people that don't do this type of work  
15 everyday.

16 Q. And let's take a typical Saturday. How many officers  
17 would be on a traffic control shift?

18 A. On a -- I could give you an estimate. But it's --  
19 normally speaking, it would be somewhere around 17 or 18. It  
20 could be as high as 22 or 23 or it could be as low as 13.

21 Q. Okay. And do the -- do those numbers change if I  
22 were to ask you about a weekday?

23 A. Yes.

24 Q. And what would be the typical numbers during the  
25 week?

1 A. You could bump every one of those numbers up by about  
2 eight.

3 Q. And what about Sunday?

4 A. Sunday would be roughly the same as a Saturday.

5 Q. Okay. And is there any difference in the normal on  
6 duty traffic control officers between the day time and evening?

7 A. It should be pretty similar between the two primary  
8 shifts. It will be drastically different for the supplemental  
9 shift.

10 Q. And does TCA and TCB, do they take different times of  
11 the day?

12 A. We rotate our duty hours every two months. And we  
13 work from 7 in the morning until 3 in the afternoon, and for  
14 two months. And then we rotate 3 in the afternoon until 11 in  
15 the evening.

16 Q. And so between 11 in the evening and 7 in the morning  
17 are there -- is there a traffic control shift?

18 A. There is the supplemental shift that covers the hours  
19 from -- they just changed their hours. I believe they work  
20 from 8:00 o'clock at night until 6 in the morning. There's a  
21 one hour gap where there's actually no one there between 6 and  
22 7.

23 Q. Okay. And we talked about your kind of division of  
24 responsibilities with Officer Jenkins. Is there someone above  
25 you who approves or disapproves or reviews permit applications?

1 A. Not normally.

2 Q. What about in an abnormal situation?

3 A. I can't even think of an abnormal situation where  
4 that's happened. I mean, I'm subject to the same requirements  
5 of my bosses. If anybody wanted to particularly look at this,  
6 I'm sure they would ask me for it, and they would review it,  
7 and make their comments. But I can't recall that that's ever  
8 happened.

9 Q. Who is your immediate boss?

10 A. Right now it's Captain Patrick Murnin.

11 Q. And who's above Captain Murnin?

12 A. That would be Deputy Chief Mike Burns.

13 Q. And above him?

14 A. Would be Assistant Chief Geraldine Garcia.

15 Q. Okay. And then?

16 A. Chief of Police.

17 Q. And who is -- I'm not sure of his title, but Polara

18 --

19 A. Tom Polonis?

20 Q. Polonis?

21 A. He used to be the traffic captain. He's no longer  
22 the traffic captain.

23 Q. And so is that what Captain Murnin --

24 A. Murnin took his place. Yes, ma'am.

25 Q. And when did Captain Murnin take that place?

1 A. Roughly right around the middle of April, sometime  
2 around Fiesta.

3 Q. Of this year?

4 A. Uh-huh. There was about a month or two month  
5 transition period where they both kinda worked side by side.

6 Q. And has Tom Polonis retired or is he reassigned?

7 A. He's in charge of emergency operations now.

8 Q. And officer, or -- yeah -- Officer Quintanilla, who  
9 is your counterpart in the other traffic control shift, was he  
10 involved in drafting the standard operating procedures at all?

11 A. I probably consulted with him in some minor things,  
12 but I can't recall any specifics. I'm sure we had some type of  
13 discussions. But it would have been minor.

14 Q. Okay. Did you give him a draft of the standard  
15 operating procedure?

16 A. Drafts went everywhere, and I'm sure he had a copy.  
17 I mean, it went up to the chief and all of, all of our bosses.

18 Q. Okay. Did you receive comments from anyone to whom  
19 you distributed the draft?

20 A. I believe we had some criticisms and made a few  
21 grammar -- I have a -- my boss looks for grammar errors and  
22 things like that, and rearranges things. He maybe rearranged a  
23 paragraph or two.

24 Q. Was there any substantive suggestions made?

25 A. Not that I recall.

1 Q. Did Officer Jenkins receive a copy?

2 A. I'm sure he probably did. But I don't know that for  
3 sure.

4 Q. Okay. And what is the status of the standard  
5 operating procedure right now?

6 A. It has been implemented. It's been approved for our  
7 department.

8 Q. And I noticed on, on the first page of the standard  
9 operating procedure, you say the name of the person making the  
10 request is Officer Jenkins. Was he the person making the  
11 request?

12 A. I'm not sure what you are looking at. I don't know  
13 who typed this up. And I don't know if he made the request.  
14 And to be honest with you, I've never seen this piece of paper.  
15 So I don't know what his involvement is there.

16 Q. Is that a standard form? It's entitled a request for  
17 unit SOP revisions or additions.

18 A. It's a form that's required to be attached as a cover  
19 sheet for chain of command approval.

20 Q. Who would have prepared that form?

21 A. Who would have prepared --

22 Q. This form?

23 A. Ma'am, I have no idea. I don't know who did that.

24 I'm assuming since Jenkins' name was on there he's the one that  
25 did it. But it could be as simple as saying, send me a request

1 for -- this is just a piece of paper. A clerk could have done  
2 this. Anybody could have done it. All it is is a place for  
3 people to put signature blocks to whether they either agree  
4 with the revision or disagree with it.

5 Q. Officer Jenkins actually testified that he'd never  
6 seen this document.

7 A. That's entirely possible.

8 Q. And --

9 A. He may have been tasked with typing this cover page  
10 up and attach it to it.

11 Q. Is it possible that he's never seen the standard  
12 operating procedure?

13 A. This particular document here?

14 Q. Yes.

15 A. I don't want to speak for Officer Jenkins. But I  
16 guess it's possible.

17 Q. Yet the standard operating procedure has been  
18 implemented, you just testified; is that correct?

19 A. It's been approved.

20 Q. It's been approved. How is it, is it distributed to  
21 the people who might be affected by the standard operating  
22 procedure?

23 A. Well, it will be a standard operating procedure  
24 addition to the manual that everybody has. And actually, we're  
25 having some discussion now as to whether we even want to do it

1 that way or -- the general manual is disseminated now in a CD.

2 And we probably in the near future will go to that format for  
3 this, instead of having printed documents.

4 Q. Okay.

5 A. How it will eventually be disseminated as part of the  
6 unit procedure? I don't know yet. I don't think that's been  
7 determined. It could be in paper format. It could be in a  
8 form of a CD or electrically.

9 Q. But to your knowledge, it would make sense that -- or  
10 it's certainly understandable that Officer Jenkins would not  
11 have seen the document yet?

12 A. Well, it's entirely possible. Because it's -- right  
13 now it's meaningless to him. We're under an injunction. We  
14 can't do any of the things that the new ordinance says to do.  
15 So we're still kinda operating under the old format. I'm sure  
16 that when it becomes part of what it's important for him to do  
17 he'll review it.

18 Q. So it's your understanding that you're not required  
19 to use the factors in the new ordinance to determine whether a  
20 permit should be approved? It's your testimony that you are  
21 not to use any part of the new ordinance; is that correct?

22 A. My understanding is that the new ordinance is not  
23 enforceable as far as the provisions of the new ordinance, that  
24 we're still kind of covered under the old ordinance. But  
25 again, that's a legal question. And I wouldn't want to render

1 a legal opinion.

2 Q. Now, again, on the Immigration March -- no, I'm  
3 sorry. I mean, the International Woman's Day March, you said  
4 that you determined the postings instructions?

5 A. Uh-huh. They are pretty standard.

6 Q. Okay. And what essentially do they do? What's the  
7 purpose of a posting instruction?

8 A. So when I send an officer out to a location he has  
9 something in writing to tell him what it is he needs to do when  
10 he gets there, so we don't have to tell every single person  
11 individually what they need to do.

12 Q. So, for example, in that march what were people  
13 instructed to do?

14 A. Well, it would depend on the post. But most of these  
15 look like they say, cut all traffic off the route on command,  
16 work cross traffic during breaks. That's a pretty standard  
17 instruction for most parades.

18 Q. Okay. So under your -- under the criteria in the  
19 standard operating procedure, the officers were instructed to  
20 allow traffic to cross during breaks in the procession; is that  
21 correct?

22 A. I'm sorry. Could you repeat that?

23 Q. The posting instruction you just read instructed the  
24 officer to allow traffic to cross during breaks; is that  
25 correct?

1 A. That's correct.

2 Q. And so how -- into which category would you place  
3 that march under the types of processions in the standard  
4 operating procedure?

5 A. According to this, it's a total road closure.

6 Q. Okay. So a total road closure, would that allow  
7 traffic to cross during the breaks?

8 A. Sure.

9 Q. Are there any total road closures where traffic is  
10 not allowed to cross during the breaks?

11 A. Yes. There would be.

12 Q. And what's the distinction between those two? In  
13 other words, when would traffic -- when would you have a march  
14 in which traffic is allowed to cross and when would you have a  
15 march in which traffic is not allowed to cross?

16 A. Well, one of the primary distinctions that come to  
17 mind was when the people turned out to view the parade  
18 overwhelmed the ability to keep a street open. In other words,  
19 a Fiesta parade. There are 250,000 people along that route.  
20 It is physically impossible to keep a street open to where you  
21 could work cross traffic during a Fiesta parade. It has a lot  
22 to do with what is -- what you can do.

23 Q. Uh-huh. And for a march like the International  
24 Woman's Day March, will you expect that it would be possible to  
25 allow traffic to cross during breaks?

1 A. Yes.

2 Q. And in that case, or in the kind of type that's  
3 listed in the standard operating procedure that would be a "D",  
4 total roadway closure, cross traffic allowed during breaks; is  
5 that correct?

6 A. I believe that's what it would fall into.

7 Q. And the examples you give include the St. Pat's Day  
8 Parade and the Veterans Parade?

9 A. I think that's fair.

10 Q. And in those -- well, you also in the standard  
11 operating procedure D-7, it provides that such a procession  
12 requires extensive barricading and use of traffic cones,  
13 barrels, signs and other traffic control devices to comply with  
14 the Texas Manual of Uniform Traffic Devices. Would the traffic  
15 control plan for such a procession include closing the side  
16 streets?

17 A. It could.

18 Q. When would it?

19 A. The best example I can think of of when it would,  
20 when the manpower I had available to me was not sufficient to  
21 handle the event. Then I would have to resort to looking at  
22 other means of keeping traffic out of the parade route. That  
23 would be one example.

24 When a street or an alley is so minor and there  
25 would be such little traffic on that, on that street, alleys

1 come to mind, but you still don't want anybody accidentally  
2 coming down that alley, a barricade would probably be used in  
3 that instance.

4 Q. And so if you look at the directions to the traffic  
5 control company in the International Woman's Day March, were  
6 there closure of side streets on that march?

7 A. I'm really drawing a blank at a lot of these  
8 locations. I don't know where these closures --

9 Q. This was a march on Houston Street.

10 A. Uh-huh.

11 Q. Are there some side street road closures?

12 A. Again, I'm assuming that looking at this document you  
13 could make that conclusion. But that would be a question for  
14 Officer Jenkins. Because I actually have no idea what kind of  
15 barricade he planned to set up for that event.

16 Q. Okay. So when it says, road closed Jefferson at  
17 Pecan and --

18 A. That would likely be -- there may be some one way  
19 street considerations in there. I'm not sure what his thought  
20 process is on a lot of that.

21 Q. So on the road closure at Soledad and Commerce and  
22 the road close northbound Flores at Commerce, lane closure at  
23 Santa Rosa prior to Travis, as you suggest, there are a number  
24 of side roads that are closed, at least apparently --

25 A. It looks that way to me.

1 Q. Okay. But again -- well, let me ask you. You said  
2 that it would be you who would determine whether you had  
3 sufficient number of officers to staff the event; isn't that  
4 correct?

5 A. That's correct.

6 Q. And whether or not you would close roads would depend  
7 on whether you had a sufficient number of officers?

8 A. Let me clarify that a little. Whether or not I would  
9 request that a specific location be closed would be a manpower  
10 consideration.

11 Q. Okay. So in some instances you would request that a  
12 particular roadway would be closed?

13 A. That would be correct.

14 Q. And are there --- is there any other way that a  
15 roadway would be closed?

16 A. Again, that would be a -- that request that I just  
17 mentioned would be outside of the requirement that the manual  
18 on traffic control devices would place on doing certain things  
19 with certain lanes. And I'm not an expert on that, and I don't  
20 know what the manual says. A roadway closure that I would ask  
21 for would be in addition to whatever was required by the  
22 manual.

23 Q. Okay. Have you ever felt the need to get more  
24 extensive training in the traffic -- in the Texas Manual of  
25 Traffic Control Devices?

1 A. No, ma'am.

2 Q. You don't find it necessary in your -- to your  
3 responsibilities?

4 A. No. I have drug enforcement -- I have drug  
5 recognition experts that work for me, and I don't find it  
6 necessary to become a drug recognition expert. I have D.O.T.  
7 officers that are certified. I'm not a D.O.T. officer.

8 Q. Okay. And as far as you know -- okay. And Officer  
9 Jenkins is the only person who is officially certified and uses  
10 that certification in his official duties at this time; is that  
11 correct?

12 A. As far as I know.

13 Q. And so he's the person who makes the traffic control  
14 recommendations not only for your shift, but also for Officer  
15 Quintanilla?

16 A. Yes, ma'am. That's correct.

17 Q. And is -- and to your knowledge, is Officer  
18 Quintanilla certified under the --

19 A. I don't believe he is.

20 Q. Can you recall an instance in which you have  
21 requested that a road be closed because you didn't have  
22 adequate police officers available?

23 A. Probably the last time that would be a consideration  
24 would be the San Antonio Marathon last year. But I can't think  
25 of any other situation other than that.

1 Q. And this document on 05307 that you referred to as  
2 the traffic control plan -- I've looked through a lot of permit  
3 applications packets and to be honest -- I can't remember  
4 seeing that in anything other, or anything like that in any  
5 other packet. Is there some reason --

6 A. 'Cause this document is not part of a parade permit  
7 packet. This document is completely different from a parade  
8 permit. This is stapled together with a lot other documents  
9 here that are, that are included in a parade permit packet.  
10 But even the, the, the approval document that goes all the way  
11 up as far as it goes up the chain of command doesn't even  
12 include this.

13 Q. Okay. But there would be a similar document for  
14 every parade for which there is a permit issued?

15 A. Could be.

16 Q. Do you believe that there is in existence such a  
17 document for every --

18 A. There should be for anything that's of any  
19 significance. Something very, very minor, there may not be.

20 Q. And where are those documents located?

21 A. They're in the main frame computer system of the  
22 city. And there are some hard copies around to different file  
23 locations. I don't know all the where that would be.

24 Q. And are all of those documents that pertain to events  
25 that will occur on your traffic control shift, are all of them

1 created by you?

2 A. Not necessarily. I have a couple of supervisors that  
3 do this also.

4 Q. And what are their names?

5 A. I think -- right now would be -- Sergeant Brown has  
6 done a couple that I know of. And there are several people  
7 that have permission to do that. Whether they have actually  
8 done any or not? I don't know. You'd have to ask them. But  
9 Sergeant Brooks on my shift may have done one. I don't know  
10 for sure.

11 Q. And anybody else?

12 A. On my shift? That would be it.

13 Q. And after this document is created, what happens to  
14 it?

15 A. Are we talking about the work sheet here?

16 Q. What, what you've described as the traffic control  
17 plan.

18 A. It's printed up. Copies of it are made for the  
19 individual officers on the day of the event. And they are  
20 handed a copy with their name on it and their post instructions  
21 so they'll know where to go and what to do when, when they get  
22 there.

23 Q. Are they given to Officer Jenkins?

24 A. Not necessarily. I mean, I think he probably would  
25 have, would have access to them if he wanted them. But I don't

1 give them to him routinely.

2 Q. And does Officer Jenkins give you this document at  
3 05301, which lists the barricades that are going to be  
4 required?

5 A. For complicated events, I sometimes get this as part  
6 of the packet. But it's really never a factor in anything I  
7 do. I don't ever really even look at it.

8 Q. Okay.

9 A. I mean, he may, may staple that in there. But it's  
10 meaningless to me. So I don't even -- if it's in the packet, I  
11 just disregard it.

12 Q. So when you are making staffing assignments you are  
13 not considering what traffic control devices are gonna be out  
14 there?

15 A. No.

16 Q. And --

17 A. Well, that might be a little confusing. But  
18 generally speaking, if we are working cross traffic, it really  
19 doesn't matter to me what traffic control devices are off to  
20 the side. I still have to staff someone to make the cross  
21 traffic work at the intersection.

22 Q. But wouldn't it be relevant to you if, if Officer  
23 Jenkins has determined that there will be a barricade and a  
24 street closure at that intersection?

25 A. In the rare -- yes. That would be relevant. But

1 that, but that discussion would probably be had verbally. I  
2 would just ask him in passing, are you barricading anything  
3 where I would normally put an officer? And if he is, he'll  
4 tell me. And I make a note on it and take it into account.

5 You will see some traffic control -- this is really kind of  
6 confusing to call that a traffic control plan. But you will  
7 see some that are blank.

8 Q. Well, tell me what to call this.

9 A. This is just -- we call it a work sheet.

10 Q. A work sheet. Is there anything that you work with  
11 that you would call a traffic control plan?

12 A. This will be the closest thing.

13 Q. Okay. Now, you were about to say?

14 A. Some of these when they're pointed out will have a  
15 blank here. And that's because --

16 Q. You are pointing to the right --

17 A. -- that was a barricade, where the person's name  
18 would be, there won't be. There's no way for me to tell the  
19 computer to put the word barricade in there. It has to have a  
20 person's name. This is a very complicated system, how it  
21 works. So it would just be blank. And then I have a stamp  
22 that on my copy I would stamp in there that it's barricaded so  
23 on the day I would know that I don't need anybody there because  
24 there's a barricade there.

25 Q. I see. And so does this list include -- let me take

1 that back. This appears to be a list of intersections; is that  
2 correct?

3 A. That's correct.

4 Q. And it includes a supervisor, dispatcher, lead car  
5 and tail car. Am I correct?

6 A. Uh-huh.

7 Q. And do you essentially assign one officer to each  
8 intersection?

9 A. Depends on the intersection.

10 Q. Are there any intersections here where more than one  
11 officer is assigned?

12 A. Yes.

13 Q. What's that?

14 A. Houston and Santa Rosa.

15 Q. And how many officers are assigned there?

16 A. Two.

17 Q. And why are two assigned there?

18 A. Because Santa is divided by a center median and it  
19 has two northbound lanes and two southbound lanes. And it's  
20 actually physically impossible for one person to safely control  
21 traffic there. That's the only reason.

22 Q. Okay.

23 A. Could I clarify something, if I may?

24 Q. Please.

25 A. When you said traffic control plan, in our mind, what

1 a traffic control plan is is a sealed plan done by an engineer  
2 to set up a traffic control situation like on a highway or, a  
3 good example would be the new stadium built on 1604. They want  
4 to shut down the highway, put cones in the street and work  
5 traffic out of that facility. That's what we would consider a  
6 traffic control plan. Something that's sealed by an engineer  
7 that an engineer drew up. So that's why we don't use that  
8 word.

9 Q. So in that sense, none of these events have traffic  
10 control plans, in that sense?

11 A. Not in the sense that they've been reviewed by an  
12 engineer.

13 Q. And again, using this example of the International  
14 Woman's Day March in 2008, is it accurate to say that one  
15 officer or at least one officer was assigned to each  
16 intersection along the route?

17 A. I believe that's probably gonna be accurate, what it  
18 appears to me.

19 Q. And would this be the kind of event where officers  
20 could leap frog?

21 A. Not in my opinion, or I would have done it that way.

22 Q. And why not?

23 A. Time frame, heavy traffic in the downtown area. You  
24 can't travel down the route because it's a total route closure.  
25 You get off on a side street, get blocked up in traffic for an

1 accident, not make your assignment, not have an intersection  
2 covered in a downtown area.

3 Q. And is that always going to be true in a downtown  
4 area?

5 A. Pretty much in the downtown area, it's pretty much  
6 gonna be true.

7 Q. So, so pretty much you can't leap frog in the  
8 downtown area?

9 A. I wouldn't say -- if you were gonna walk three people  
10 down the street for whatever reason, we could probably pull  
11 that off. Yes. But an event of any significance, it would be  
12 very difficult. I believe this one the estimate was a thousand  
13 marchers. That's quite a few people.

14 Q. Okay. And in order to do their job as assigned in  
15 this -- these postings, the posting instructions, as you said,  
16 their job is essentially the same regardless of whether there  
17 are any barricades there; is that correct?

18 A. As far as their job is concerned, essentially that  
19 would be an accurate statement.

20 Q. And as far as the duties that you understand you were  
21 assigning to these officers, they could fully perform those  
22 duties without the assistance of a traffic control barricade;  
23 is that correct?

24 A. The, the decision on whether to employ traffic  
25 control devices is not my decision. So you would have to --

1 Q. I understand that. But I'm asking you about the  
2 responsibilities of the officers.

3 A. They are not responsible for deploying the traffic  
4 control devices.

5 Q. I understand that. But for example, at East Houston  
6 and Soledad, the officer was to cut all, cut all traffic off  
7 the route on command, work cross traffic during breaks. Would  
8 the officer be able to accomplish that task without a traffic  
9 control barricade?

10 A. Would he be able to accomplish that task?

11 Q. Yes.

12 A. Yes. I would say that's an accurate statement.

13 Q. And would he need any other traffic control devices  
14 in order to accomplish that task?

15 A. Not in my opinion.

16 Q. Okay. And in your estimation, how long are the  
17 officers supposed to remain at these posts?

18 A. Until they're relieved by a supervisor.

19 Q. And when will the supervisor relieve an officer from  
20 one of the posts that are assigned there?

21 A. As soon as reasonably possible at the end of the  
22 event.

23 Q. Is that -- if, if one of the officers is assigned to  
24 an intersection at the beginning of the procession, do you mean  
25 -- by the end of the event, what do you mean?

1 A. When the event is in the -- off the roadway and, and  
2 in the disbanding area and clear of the roadway that would be  
3 the end of the event.

4 Q. So if it's a mile long event and the first  
5 intersection is there. The procession passes it in 20 minutes.  
6 It takes them another 20 minutes to get to the disbanding area.  
7 Would the officer at the first intersection remain on that  
8 intersection even though the procession has passed?

9 A. He would, according to his instructions, until he's  
10 relieved. That would be an accurate statement.

11 Q. But, of course, traffic would have resumed its normal  
12 pattern?

13 A. Well, you have to remember that traffic can't come  
14 down the route because people are still on the route. So he  
15 might still have a duty to remove traffic off that route, as  
16 long as there's something ahead of him keeping that street  
17 closed. So he would have a function.

18 Q. So the way it works then, if there was a march like  
19 this down Houston and from, basically, Jefferson to the Milam  
20 Plaza, would Houston Street be closed to all traffic for the  
21 entire period that that procession is anywhere on the streets?

22 A. It could be.

23 Q. Would it normally be?

24 A. As a -- normally, it would probably be. Yes. Most  
25 of it. It doesn't mean that it couldn't part of it be opened

1 up. But again, this depends on -- the officer has to stay on  
2 post until he's relieved by a supervisor. If the supervisor is  
3 performing other duties, he's not looking at that particular  
4 aspect of the event to determine if that can be done or not.

5 Q. I understand that. But I guess what I'm asking you  
6 now is a slightly different question. I understand that the  
7 officer is to remain on duty. My question is whether Houston  
8 Street would be continued to be closed?

9 A. Well, absolutely be close as long as there are people  
10 on the street.

11 Q. I understand that. You have staffed however a lead  
12 car and a tail car.

13 A. Uh-huh.

14 Q. What are the duties -- or what are the purposes of  
15 the lead car and the tail car?

16 A. They're basically safety valves. A lot of people  
17 that put on events want something to lead the event. We'll  
18 generally either do that with motorcycles or a car. Tail car  
19 is always gonna be at the back of the event to indicate where  
20 the back is.

21 I may at any given time want to know where the  
22 lead of the event is and where the back of the event is. And  
23 that's what their function is, is to contain the event and act  
24 as a safety valve so if a car came off of a private parking lot  
25 that was manned with a person or a barricade, they wouldn't

1 come up on the back of people marching or walking, or floats or  
2 horses, or whatever happened to be on the road.

3 Q. Okay. So isn't it fair to say though that after the  
4 tail car passes an intersection then that intersection is  
5 assumed to be open --

6 A. For cross traffic?

7 Q. -- for regular traffic?

8 A. For cross traffic. Yes.

9 Q. Okay. And you said that, that the purpose of a lead  
10 car is that people -- I assume, you mean organizers often want  
11 to have a lead for the parade; is that correct?

12 A. And again, it's to act as a safety valve in case  
13 something pulls out in front of 'em until they can be removed  
14 from the route, to isolate the participants from other traffic.

15 Q. Have you ever had march organizers ask you not to  
16 include a lead car?

17 A. I don't think so. And I don't think we would honor  
18 that request. Safety issue.

19 Q. And so your testimony is that in your view it's a  
20 safety issue that it's required to have a lead car even though  
21 you have an officer posted to stop traffic at every  
22 intersection; is that correct?

23 A. That's my opinion.

24 Q. And, and the danger that that lead car would be --  
25 will be preventing is the possibility that a car would, would

1 pass one of your officers?

2 A. No, ma'am. The danger would be that a car would  
3 enter from a private residence, business location, a parking  
4 garage and turn headed toward the, the people walking down the  
5 middle of the street.

6 Q. Okay.

7 A. That would be the danger.

8 Q. And what would the lead car do to prevent that?

9 A. It would be a visible presence there to make sure  
10 that it didn't get any further than where he was, turn them  
11 around. And it has happened.

12 Q. And in your view, the presence of the procession  
13 itself would not be adequate?

14 A. Absolutely not.

15 Q. And why do you say, absolutely not?

16 A. Because you have a pedestrian in a roadway with  
17 nothing physically between them and the possibility of a motor  
18 vehicle coming at him. I have policemen getting run over on  
19 traffic stops all the time. You put pedestrians in the roadway  
20 with vehicles, it's a dangerous situation. Any time you step  
21 in the street as a pedestrian it's dangerous.

22 Q. Okay. Now, in some -- let me get -- in some  
23 situations -- or in some of these permit applications, for  
24 example, this is the application for the Museo opening. It's  
25 marked as IWDM 00587 through 00615. And as I look through that

1 there's no posting instruction like we were just talking about;

2 is that correct?

3 A. I don't see one.

4 Q. Okay.

5 A. I don't see one here.

6 Q. And according to your testimony, one would exist?

7 A. It should, it should exist. Yes.

8 Q. Okay. And was that event on your shift?

9 A. Uh-huh. It was. Yes.

10 Q. And on the, on the permit application itself it says,  
11 contact person, Lieutenant Chuck O'Dell. And then it says  
12 Lieutenant Chuck O'Dell of S.A.P.D. will provide traffic  
13 assistance. What does that mean?

14 A. It means, I'm the contact person if you have any  
15 questions about how we're gonna handle the traffic along the  
16 route.

17 Q. Is there any distinction between that phrasing and  
18 one, for example, on the San Fernando Cathedral, which is page  
19 01985, where it just says, contact person, Lieutenant O'Dell.  
20 S.A.P.D. will provide traffic assistance? Is there any  
21 distinction in that phrasing?

22 A. I think they say the same thing --

23 Q. Okay. And so --

24 A. -- in a different way.

25 Q. Okay. And within the S.A.P.D., if an event is, is

1 sponsored by the city, is there any difference in how the  
2 application for a permit is processed and the traffic control  
3 assignments are made?

4 A. I'll speak to the traffic control assignments. I  
5 don't have any knowledge about the permitting process. But  
6 there's absolutely no difference in how the assignments are  
7 made.

8 Q. And I don't have an example here. Oh, here it is.  
9 On page 00617, it's the application for the Police Officer  
10 Memorial Run. In this case, it says, contact person, S.A.P.D.  
11 Officer Chris Lutton. What is the significance of that?

12 A. This was not done by on duty resources. This was  
13 done by Officer Chris Lutton.

14 Q. And who is Officer Chris Lutton?

15 A. He's -- I don't know him. I'm assuming he's a San  
16 Antonio police officer. That's what it says here.

17 Q. Is he in the traffic control division?

18 A. No.

19 Q. And he is listed in a number of events. Why would  
20 that be?

21 A. Because whoever put on the event contacted him to  
22 provide their traffic functions rather than go through on duty  
23 resources. More than likely because he's offering to do that  
24 for less money, I'm assuming.

25 Q. To your knowledge, do off duty officers sometimes

1 provide police services for parades for free?

2 A. I, I don't have any direct knowledge of that being  
3 done.

4 Q. Do you think it's possible that that's done?

5 A. Sure. It's possible.

6 Q. Is it likely?

7 A. No.

8 Q. What's the difference in cost to an organizer between  
9 having a on duty police officer, an off duty/on duty police  
10 officer and an off duty officer.

11 A. An off duty/on duty?

12 Q. Yeah. Let me ask you. In some cases, as we've  
13 discussed, for example, again in -- this is the -- I don't want  
14 to use that one -- let me see --

15 MS. KASTELY: You can look for --

16 Q. BY MS. KASTELY: For the -- I'm just looking at the  
17 San Fernando Cathedral Grand Posada. It begins at 01985 and  
18 looking on Page 01990. This is the page that we've already  
19 talked about. In this case, it, it says that there's gonna be  
20 one off duty officer; is that correct?

21 A. That's correct.

22 Q. And is that off duty officer under the control of the  
23 S.A.P.D.?

24 A. Let me look at the permit itself. Yes.

25 Q. Okay. And the permit itself says that the traffic

1 control will be provided by S.A.P.D.?

2 A. That's correct.

3 Q. So when S.A.P.D. is providing the traffic control  
4 there are sometimes off duty officers; is that correct?

5 A. That's correct.

6 Q. And under -- what are the conditions in which off  
7 duty officers can be called to duty to work a parade?

8 A. We would never -- we would never involuntarily call  
9 an off duty officer in to work.

10 Q. How do you get off duty officers?

11 A. I would solicit the need to have somebody come in and  
12 work overtime. And I have generally enough people sign up on a  
13 voluntary basis.

14 Q. Okay. And what do they get, get paid when they  
15 respond to such a solicitation?

16 A. They get paid at their city overtime rate, whatever  
17 it is. And it's different for everybody.

18 Q. Is it generally -- so it's not standard, it's not  
19 time and a half?

20 A. It's time and a half of whatever their base salary  
21 is. But that figure is an individual figure. Every single  
22 policeman has a different rate of pay.

23 Q. Got it. And there is a requirement under the  
24 contract that they work a minimum of three hours?

25 A. Three hours.

1 Q. Are there any circumstances in which they can be  
2 hired -- I'm sorry not hired -- in which the San Antonio Police  
3 Department can assign them to work for less than three hours  
4 overtime?

5 A. No. That would be a violation of the contract.

6 Q. Okay. And now in the instance that we were talking  
7 about with Chris Lutton, you said they would be off duty  
8 officers. Are they the same -- do they work under the same  
9 circumstances that you just described?

10 A. No, ma'am. That, that situation, they would be  
11 considered contract labor. It would be completely outside of  
12 the San Antonio Police Department. And that deal would be  
13 negotiated between them and whoever was putting on the event.

14 Q. Okay. Is there an office in the, in the San Antonio  
15 Police Department or in the city government that arranges for  
16 the employment of off duty officers?

17 A. There is such an office. But only in city  
18 facilities, and they are named in the contract, which city  
19 facilities.

20 Q. And so would that include, for example, the  
21 Alamodome?

22 A. Yes, it would.

23 Q. And in that instance are the officers hired under the  
24 conditions that you suggested, where they receive one and half  
25 times base salary and with a three hour minimum?

1 A. I believe their conditions are -- they, they are  
2 different. And I hate to quote the contract. But no, it's not  
3 the same.

4 Q. Okay.

5 A. It's fairly close, but not the same.

6 Q. Okay. Is there any restrictions that you know of on  
7 how many hours an officer can work under the circumstances that  
8 we talked about Officer Lutton working, that is entirely  
9 outside the jurisdiction of the city or the San Antonio Police  
10 Department?

11 A. Again, he would be contract labor. And that would be  
12 a negotiation between the two parties. It would have nothing  
13 to do with the department or the contract.

14 Q. And there's nothing in your regulations or any other  
15 regulations of the city that limits the number of hours a  
16 particular officer can work under those circumstances?

17 A. In an off duty capacity as far as the total number of  
18 hours, there are some regulations involving how many hours you  
19 can work in a day or a week. I'm not familiar with it, but  
20 that regulation does exist. It's a pretty high number.

21 Q. And that would be the same regulation, for example,  
22 if a police officer wanted to be a -- you know, wanted to do  
23 work as a bartender?

24 A. Well, that wouldn't be approved as a work permit, but  
25 yes.

1 Q. Okay. Do some officers do what we call moonlight?

2 A. Yes, they do.

3 Q. And as you just suggested, do those moonlighting jobs  
4 have to be approved by the San Antonio Police Department?

5 A. Yes, ma'am.

6 Q. And what is the process through which a moonlighting  
7 job gets approved?

8 A. It's called a work permit. It's a little form that  
9 you fill out with the details of what it is. It goes up  
10 through the chain of command. The office that you just  
11 mentioned with the off duty employment is the office that's  
12 tasked with the responsibility in addition to track the off  
13 duty employment, the work permit part of it. So it will go  
14 through their office and eventually be signed by the chief or  
15 his designee, and either approved or disapproved.

16 Q. So each time Officer Lutton works on a parade he has  
17 to submit an application for a work permit?

18 A. He may only have to submit one, if he has a company,  
19 he can submit a work permit good for that particular type of,  
20 of job for a year, and then it would have to be renewed at the  
21 end of the year.

22 Q. And if he arranged for, for other officers to work  
23 with him on a parade, would they have to apply for a work  
24 permit?

25 A. The same rules. If they work for him continually,

1 they have to apply for a blanket permit to cover them for a  
2 year.

3 Q. So you're suggesting that there may be companies  
4 owned by Officer Lutton and other officers?

5 A. I know that there are by other officers. I don't  
6 know specifically about Officer Lutton.

7 Q. What other officers do you know of that run such  
8 companies?

9 A. Well, one that's retired now is Officer Scott Hayes.  
10 He's been retired for about a year. But he ran his own  
11 motorcycle police escort business for years. I have a sergeant  
12 that works for me that doesn't do it any longer, but he also  
13 ran a police motorcycle escort business, named Joseph Cockle.

14 Q. Okay. Anyone else?

15 A. Probably half the department, but I don't know -- a  
16 lot of people.

17 Q. Okay.

18 A. Work permits come in for approval through the chain  
19 of command all the time for individual jobs for one or two  
20 days. And then at the end of the year, you'll usually get  
21 flooded with annual permits that you sign for the following  
22 year.

23 Q. Okay.

24 A. So quite a few.

25 Q. And if nearly half -- I'm gonna take that as an over

1 estimate.

2 A. I hope so.

3 Q. But I assume that a lot other officers are working  
4 for such companies?

5 A. I think that's probably a pretty good assumption.

6 Q. And it -- would it maybe possible that half of the  
7 officers in the traffic control division are working for such  
8 companies?

9 A. That was an over exaggeration. I don't think it's  
10 half of the traffic control detail.

11 Q. Okay. But I made a distinction. In other words, I  
12 think you made that comment when I asked how many officers  
13 actually run and own such companies.

14 A. Okay.

15 Q. But now I'm asking you, how many officers work for  
16 such companies?

17 A. I really wouldn't have any way of knowing that  
18 information. I wouldn't have any idea.

19 Q. Is it -- I would think that traffic control officers  
20 would be kind of a sought after commodity then?

21 A. No. They're sought after, but they generally don't  
22 work this kind of job.

23 Q. And why is that?

24 A. Because there's so much overtime available at the  
25 city rate. They don't need to.

1 Q. Okay. And so you would say that -- so it's not  
2 surprising to you that you don't -- that Officer Lutton isn't  
3 in the traffic control division?

4 A. It's not surprising?

5 Q. Yeah.

6 A. No. It's not surprising.

7 Q. So that it makes sense, in other words, that it would  
8 be non-traffic control officers who may have these kind of  
9 companies?

10 A. Correct.

11 Q. And do you know whether any special certification is  
12 required for officers who run such companies?

13 A. I wouldn't have any way of knowing that.

14 Q. And do you know what a normal rate of pay would be  
15 for such officers?

16 A. I wouldn't.

17 Q. Do you think it's \$50.00 an hour?

18 A. Well, if you find one, I think I'd probably be  
19 interested. I doubt if it's that high.

20 Q. So you think it's less? Do you think it's \$40.00 an  
21 hour?

22 A. In some cases it could be.

23 Q. Do you know of any instances in which off duty  
24 officers are paid \$40.00 an hour?

25 A. Double time, holidays where it's hard to find people.

1 Sometimes a lot more, more than that. I can't think of  
2 anything specifically. I've heard of, you know, rumors through  
3 the years of people getting exorbitant amounts of money,  
4 depending on what's going on on a particular day.

5 Q. Okay. And when you receive an application that  
6 indicates that such an off duty officer is going to be handling  
7 the traffic control services -- let me see if I can find one.  
8 But I'll ask you in the hypothetical.

9 If you were -- well, here, this is it. I think  
10 we had one here. Yeah. Okay. Sorry. In such a case -- this  
11 was, I'm sorry, the Police Officer Memorial Run, you would  
12 receive or -- I'm sorry. Would you receive a copy of the  
13 permit application in such a case?

14 A. And we would. And it's put in our daily assignment  
15 file to inform us that there will be an event on the roadway at  
16 that location on that day. Not that we have to respond -- it  
17 will generally come with some notation on it, information only,  
18 something of that nature.

19 Q. So do you have to approve such applications?

20 A. Well, there's a signature block. And it's more like  
21 an acknowledgement that I received a copy of it than it is --  
22 well, yes, it would be an approval, I guess.

23 Q. Okay. And do you make any further inquiries in such  
24 a case?

25 A. None.

1 Q. And in this case, the application is marked -- this  
2 is again the Police Officer Memorial Run, which occurred on a  
3 Saturday from 9:00 to 11:00 a.m. in May. There were  
4 approximately 100 people estimated to participate with the  
5 length of 5K.

6 And if you'll notice at the bottom it says that  
7 there would be no barricades required. Would you normally  
8 check to see whether Officer Jenkins had indicated that there  
9 would be barriers or there would not be barriers?

10 A. Would I normally check that?

11 Q. Yes.

12 A. I might look at it to see it. But I'm not sure I  
13 wouldn't be approving that.

14 Q. And when it's checked no, do you -- what is your  
15 response to that?

16 A. I don't really have a response. Again, this comes,  
17 comes to me as a courtesy for information. It tells me that  
18 someone outside the department is handling this event, to be  
19 aware of the fact and put it in our files so that we know that  
20 on this day this event is gonna be going on in whatever part of  
21 town it's gonna be going on in.

22 Q. So, so it's your testimony that Officer Jenkins has  
23 sole responsibility for deciding whether barricades are  
24 required?

25 A. I'm not sure that's a true statement. He's just

1 approving somebody outside the department to handle it.

2 Whether or not the barricades are required in compliance with  
3 the manual, now that becomes their responsibility, not ours.

4 We don't check that.

5 Q. Okay.

6 A. It would be up to them if they were doing anything  
7 that required barricades to make sure they were doing it in  
8 compliance.

9 Q. And them --

10 A. Basically, all we've done is handed off the  
11 responsibility for handling the event to somebody outside our  
12 department.

13 Q. And that is Officer Lutton?

14 A. That would be Officer Lutton.

15 Q. So in your understanding it would be now Officer  
16 Lutton's --

17 A. It's his responsibility to make sure he's conducting  
18 this event in a safe way.

19 Q. Okay. And in another situation like we have  
20 discussed, the International Woman's Day March, in that case  
21 the box barricades required was checked yes. And in such a  
22 case, is it your testimony that it is Officer Jenkins' sole  
23 responsibility to determine what barricades and other traffic  
24 control devices are required?

25 A. That would be correct.

1 Q. And is there anyone in the department who can alter  
2 his recommendation?

3 A. I'm sure that someone that outranked him could  
4 probably order him to do things that he would be required to do  
5 by virtue of their position.

6 Q. And do you know of any instance in which that has  
7 happened?

8 A. Not to my knowledge.

9 Q. Have you ever asked Officer Jenkins about his  
10 determination of the traffic control devices that are required?

11 A. Yes.

12 Q. When would that be?

13 A. If it looked a little odd to me and I didn't think we  
14 needed it, or in my opinion it wasn't necessary.

15 Q. Okay. Can you remember an instance in which that  
16 occurred?

17 A. Not off the top of my head. It has occurred, but I  
18 don't remember a particular event where it's occurred.

19 Q. But has it occurred within the last year?

20 A. It hasn't occurred in a very long time, but possibly  
21 within the last year.

22 Q. And how many times would it occur during a typical  
23 year?

24 A. One or two.

25 Q. And can you explain to me one of those instances that

1 you remember in some degree?

2 A. I don't remember any instance to any degree. I just  
3 know it has occurred. I don't have any specific recollection  
4 of any particular event.

5 Q. Okay.

6 A. Again, we do hundreds and hundreds of these things.  
7 So they get kind of confusing.

8 Q. Okay. Would you normally be concerned -- or let me  
9 take a step back. So you've testified that you don't always  
10 receive the document -- this one is not -- oh, yeah -- such as  
11 01987 through 988, that is Officer Jenkins' specification of  
12 the traffic control devices. You don't always receive that,  
13 correct?

14 A. I very rarely ever see this at the approval stage.  
15 Sometimes I will see this document before the event takes  
16 place, but not always.

17 Q. So it's not part of the regular process for you to  
18 review what traffic control devices --

19 A. No.

20 Q. -- are --

21 A. I don't review what traffic control devices are  
22 necessary.

23 Q. So how did -- or how does -- in those one or two  
24 instances in which you questioned Officer Jenkins on his  
25 determination, how does that come to your attention?

1 A. Bill is a very good employee. He tries to do some of  
2 my work for me and keep my workload down. And a lot of times  
3 he'll bring me a map where he'll have little marks on it. And  
4 he'll put where he thinks I need to put policemen. I will  
5 either agree or disagree with that. And he'll put where he  
6 needs to put barricades. And I will either question him -- I  
7 will sometimes question him about that. That's pretty rare.

8 Generally, he's pretty accurate with the number  
9 of people that I'm gonna need, because it's a very simple  
10 solution. Simple intersection, one officer; complex  
11 intersection, two officers; very complex intersection, maybe  
12 more than two. And it's not that difficult to figure out. So  
13 he can usually figure out my piece of, of the pie fairly easily  
14 and make a recommendation. And I'll quickly look at it and say  
15 I agree or I disagree, or we need this, we don't need this guy  
16 here, but we may need a guy over here.

17 Q. Okay. And how often does he prepare such maps for  
18 you?

19 A. Generally speaking, for events that have never taken  
20 place before. New events that we're trying to figure out the  
21 appropriate response for.

22 Q. Okay. And in such instances, you say one or two  
23 times, you will question Officer Jenkins, and generally is it  
24 fair to say that you would ask him why such devices are  
25 necessary?

1 A. I'll generally ask him what his thought process is or  
2 what we're closing.

3 Q. Okay. Is it generally that Officer Jenkins will  
4 recommend a closure that you will question?

5 A. Is that -- are you asking me if that happens often?

6 Q. Well, you've testified that once or twice a year you  
7 would, you would question Officer Jenkins on the barricades.

8 A. And when I -- when you say question him, it kind of  
9 insinuates that I'm questioning his authority. The question  
10 means, why, why are we using this here? It's more of a  
11 information exchange than I would categorize it as questioning  
12 him.

13 Q. Okay. But sometimes will he take your recommendation  
14 and eliminate a barricade that he had before?

15 A. Generally only if I tell him I don't want a barricade  
16 here. I want to put a body here there, sometimes. More often  
17 than that, he puts people where I don't need them, and I'll cut  
18 down the number of people.

19 Q. Okay.

20 MS. KASTELY: I'm gonna keep going.

21 MS. RODRIGUEZ: Yeah.

22 (Ms. Rodriguez walked out)

23 Q. BY MS. KASTELY: I want to ask you about -- these are  
24 two applications from 2006. The first one is numbered 01915  
25 and the second -- and ends at 01925, and it's an application

1 for an Immigration March on October 12th, 2006. And the second  
2 packet is number beginning with 01926 and ending with 01934,  
3 and that is also an application for an Immigration March on  
4 October 12th, 2006. Do you recognize those two packets?

5 A. Well, I recognize them for what they are. They're  
6 not my work product.

7 Q. And you can recognize that because?

8 A. It's an S.A.P.D. form.

9 Q. Yeah. But it indicates that the contact person will  
10 be Lieutenant Quintanilla?

11 A. That's correct.

12 Q. In your understanding, does Lieutenant Quintanilla  
13 use the same general approach that you use in his decisions  
14 about staffing?

15 A. I would assume that he does. Most of the staffing is  
16 kind of a common sense approach about what it would take to  
17 make traffic work in a particular intersection. We work pretty  
18 close.

19 Q. Have you ever talked with officer or Lieutenant  
20 Quintanilla about issues of staffing parades?

21 A. Generally, no. I can't think of a time when that's  
22 happened.

23 Q. Okay. Now, in these occasions, did you work any of  
24 the Immigration Marches?

25 A. I did one, but not either one of those.

1 Q. Do you recall when it was that you did it?

2 A. It was one that was done without a permit. And they  
3 took over the street without a permit. And I don't recall the  
4 date.

5 Q. Yeah. I think that would have been, that would have  
6 been April of 2006. In this case, in the first application  
7 which is permit number 2006-080, application by Jaime Martinez,  
8 and there is a document I think similar to the ones we've  
9 talked about here in which it is estimated that, that there  
10 would be 31 off duty officers and 23 on duty officers. Is that  
11 correct?

12 A. 30 off duty and 20 on duty. That's what this form  
13 says.

14 Q. And two supervisors?

15 A. Three on duty supervisors and one off duty  
16 supervisor.

17 Q. So that's for a total of 50 something?

18 A. Okay.

19 Q. And that application indicates that it was 54  
20 officers for a cost of \$9,091.00. And it was to be 5,000  
21 walkers for one mile -- actually, there's another -- yeah.  
22 Okay. So in this application, there's a letter at 01925 from  
23 Officer Jenkins indicating that Mr. Martinez' application is  
24 denied because he hasn't paid for a previous march.

25 And so then another application was filed by

1 Gabriel Velasquez for what appears to be the same event. And  
2 the estimated number of officers is now 24. And my question  
3 is, why would the first permit receive an estimate of 54  
4 officers necessary and the second application received an  
5 estimate of 24 officers necessary for the same number of people  
6 on the same route at the same time of day?

7 A. I don't know why the estimates are different. These  
8 are not my work product. I didn't have anything to do with  
9 either one of these marches and have no direct knowledge of  
10 either one of these events. But I can tell you from just my  
11 knowledge of the march itself that this one is wrong. The  
12 higher number is the correct number.

13 Q. This one being?

14 A. Somebody got a low ball estimate on this one.

15 Q. On the 24th?

16 A. Yeah. They got a very low estimate.

17 Q. And why is that?

18 A. I don't know.

19 Q. Why do you think that 54 officers would be necessary?

20 A. Well, okay. Wait a minute. I may be able to clarify  
21 that. Let me look at something here, the route. They are  
22 different routes, for one thing.

23 Q. Are they?

24 A. They're different routes.

25 Q. Okay. How are they different?

1 A. Well, wait a minute. Maybe they're not. Maybe he  
2 just worded it different. They start at the same place. They  
3 are slightly different routes. The routes are a little bit  
4 different.

5 Q. Okay. But you testified that the 54 number was  
6 accurate before you looked at the routes. Why did you think  
7 that?

8 A. Because 5,000 walkers is lot of walkers. To control  
9 people and control traffic at the same time, that many people  
10 and traffic at the same time is gonna require, require more  
11 people.

12 Q. Okay. And what would be the assignment --

13 A. And this was a very long route. I know -- let me  
14 look at -- well, I used for the Cesar Chavez Parade probably  
15 more officers than this for the same route. That's why I know  
16 that the higher estimate is correct.

17 Q. And how long is that route? How long is, is  
18 indicated?

19 A. Let me see here. It says three miles. That's  
20 probably close.

21 Q. Okay. And --

22 A. 54 officers for a three mile route is not excessive.

23 Q. Okay. And when we look at the International Woman's  
24 Day March, you had assigned one officer to each of the  
25 intersections. In this Immigration March, would you typically

1 assign -- I'm sorry -- one or two officers to each  
2 intersection. In the Immigration March, would you typically  
3 assign one or two officers to each intersection?

4 A. It would be depending on whether or not I thought it  
5 was necessary to control the pedestrians and control the  
6 traffic. Generally speaking, the plan should be pretty close  
7 to the same.

8 Q. Okay. In the plan that we looked at for the  
9 International Woman's Day, were the officers assigned to  
10 control the crowd? That's the one that we talked about here  
11 where it was the only one where your posting assignments --

12 A. No. There would be no one assigned to control the  
13 crowd. They would be assigned to control the people involved  
14 in the march. And when we work cross traffic, rarely -- it  
15 does become necessary sometimes when they stay so tight that  
16 cross traffic can't be worked and it looks like the cross  
17 traffic is gonna be detained for an inordinate amount of time,  
18 I will force a break using my officers at the intersection and  
19 let some cross traffic run, then let the march continue.

20 Q. Okay. But otherwise, you said that -- so that would  
21 be the one instance in which in this kind of staffing  
22 assignment the officers would quote, "control the  
23 participants"; is that correct?

24 A. That would be an example of them stopping the event  
25 to let some cross traffic go and then re-start again. And

1 that's difficult to do with 5,000 people all coming toward you  
2 and only one guy at the intersection to actually physically  
3 make 'em come to a stop. So that's a judgment.

4 Q. So if you were staffing the Immigration March that  
5 estimated 5,000 people walking 3 miles, how would you go about  
6 determining how many officers you needed?

7 A. I basically look at the complexity of the  
8 intersections and the number of intersections. On a 3 mile  
9 route, it's a lot of intersections. I don't know how many  
10 there are on this one. I would have to look at a map and I  
11 could probably count them for you. But there will be a lot.

12 And any number along this route are more than  
13 one -- will require more than one person just to control  
14 traffic at any kind of major street that they cross that has  
15 multiple -- multiple lanes of traffic on a cross street, one  
16 person can't control that. And generally speaking, that's  
17 probably where the bulk of your traffic is gonna back up that  
18 needs to be worked across, is on the main streets.

19 Q. On the main streets. So for example, this march goes  
20 from the Plaza Guadalupe?

21 A. Guadalupe and Brazos.

22 Q. To the Alamo.

23 A. Federal Building.

24 Q. And so when they are marching on Guadalupe from  
25 Brazos to the bridge, is there gonna be an officer at each of

1 those intersections?

2 A. There are not very many intersections. But probably  
3 so. It seems to me like there's one real minor intersection in  
4 there that may get barricaded. But I'm just thinking of Cesar  
5 Chavez. It could be that they have an officer at every  
6 intersection. It's a total closure on both of these.

7 Q. It's a total closure with traffic --

8 A. It doesn't really say.

9 Q. What would you expect it to be?

10 A. 5,000 people is an awfully lot of people to try to  
11 work any cross traffic on. When you go to a total closure of a  
12 route, you're gonna bump up the number of people necessary to  
13 make that work, if you're not gonna work cross traffic.

14 Q. And why is that? I would think --

15 A. Because you are diverting all your cross traffic to  
16 other surface streets that need to have some attention given to  
17 them off the route.

18 Q. Okay. So you would have your officers directing  
19 people to what's essentially a detour?

20 A. Well, there wouldn't be an established detour. It  
21 would be impossible for us to go out and set up signs and  
22 indicate a detour route. But if you are going down a street  
23 and it's blocked ahead, you're gonna have to start diverting  
24 them somewhere. And that -- you go from having to have one guy  
25 in the middle of the one intersection to have to have one guy

1 on each side of that intersection where the closures occurred.

2 It looks like this might have been a total closure, but it

3 doesn't say.

4 Q. The St. Pat's Day Parade is an example that you gave

5 in the standard operating procedures for a closure with cross

6 traffic; is that correct?

7 A. Uh-huh.

8 Q. And --

9 MS. KLEIN: You need to say yes for the record.

10 THE WITNESS: Yes. I'm sorry.

11 MS. KASTELY: Thank you, Debbie.

12 Q. BY MS. KASTELY: And that parade involves 4,000

13 marchers?

14 A. That's correct.

15 Q. And so what's the distinction -- is it simply that

16 the distinction between 4,000 and 5,000 that in your view would

17 make the necessity for a total closure?

18 A. No. There's a huge difference between these two

19 events. These are walkers. That's floats, bands, all kinds of

20 other things that create natural gaps where cross traffic can

21 be worked. Anything that has, that has a float or a band in it

22 there's natural gaps created there where cross traffic is gonna

23 be worked in between them.

24 Q. That's the St. Patrick's Day Parade?

25 A. Yes.

1 Q. And so marchers are more difficult than -- for cross  
2 traffic than marchers with floats?

3 A. That many marchers, for the most part, are impossible  
4 to control. They're gonna do whatever they want to do. We can  
5 give them directions. If they don't follow our directions,  
6 they're gonna do whatever they want.

7 We can control the floats. A float can pull up  
8 to an intersection, I can stop the float, work some cross  
9 traffic, let the float go. And it doesn't really make a whole  
10 lot of difference in the event. One person can do that.

11 Q. Okay. And you said earlier that when you were --  
12 when you would be working out the staffing, for example, for  
13 this parade on October 12th, 2007, that you would look at the  
14 intersections and see which ones were major, and in which case  
15 there would be two officers and which ones -- were there any in  
16 your view that could be worked by one officer?

17 A. Any intersections?

18 Q. Yes.

19 A. On this event, I wouldn't begin to sit here and tell  
20 you that I'm gonna analyze a piece of paper that you handed me  
21 on something that I didn't work and tell you what my traffic  
22 plan would look like. Because these things take hours to put  
23 together. It's not something that's done in two or three  
24 minutes.

25 These take hours and hours to sit down at

1 computers, go out and look at things physically, come back,  
2 revise it. Sometimes they take days to put together, if it's  
3 really complicated. In the case of the marathon that's coming  
4 up, it will take months to put that together.

5 Q. Okay. And then I'm looking at the Cesar Chavez  
6 March, which you said is the same route, isn't it?

7 A. No. It's a little different. It, it starts in the  
8 same place and ends up downtown, but it takes a little bit  
9 different route.

10 Q. Okay. And let me see if I can pull that out.

11 MS. KASTELY: Can -- see if 2007-05 is there.

12 Q. BY MS. KASTELY: In any event, when you staffed the  
13 Cesar Chavez, are there any intersections that are staffed by  
14 just one officer?

15 A. Yes.

16 Q. And in addition to assigning officers to each  
17 intersection -- or to the intersections that you think that  
18 need to be officers, would your posting instructions include  
19 other kinds of instructions to the officers? I mean, you are  
20 looking puzzled.

21 A. Yeah, I am.

22 Q. Are you confused by my question?

23 A. I am.

24 Q. Then I --

25 A. The instructions will be specific to what needs to be

1 accomplished at that particular location.

2 Q. Okay.

3 A. In some cases, if there was something going on there  
4 that wasn't going on somewhere else.

5 Q. Okay. And this is the 2007 Cesar Chavez March.

6 A. Okay.

7 Q. And in that instance the estimate was for 12,000  
8 marchers.

9 A. Okay.

10 Q. For 2.6 miles; is that correct?

11 A. That's correct.

12 Q. And what was your traffic control staffing in that  
13 situation?

14 A. I don't -- here it is. It looks like we used 56  
15 total people.

16 Q. And were each of those 56 assigned to an  
17 intersection?

18 A. It's difficult to tell from this. But probably not  
19 all of 'em to a specific intersection. There may have been a  
20 few motorcycles that were floating, just by looking at the  
21 names on here. But I don't have the work sheet.

22 Q. Okay. And what would be the assignments for the  
23 floating motorcycles?

24 A. On this particular event, in some locations the  
25 street is open part of the way to traffic in one direction.

1 And what they primarily try to do is make sure that the people  
2 that are participating in the walk or march or whatever they  
3 wanted to term their event, are not wondering over into active  
4 traffic lanes. And that is a constant problem and they  
5 constantly kind of run up and kind of -- almost like herding  
6 cats, put 'em back in the protected part of the roadway.

7 Q. And would you assign motorcycles to do that function  
8 for the St. Pat's Parade?

9 A. No.

10 Q. And why not?

11 A. Because it's a parade. It's not a walk.

12 Q. And by -- and the distinction that you see is what?

13 A. If I'm not -- do you have the St. Patrick's Day? I  
14 believe it's a total closure.

15 Q. I can pull that, that out. But let me ask you, so in  
16 other words, the distinction is that in the Cesar Chavez March  
17 on, for example, I think it's on Frio --

18 A. They get part of the roadway.

19 Q. A part of the roadway, but not all of the roadway.

20 And that's when the motorcycle officers are necessary?

21 A. That's when we use 'em. Yes.

22 Q. And does that use depend on the number of  
23 participants in the -- that are estimated in the permit  
24 application?

25 A. Not entirely.

1 Q. And what do you mean by that?

2 A. Well, I can give an example. The best example here  
3 is you have an estimate here of 12,000 walkers. I know for an  
4 absolute boni fide fact, 'cause I've done this a bunch of  
5 times, that if you have 2,000 people turn out for this event  
6 that that's probably a high estimate. The 5,000 on these  
7 Immigration Marches were probably gonna be pretty accurate  
8 numbers.

9 I actually counted the people on the Cesar  
10 Chavez March one day, because I knew they were inflating their  
11 estimate beyond any reasonable person's belief. I counted  
12 barely over 1,000. And they were claiming 28 or 30,000, I  
13 think, in the newspaper the following day.

14 Q. Okay. And if it's -- if you see an application that  
15 says they are estimating 12,000 for the Cesar Chavez March,  
16 does that affect how you staff the parade?

17 A. We have a staffing plan in effect for this. It's  
18 been in effect for years. We have used the same one for years  
19 and years and years.

20 Q. If there was a new application that came in, such as  
21 an Immigration March --

22 A. I would have to rely on their estimate.

23 Q. Okay. And if they estimated the number at 12,000,  
24 how would your staffing assignments be different?

25 A. I'm not sure that the traffic staffing would be any

1 different on 5,000 or 12,000 for this event on a total closure.

2 I would probably use pretty much exactly the same number.

3 Q. I wanted to show you this document, which I can tell

4 you was recently provided by the city attorney's office, that

5 was represented to be spread sheets prepared by Officer

6 Jenkins. Have you seen those before?

7 A. No, ma'am. I've never seen this before.

8 Q. Are you aware of the dollar costs that are associated

9 with different police staffing of parades?

10 A. Well, it depends on what you mean by aware. Am I

11 aware that there are costs associated with them? Yes. Am I

12 aware of what the costs are? No.

13 Q. Who is in charge of determining the costs of police

14 services for a parade?

15 A. The police costs are determined by a computer.

16 Q. Okay. Who's in charge of the computer?

17 A. I would be in charge of entering the data into the

18 computer that would eventually determine that cost.

19 Q. And so do you receive the cost estimate -- or the

20 cost result from the computer?

21 A. I wouldn't say I receive it. I actually kinda --

22 this data is inputted into a computer system and there's a

23 command that you can print it out. And then it comes out in

24 this form that's right here under --

25 Q. You are pointing to?

1 A. IWDM 00341 is an example of, of a cost sheet for an  
2 event conducted by the police department.

3 Q. And the information that you input into the computer  
4 includes those assignments of officers?

5 A. The information that I would put in the computer to  
6 generate that number would include the badge number, when they  
7 started their duty and when they ended their duty and what  
8 their duty status is for that day, whether they're on duty or  
9 off duty. And that's it. The computer does the rest.

10 Q. And do you ever have occasion to look at what the  
11 total cost is for an event?

12 A. I've printed it out and looked at it. It's not  
13 something I am concerned with.

14 Q. And what would you do with it once you had printed it  
15 out?

16 A. Generally, I print it out. A lot of times I don't  
17 even look at it. And I staple it as a cover sheet on my work  
18 sheets and throw it in a file.

19 Q. And who -- do you know of anyone else in the  
20 department that does more with the costs?

21 A. If you're talking about Bill Jenkins and his  
22 function, I think he has a function with printing out the  
23 document and submitting some type of -- whatever he does with  
24 it. I'm not sure what he does with it.

25 Q. Are you aware of Officer Jenkins requesting permit

1 holders to pay the San Antonio Police Department for the costs?

2 A. I believe that's part of the new ordinance. And I'm  
3 not sure how that was handled prior to that. That would be  
4 something he dealt with. I'm not concerned, associated with or  
5 have anything to do with billing costs or anything that has to  
6 do with anyone outside the police department. My function is  
7 staffing the event and running the event.

8 Q. Are you aware of whether prior to, to November of  
9 2007 permit holders were given -- or were requested to pay  
10 police costs?

11 A. I believe they were.

12 Q. Do you recall when that practice began?

13 A. No, ma'am, I don't.

14 Q. Are you aware -- you'll see on these, on these spread  
15 sheets and --

16 MS. KASTELY: Debbie, I assume we can number  
17 these?

18 MS. KLEIN: Yeah. I'll get them numbered.

19 Q. BY MS. KASTELY: On these spread sheets, it indicates  
20 that -- well, it has a list of events that are associated with  
21 Fiesta. And the police costs are often very high, such as the  
22 Battle of Flowers Parade, 151,000 and so on. You're aware of  
23 that?

24 A. Yes.

25 Q. And all of the -- or numerous events are listed as

1 being covered by the Fiesta Commission, is that correct, on  
2 these spread sheets?

3 A. It says there the organizer.

4 Q. Okay. And what is your understanding of how, of how  
5 the Fiesta Commission events are paid for with respect --

6 A. I have no understanding of that whatsoever. It's not  
7 something I'm concerned with.

8 Q. Okay. What about the various events associated with  
9 the rodeo, are you involved in any of those events?

10 A. Ma'am, we haven't had anything to do with the rodeo  
11 in about six or seven years.

12 Q. What about the trail rides that are associated with  
13 the rodeo?

14 A. Okay.

15 Q. Are you involved with any of those?

16 A. Usually, we provide an escort into town.

17 Q. Okay. And what do you mean when you say, you provide  
18 an escort?

19 A. They are required to get a parade permit and that  
20 would be like a lead car and a tail car, try to keep 'em off  
21 the roadway and out of a traffic lane. And then a couple of  
22 motorcycles to perform the same function that I mentioned  
23 earlier with the pedestrians, people in horseback, make sure  
24 they don't wonder out into active traffic lanes.

25 Q. Because in those cases we're talking about people on

1 horses.

2 A. Correct.

3 Q. And there's also occasionally a cattle run associated  
4 with that.

5 A. I believe they had one this past year. And if they  
6 did -- and I'm not sure if they did -- there was some  
7 discussion and I didn't -- if they did and I didn't do it, it  
8 would be the first one that's been done in a very, very long  
9 time.

10 Q. Okay. How would you staff a cattle run?

11 A. You wouldn't. You would just try to block the street  
12 off so they wouldn't run over everything, I guess. I wasn't  
13 involved with putting it together. So it would be pretty  
14 complex.

15 Q. Okay. And we haven't talked yet about the day of the  
16 week that various marches occur. Does it matter whether a  
17 march is on a weekend or a weekday?

18 A. Yes, to some extent. Probably more so time of day  
19 than day of the week. But to a certain extent, yes.

20 Q. So what if it's during the day between the hours of 8  
21 and 5?

22 A. Well, we would be up against rush hour by 5:00  
23 o'clock, and we probably would not approve a permit must past  
24 3:00 o'clock in the afternoon.

25 Q. Okay. That's -- you're assuming that that's a

1 weekday?

2 A. During a weekday.

3 Q. And is there -- if you had a parade, let's say,  
4 between 10 and 11 on a weekday, how would your, your staffing  
5 for traffic control be different than on a Saturday between 10  
6 and 11?

7 A. Well, let me answer that by saying that we're doing a  
8 lot of speculation here, we're not talking any specifics. And  
9 it's very difficult for me to give you a brief answer on how  
10 all this would be done.

11 Q. Uh-huh.

12 A. We're really gonna look at the event, size of the  
13 event. Again, go back to all of the other factors to talk  
14 about staffing. Staffing is such a dynamic thing that it's  
15 case specific. I can't, can't really philosophy about what  
16 might happen and give you a staffing number. You know, it's  
17 just gonna be peculiar to that particular event.

18 Q. Okay. Let's say we have a march that consists of 500  
19 people walking from Fox Tech High School down to the Main  
20 Plaza.

21 A. Okay.

22 Q. And if it happens, one would happen -- or one  
23 proposal would be Saturday from 10 to 11 and the other would be  
24 Wednesday from 10 to 11. How would you approach those two  
25 differently?

1 A. Saturday from 10 to 11 or Wednesday from 10 and 11?  
2 Probably wouldn't be much difference. It's gonna take place on  
3 a street that's not gonna have a great impact on what happens  
4 downtown.

5 Q. And you are assuming that it would go down Flores or  
6 --

7 A. (Moving head up and down.)

8 Q. And what if that same group of 500 people wanted to  
9 have a parade on Commerce, how would it be different?

10 A. Again, I'm not sure the staffing would be different.  
11 It might be very similar under those circumstances.

12 Q. Okay.

13 A. And the staffing is probably gonna be the same to  
14 make it work. The question would be whether or not by the time  
15 of day we're gonna even allow it to happen in the first place.

16 Q. Okay. In your experience, are parades ever allowed  
17 during the weekday working hours?

18 A. I think so. I can't recall any off the top of my  
19 head. Well, yes. We did one yesterday. We did the Americans  
20 with Disabilities Act Walk.

21 Q. And why was that permitted?

22 A. It hasn't minimal impact on traffic. They have  
23 minimal number of people, probably considerably less than 200  
24 total people.

25 Q. What about the San Fernando Good Friday Processions,

1 those also are typically on a Friday during the day and

2 typically involve over 1,000 people, I think?

3 A. I think so.

4 Q. And why are those permitted?

5 A. It's a very short route. It doesn't go very far at

6 all. It's a -- again, it has some impact on traffic. I would

7 say not a significant impact on what happens in the downtown

8 area during that time frame, and it's manageable.

9 Q. Talking about impact on traffic. Does the St. Pat's

10 Day Parade have an impact on traffic?

11 A. Yes, it does.

12 Q. And under the -- I'm just trying to get a sense of

13 how that factor works. Under the standard operating procedure,

14 it says that one of the factors in evaluating a permit

15 application is to determine whether the traffic will be

16 impacted; is that correct?

17 A. Is your question whether or not the permit would be

18 accepted or denied or the type of staffing it would take to

19 make it work and the type of road closure?

20 Q. Well, I guess I want to ask both questions. Would it

21 impact whether it would be approved or denied?

22 A. I personally during the time I've been here don't

23 recall ever denying a parade permit.

24 Q. Okay. So the fact that a parade will impact traffic

25 has never in your experience resulted in a permit application

1 being --

2 A. I'm not saying it's never happened. I think you  
3 quote an example here of one that was rejected for a specific  
4 reason. But I have never personally said, I'm gonna deny it.  
5 I've never had a good sound reason that I could write down and  
6 say, this is why we don't need to do this at all. We generally  
7 manage to negotiate and come up with some kind of a solution to  
8 any problems we found with our permits and make them work.

9 Q. Okay. I'm trying to get a sense of what if, for  
10 example, the Immigration March submitted a permit saying they  
11 wanted to have a march exactly like that, exact number of, of  
12 people on a Wednesday between 10 and 1, what would happen?

13 A. A Wednesday -- are you talking about staffing-wise?

14 Q. I'm asking first, would the permit application be  
15 approved?

16 A. I think pretty much without question it probably  
17 would be approved.

18 Q. Okay.

19 A. Subject to the conditions that were set out in the  
20 permit.

21 Q. So even though the standard operating procedure and  
22 the ordinance provides that the police department should  
23 evaluate whether traffic will be impacted, are you, are you  
24 saying that that factor would never lead to a denial?

25 A. I'm not saying it would never lead to denial. If you

1 asked me if I was gonna allow this to happen at 5:00 o'clock in  
2 the afternoon down Commerce Street, I would say I would deny  
3 that. But under most circumstances, it would probably be  
4 approved. And the only thing that we would be discussing is  
5 how we were gonna make that work. Our response to it is  
6 covered by the SOP and how we would look at how we were gonna  
7 respond to that permit to set up the traffic plan.

8 Q. Okay. But isn't it true that every, every parade,  
9 even the smallest neighborhood procession that you talked  
10 about, is gonna impact traffic?

11 A. If it impacts one person, I guess it could  
12 technically have impacted traffic. I think that's a fair  
13 statement.

14 Q. During your shift, has there ever, there ever been a  
15 sidewalk march?

16 A. All the time.

17 Q. And how large have sidewalk marches -- how many  
18 participants have you had in marches that you had during your  
19 shift?

20 A. I couldn't tell you because it's outside the  
21 permitting process and we don't monitor that. If they tell us  
22 they are gonna stay on the sidewalk, it doesn't trigger any  
23 kind of response from us.

24 Q. Okay. Are you aware that the current, the current  
25 version of the parade ordinance requires that all processions

1 have a permit?

2 A. That's my understanding.

3 Q. And what is the definition of procession?

4 A. Let's see what it says here. A group of persons  
5 moving along by whatever means in an orderly formal manner on  
6 any street, alley or public thoroughfare from a point of origin  
7 to a point of termination or a group of persons moving along by  
8 whatever means in an orderly formal manner anywhere else in the  
9 city from a point of origin to a point of termination in such a  
10 way as to impede the normal flow or regulation of pedestrian or  
11 vehicular traffic.

12 Q. So that means if a group of persons moving along a  
13 roadway or a street or a public thoroughfare or any other place  
14 in the city they have to have a parade permit; is that correct?

15 A. Well, I think that the caveat on that was the last  
16 little statement here, in such a way as to impede the normal  
17 flow or regulation of pedestrian or vehicular traffic. If you  
18 throw that in on top of there, I would say that's an accurate  
19 statement.

20 Q. I appreciate that. So if a, if a group of persons  
21 move from one place to another on a public road in such a way  
22 as to impede traffic, vehicular or pedestrian traffic, then  
23 it's a procession, and it has to have a permit; is that  
24 correct?

25 A. That's my reading of the ordinance.

1 Q. Okay. And if a group of persons moves from one place  
2 to another on a, on a public road or a thoroughfare, same  
3 point, and if a group of persons moves from one point to  
4 another any other place in the city in such a way as to impact  
5 vehicular or pedestrian traffic, then it's a procession and  
6 must have a permit; isn't that correct?

7 A. According to what it says here in the ordinance, that  
8 would be correct.

9 Q. Okay. So if a group of persons walked from one place  
10 to another on the sidewalk in such a way as to impact vehicular  
11 or pedestrian traffic, it would be a procession and would  
12 require a permit; isn't that correct?

13 A. Well, not only that, it would also be a violation of  
14 state law.

15 Q. Okay. What --

16 A. Okay. Obstructing a highway or passageway. You  
17 cannot by any means, whether you are doing it by yourself or in  
18 concert with others obstruct, among other things, streets and  
19 sidewalks, common areas of buildings and other places. It's a  
20 violation of state law.

21 Q. That makes sense.

22 A. Plus, we have city ordinances on pedestrians being in  
23 the roadway where a sidewalk is provided. That's a violation.  
24 You know, they would definitely be state law violations in  
25 obstructing a sidewalk.

1 Q. Right.

2 A. It says -- and I believe the law goes on further to  
3 say, with absent legal authority. And the permitting process  
4 is the legal authority. That's giving you permission to do  
5 that.

6 Q. Permission to basic --

7 A. Correct.

8 Q. Yeah, that's what I thought. You are basically are  
9 permitting someone to interfere with --

10 A. That would be correct. Because streets are for cars.  
11 They're not for people. And there are state laws that say  
12 that.

13 Q. And so by definition, you are going to impact  
14 traffic, vehicular and pedestrian traffic?

15 A. If you are in the street.

16 Q. Yeah. And if, if you are on the sidewalk, you also  
17 are -- if you have a significant number of people, you are also  
18 likely to impede pedestrian traffic?

19 A. If you obstruct the ability of the sidewalk for  
20 people to pass on the sidewalk that would be correct. That  
21 would be a violation. If you were cited or charged with it, it  
22 wouldn't be for violating the parade permit. It would be for  
23 violating state law.

24 Q. And in -- and you would also at the same time be  
25 violating the parade ordinance; isn't that correct?

1 A. I guess you could consider that a lesser included  
2 offense. Because violation of state law is a Class B  
3 misdemeanor, and violation of this ordinance would probably be  
4 a class C misdemeanor. So it'd be a smaller offense.

5 Q. Okay. I wanted to --

6 THE WITNESS: Would it be possible to take a  
7 little brief break?

8 MS. KASTELY: Sure. Absolutely. It's getting  
9 close to the lunch hour. Debbie, I think I might have another  
10 hour.

11 MS. KLEIN: Okay. Off the record.

12 (Whereupon, a break was taken)

13 Q. BY MS. KASTELY: Now, we are getting to straight  
14 questions. One is, what does PEMS mean?

15 A. It's a, it's a code for a computer system.

16 Q. Okay. So on some of Officer Jenkins' sheets, it says  
17 no PEMS. For example, the Grand Masters, number 14. What  
18 would that mean?

19 A. Number 14?

20 Q. Yeah.

21 A. Do you know the date on that? Oh, 1/05.

22 Q. What would --

23 A. My sense of looking at this -- and I have never seen  
24 this before -- but it looks like the City of San Antonio  
25 covered the cost of this. So no, no cost generating sheet was

1 made

2 Q. Is a PEM a cost generating sheet?

3 A. Among other things.

4 Q. What other things are included?

5 A. I'll have to try to get you, you to understand the

6 computer system to make that clear.

7 Q. Okay. Is it like you go to the PEMS system for some

8 things and you go to another system for other things?

9 A. Kind of. Yeah. That's a good explanation.

10 Q. And when do you go to the PEMS system?

11 A. You create the work sheet in a system called PEWS or

12 P-e-w-s. This is a PEMS -- by the way, it stands for police

13 event management system. And the PEWS is police event work

14 sheet system. And when you generate the document that I called

15 a work sheet a while ago is when you marry the two together in

16 the computer system and generate a computerized document.

17 That's about as simple as I can get.

18 Q. And so if there's an indication that there's no PEMS

19 there may be a work sheet, but it just hasn't been merged

20 together to generate a cost sheet?

21 A. That's possible. And again, there may not be a work

22 sheet, depending on how complicated it was. If it was

23 something very simple, there may not be a work sheet, either.

24 Q. Okay. You said, you said that Officer Jenkins is the

25 only person that you know of that uses the -- or that works

1 with the cost -- total costs of different events?

2 A. As far as being concerned with what it costs for an  
3 event to be put on that would be an accurate statement, yes.

4 Q. And he is concerned because?

5 A. I'm sorry.

6 Q. Do you need some more water?

7 A. Please, if I could. I think I'm getting sick.

8 (Whereupon, a break was taken)

9 Q. BY MS. KASTELY: So are you Officer Jenkins'  
10 supervisor?

11 A. Indirectly. It's kinda complicated how our office is  
12 set up. Actually, he works directly for the captain, but he  
13 works in an office next to us. And technically, I outrank him,  
14 but I don't really view myself as being his supervisor.

15 Q. Okay.

16 A. Kind of works for the captain.

17 Q. So is it fair to say that this sheet is a little  
18 misleading where it says, approved by Chuck O'Dell or approved  
19 by Lieutenant Quintanilla?

20 A. Well, approval in a sense of approved as I'm checking  
21 off that, yes, I can make this event happen. And I don't see  
22 any problems that I need to discuss any further, that I have  
23 all the information I need. I'm basically signing off that my  
24 shift is gonna accept the responsibility for making this event  
25 happen. Approval in that sense.

1 Q. And as you testified, you are not reviewing whether  
2 the application should have been or should be approved as  
3 qualified under the ordinance?

4 A. The ordinance to me is giving us guidelines on how to  
5 set up the event, not necessarily how to reject an event. All  
6 those things, I guess, would be considered. But if I rejected  
7 an event, I better have a real good reason why I'm gonna tell  
8 these people they can't hold their event, if that makes sense.

9 Q. Yes.

10 A. And to be honest with you, I've never really run into  
11 a set of circumstances I couldn't work through that I would get  
12 to the point that I could feel comfortable holding the event.

13 Q. Okay. And I'm handing you a packet which is the  
14 application packet for the Victims Awareness March numbered  
15 01271 through 01277. And I'll ask you to look at that.

16 A. Okay.

17 Q. If you'll notice the day and time of that event is  
18 what?

19 A. It's April the 6th, which is a Thursday, and it  
20 assembles at 10:00 o'clock in the morning and disbands at 11:00  
21 o'clock in the morning.

22 Q. And where is it to occur?

23 A. It assembles at San Fernando Church and disbands at  
24 the Bexar County Criminal Justice Center, kind of right across  
25 the street.

1 Q. So did you -- I forget -- are you -- did you approve  
2 this one?

3 A. This would be Lieutenant Quintanilla.

4 Q. If you saw this application, would you have any  
5 concerns?

6 A. Well, I guess that would depend on whether your  
7 question is, could I make this happen, or whether Jenkins had  
8 some concerns with the time of day? Personally, I don't think  
9 I would have any concerns with this.

10 Q. Okay. But you are noting that Officer Jenkins did  
11 have some concerns?

12 A. He expressed in his memo to the chain of command that  
13 it didn't meet the requirements of the new ordinance.

14 Q. And why would it -- well, in your view, did it meet  
15 the criteria of the new ordinance?

16 A. I don't know. I would have to sit down and compare  
17 it to what the ordinance says to figure out where the time of  
18 day problem came in. And I think he noted it was a time of day  
19 issue.

20 Q. It indicates that this -- yeah. He says, this  
21 application does not meet the criteria of the ordinance in  
22 regards to a walk or run during the weekday in the downtown  
23 area. And it appears that it was approved by Officer  
24 Quintanilla. But no one else in the chain of command took a  
25 look at it. Would that be right?

1 A. Well, let me see if I can figure that out from these  
2 documents. It looks like to me like Deputy Chief Rudy Gonzalez  
3 approved it, or at least signed off. It said approved.

4 Q. What does that say?

5 A. There's an approval blank here. And it says -- it  
6 appears to me Deputy Chief Rudy Gonzalez' signature, and it's  
7 addressed to Deputy Chief Rudy Gonzalez. So I'm assuming that  
8 this is his signature and that he approved it.

9 Q. Okay. And where in the chain of command is Officer  
10 Gonzalez?

11 A. He's at the top of our chain of command. He was at  
12 the time the leader of the technical services division, and at  
13 that time that's what we were titled.

14 Q. And who is in the equivalent position now?

15 A. That could be Deputy Chief Mike Burns.

16 Q. So in your understanding, would Mike Burns have the  
17 authority to waive a requirement in the ordinance?

18 A. Well, my understanding of the ordinance is, I don't  
19 think anyone has the ability to waive a requirement. But  
20 again, I believe that was dated 2005? Is that what I saw  
21 there?

22 Q. 2006.

23 A. I'm sorry. Can I see it again?

24 Q. Uh-huh.

25 A. This would be prior to the new ordinance that's

1 supposed to supersede the old ordinance.

2 Q. Okay. And is there anything -- this is the new  
3 ordinance. Could you show me anything in the new ordinance  
4 that would prevent Officer Burns from allowing a waiver in a  
5 similar situation?

6 A. I don't think it would be in the ordinance, but it  
7 would probably be within our policies within the chain of  
8 command. I don't know that it's specifically addressed in the  
9 ordinance that he would not have the authority to waive that.  
10 I don't know.

11 Q. Would it be in the standard operating procedure that  
12 you drafted?

13 A. Not to my knowledge. I don't think we covered that.  
14 I can pretty well tell you that we didn't address anything  
15 about anybody's ability to waive anything on the new ordinance  
16 in our procedures. I don't really have to look at that to know  
17 that.

18 Q. It also provides in this Victims Rights March that  
19 Officer Gonzalez waived the, the fee presumably for police  
20 services.

21 A. Okay.

22 Q. And is that your understanding of this memo?

23 A. I don't want to speak for Chief Gonzalez, what his  
24 intent was -- the wording here is a little ambiguous to me.  
25 And I can see how you could reach that conclusion from the way

1 this is worded.

2 Q. Okay. In your knowledge, have fees ever been waived,  
3 that is police costs?

4 A. I don't have any direct knowledge of that. I've  
5 heard that they have through the grapevine, but I have no  
6 knowledge. I'm not involved with any of that.

7 Q. Who would know?

8 A. Probably Officer Jenkins, among other people.

9 Q. And, and your testimony then is Officer Jenkins is  
10 not really under your supervision. He's under the supervision  
11 of officer --

12 A. Captain Murnin.

13 Q. Captain Murnin. And before Captain Murnin?

14 A. Captain Polonis.

15 Q. Captain Polonis. And are you aware of anything in  
16 the ordinance or in the standard operating procedures that  
17 would preclude Captain Murnin from waiving police costs?

18 A. I don't believe he has that authority. I don't know  
19 that that wording is in there anywhere. But I don't believe he  
20 has that authority.

21 Q. Are you aware that Captain Polonis waived fees?

22 A. I'm not aware of anything that he waived.

23 Q. Officer Jenkins also receives some payments for  
24 police services, correct?

25 A. Receives payments for services?

1 Q. Yes. That services rendered by the police  
2 department?

3 A. That he personally receives any payments, it would be  
4 news to me. I'm not aware of that.

5 Q. Okay. Are you aware that sometimes permit holders  
6 are requested to pay for police services?

7 A. That's my understanding.

8 Q. And in your understanding, to whom are those payments  
9 made?

10 A. Ma'am, I don't know. Again, I reiterate, I have  
11 absolutely nothing to do with anything that involves money in  
12 this process. And I have very limited knowledge. Most of that  
13 is just office gossip about I heard this on anything that has  
14 to do with fees or collection of fees.

15 Q. And you mentioned that you are sometimes involved in  
16 your responsibilities with providing traffic control services  
17 for visiting dignitaries and the like?

18 A. Generally, the president and the vice-president.

19 Q. Okay. Anybody else?

20 A. It would be very limited for anyone else.

21 Q. Okay. Have you ever been involved in providing  
22 traffic or other police services for corporate executives?

23 A. Never.

24 Q. Are you aware that the San Antonio Police Department  
25 has provided escort services for corporate executives?

1 A. No, ma'am.

2 Q. Have you ever heard that escort services were  
3 provided for the AT&T executives?

4 A. No, ma'am.

5 Q. Are you involved in providing police services for the  
6 Alamodome?

7 A. Yes.

8 Q. And what is -- or in what circumstances does the  
9 S.A.P.D. traffic control shift for which you have  
10 responsibility provides services for the Alamodome?

11 A. Well, it's a -- generally speaking, the Alamodome  
12 sends us an event calendar. It's a city facility. What we  
13 look for in their event calendar would be any event that starts  
14 reaching the level of attendance at about 7,500 or greater.  
15 Then we would start thinking about whether we needed to keep an  
16 eye on the facility to see if the attendance at the facility  
17 was causing any kind of a traffic problem. And then we would  
18 react to that.

19 Q. And what are the various reactions that the S.A.P.D.  
20 may take if there's an event -- well, let me take a step back.  
21 Who estimates how many participants or how many attenders  
22 they're gonna be?

23 A. The Dome staff.

24 Q. So they send you a list with the estimated number?

25 A. Correct.

1 Q. So if they send you something and it says 12,000  
2 people, what do you do?

3 A. It would trigger a traffic presence around there. It  
4 could be anything as simple as what we would call a monitor  
5 event, where I send two or three people over there to keep an  
6 eye on things, to make sure we weren't causing any traffic  
7 problems to let us know that we needed to respond with more  
8 people if it became a traffic problem. All the way up to  
9 usually around 15,000, that would be implementing a full-blown  
10 traffic plan around the Dome to get people parked and then help  
11 them get out at the end of the event.

12 Q. Okay. And who's involved in that process? In other  
13 words, to whom does this list get sent in the police  
14 department?

15 A. It's generated by Dome event staff. The E-mails are  
16 extensive. I've never looked at who all gets them. There are  
17 a lot of people on that E-mail list.

18 Q. Who's responsible for making the determination you  
19 just outlined?

20 A. The determination about whether we need to respond or  
21 not? That would be the shift commander.

22 Q. So that would be you?

23 A. In my case.

24 Q. Okay. And in some cases for events that have large  
25 attendance, is it necessary that there be traffic control

1 devices employed?

2 A. For the Dome, that would be correct.

3 Q. And who decides whether traffic control devices will  
4 be required?

5 A. That's probably gonna be a joint decision between  
6 Tony Pizzi, that I mentioned earlier, and Bill Jenkins, that  
7 also monitor the size of the event.

8 Q. Are there any other events -- I know you mentioned  
9 Tony Pizzi. Is he involved in the MLK March planning?

10 A. I think he probably is.

11 Q. Okay. And in an event like that, who would be  
12 working within the San Antonio Police Department?

13 A. Bill Jenkins.

14 Q. Okay. Does -- to your knowledge, does officer -- or  
15 Captain Polonis ever get involved in planning along with Tony  
16 Pizzi and Bill Jenkins?

17 A. He wouldn't be directly involved in planning with  
18 Tony Pizzi. He might be involved in planning to the extent  
19 that he would hold a meeting to give us guidance or direction  
20 about what he would like to see us do as shift commanders. But  
21 that would be the extent of it.

22 Q. Were you involved in the selection of Bill Jenkins  
23 for the position that he now holds?

24 A. Yes, I was.

25 Q. And what, what was your involvement?

1 A. We sat on a board -- and I don't even remember how  
2 many people, probably three, maybe more than that -- to  
3 interview people that were interested in the position.

4 Q. And what qualities were you looking for?

5 A. Computer skills, organization skills, people skills.

6 Q. And in evaluating candidates for that position, you  
7 said you were looking in part at people skills, what particular  
8 people skills were you looking for?

9 A. The ability to work with people outside the  
10 department.

11 Q. And why was that important in your view?

12 A. Because that's what the position involves, is working  
13 with people outside the department. That's the biggest chunk  
14 of his duty.

15 Q. And what people are you thinking about?

16 A. I'm sorry?

17 Q. What, what people does he work with?

18 A. Well, his job is the permit officer. He would be the  
19 one that would be our first point of contact for anybody trying  
20 to obtain a parade permit.

21 Q. Okay. I want to ask you one more question about the  
22 International Woman's Day March. As it happened -- let me ask  
23 you, the estimate here in these papers is for 19 officers and  
24 25 officers are actually listed. And why would there be a  
25 difference there?

1 A. Ma'am, the estimate is exactly what I said before, it  
2 is just an estimate to give people an idea of an approximate  
3 cost to hold their event. It is in by no means meant to be  
4 chiseled in stone that that's the number of people we're gonna  
5 use.

6 The process works -- somebody will walk in and  
7 hand me a permit, and I will make a broad estimate as to what I  
8 think. As I get to put the event together, I may find out that  
9 I needed more people than I need.

10 And that's the reason for either -- some events,  
11 there will be more people that we use than the estimate, and in  
12 some, there will be fewer. And that's the reason. As you put  
13 the thing together and actually get down to the mechanics of  
14 it, which takes hours to do -- I don't have hours to approve a  
15 permit. It comes to me and I review it briefly and decide  
16 whether I'm gonna be able to pull it off or not. And then I'll  
17 either sign it or I'll not sign it.

18 And that's what the estimate is, it's -- this is  
19 how many -- my big concern -- and what I tell Bill Jenkins all  
20 the time when he comes to me -- is can I do it with on duty  
21 personnel or do I need to go outside? That's what I'm looking  
22 for.

23 Q. That's your line?

24 A. That's what I'm looking for. Do I need overtime  
25 people or can I do it on duty? So it's just an estimate.

1 Q. And I understand that. And I'm sorry to -- I know  
2 it's tedious.

3 A. I thought I discussed that already.

4 Q. Okay. And one question I have is, is that change --  
5 is that determination that you would need 25, does that happen  
6 on the day of the event?

7 A. No.

8 Q. Okay. It happens before?

9 A. Correct.

10 Q. Is it possible that sometimes, for example, a huge  
11 number of people would show up that nobody had anticipated and  
12 on the day of the event you would have to assign more officers?

13 A. That would pretty much not be possible.

14 Q. Okay. So it's always before? And you said that it  
15 takes hours to do this evaluation. But you also testified that  
16 generally you are looking at one or two officers on an  
17 intersection. And I'm wondering what other, what other process  
18 goes into it that takes so long to do?

19 A. It's very complicated, ma'am. We had a meeting  
20 yesterday for probably two hours on the San Antonio Marathon,  
21 one of many meetings that we have had that had lasted two hours  
22 on the San Antonio Marathon. And we're a long ways off from  
23 having any kind of traffic plan set up for that.

24 It just depends on how complicated the event is  
25 and how it's gonna affect other things around it. And that's

1 -- the more zigzagging you want to do the more complicated you  
2 make the route, the more you're gonna affect other things, and  
3 the bigger the picture becomes, and the more we've got to look  
4 at, okay, do we need other things other places to handle what's  
5 gonna happen there.

6 Q. Okay.

7 A. I say this all the time, when you do something at  
8 point A, you're gonna affect things at point B. And you have  
9 to be able to anticipate that and try to figure out what you  
10 are gonna need to make it all work together.

11 Q. Okay. And I can understand that the San Antonio  
12 Marathon is what 26 miles long?

13 A. Yes, ma'am.

14 Q. And they're trying to introduce new bands and --

15 A. Correct.

16 Q. But on a smaller event, it really wouldn't take hours  
17 to review the permit?

18 A. No. Well, it, it may take me an hour to sit down and  
19 -- if I've never done the event before, go to a map, start  
20 drawing on a map, start trying to figure out how many people  
21 are there. And sometimes I'm not comfortable doing that.  
22 Sometimes I have to drive out to the location and look at an  
23 intersection to get an idea of what I'm gonna need to make that  
24 work there. That's where the time comes in, is when you have  
25 to physically -- and on almost all of these permits, if it's

1 something we haven't done before, we're gonna go out and  
2 physically inspect the route. And that takes a little time.

3 Q. And in this case, this was the first time they had a  
4 march in the streets like Houston.

5 A. Uh-huh.

6 Q. Did you have to go through that process?

7 A. Some of it. I'm not sure what all I did for this,  
8 but some of it.

9 Q. Okay.

10 A. You know, we are fairly familiar with the downtown  
11 area. We do a lot of things there.

12 Q. You mentioned an Immigration March that wasn't  
13 permitted. What is your recollection of that event?

14 A. I believe it's Milam Park across the Santa Rosa  
15 Hospital. A big crowd of people gathered there and were gonna  
16 walk on the sidewalk. I'm not sure where their destination  
17 was. But they were going down Commerce Street -- I'm sorry,  
18 Houston Street, I guess. And I don't remember where -- I think  
19 it may have been Travis Park. But they didn't have a permit to  
20 do that. And it became very obvious quickly that because of  
21 the number of people that showed up it wasn't gonna be possible  
22 for them to stay on the sidewalk.

23 Q. Just to ask you the obvious, why wasn't it possible  
24 to stay on the sidewalk?

25 A. Too many people.

1 Q. And as you have just testified, it would have been  
2 obstructing the sidewalk in any event?

3 A. In any event. They had no intent to comply with the  
4 law. It was obvious that they were gonna overwhelm us with  
5 numbers and do whatever they wanted, the best way to explain  
6 it.

7 Q. And to your knowledge, did the organizers of that  
8 event apply for a permit?

9 A. I don't think there was one particular organizer. We  
10 never identified any one person that you could say was the  
11 organizer of the event. On the day in question, I myself went  
12 there. I'm trying to remember who was with me. It may have  
13 been Captain Polonis.

14 And we attempted to contact somebody that we  
15 could say who was responsible. And no one there would say,  
16 yes, I'm organizing this. It was a whole bunch of different  
17 groups that came together. And there was no one particular  
18 person in charge of anything.

19 Q. Okay. Do you know whether Officer Jenkins had met  
20 with any representatives of that march?

21 A. That, I don't know.

22 Q. And how did you respond to that occurrence?

23 A. Obviously, we are not gonna arrest 15,000 people. So  
24 we pretty much had to respond on a spur of the moment and try  
25 to devise some type of plan to make them -- to let it flow,

1 flow in some kind of orderly manner to where no one would get  
2 hurt. It wasn't the best case scenario by, by any stretch of  
3 the imagination. But we had to, to kinda improvise at the  
4 moment.

5 Q. Is there some -- well, we talked about the fact that  
6 the statute or the ordinance requires a permit for any event  
7 that goes from here to there anywhere in the city that would  
8 interfere with the normal vehicular and pedestrian traffic.

9 And just as a kind of guideline, do you, do you  
10 think that if, if an organization proposed to walk with a group  
11 of maybe 100 people from Milam Park to Travis Park walking on  
12 the sidewalk on a Saturday during the day that that would  
13 interfere with normal pedestrian traffic?

14 A. The easiest answer to your question is, they could  
15 not interfere if that was their intent, or they could very  
16 easily interfere if that was their intent. I think their  
17 intent is gonna govern the response to that. Is it possible  
18 that 100 people can block a sidewalk? Absolutely. Is it  
19 possible that 100 people could walk down the street and not  
20 block the sidewalk? Absolutely.

21 Q. Is that also true for 500 people?

22 A. It could be.

23 Q. Is it true for a thousand people?

24 A. It very well could be, depending on how they  
25 organized it and how they intended for it to flow.

1 Q. How would you recommend organizing a march of a  
2 thousand people on the sidewalk so it didn't interfere with  
3 pedestrian traffic?

4 A. Everybody doesn't leave the forming area at the same  
5 time.

6 Q. So how would that happen?

7 A. Somebody is gonna have to stand there and let them  
8 walk 10 at a time, make an interval, 10 more, another interval,  
9 10 more. It could be done easily.

10 Q. Okay. Are you aware of any events where that  
11 occurred?

12 A. I don't know that that's ever been requested before,  
13 and I'm not aware of any time that it's been done.

14 Q. Okay. Let me see where was I. Around the April 2006  
15 event, was -- did you participate in any discussions about  
16 whether there would be any arrests made in connection with that  
17 event?

18 A. I don't recall any discussions about arrests.

19 Q. Did you consider the possibility of arrests?

20 A. I never did seriously consider the possibility of  
21 arrests.

22 Q. And have there been any other events like that where  
23 there was no permit yet the number of people required them to  
24 walk in the street?

25 A. None that I can recall.

1 Q. Can you recall any other event where the, where the  
2 participants -- or the organizers anticipated staying on the  
3 sidewalk and, and yet they interfered with vehicular or  
4 pedestrian traffic?

5 A. I don't recall any specific incident where that  
6 happened.

7 Q. There was just a Immigration March in May of 2008.  
8 Were you involved with that?

9 A. Yeah. I think I was. I'm not -- I believe I  
10 remember that.

11 Q. Okay. And are you -- do you know whether or not  
12 there was a permit for that event?

13 A. Seems like there was. But again, off the top of my  
14 head, I don't have any specific recollection of it.

15 MS. KASTELY: Could I have 2006-080 and 83.

16 Q. BY MS. KASTELY: I know these are, these are the two  
17 Immigration March applications, and they occurred during  
18 Lieutenant Quintanilla's event apparently. But if you look on  
19 page 01931. This is the second permit application, the one  
20 that was granted.

21 And it says, per Chief McManus, conversation  
22 with Captain Polonis on 10/12/06. Assist this event with  
23 resources. And what, what would that mean? What does that  
24 mean?

25 A. I would assume that this means that if you have -- if

1 he has the manpower to see if he can make this work. Again,  
2 I'm not gonna speak for Chief McManus on what he means in a  
3 conversation with Captain Polonis. Because it wasn't addressed  
4 to me and I didn't have to make that determination as to what  
5 he meant. I might have asked for a clarification.

6 Q. Are you surprised that that request was made?

7 A. Am I -- I really don't have any feelings about it one  
8 way or another.

9 Q. In the other of these applications that we talked  
10 about, we talked about the first application being rejected.

11 And it says, I'm writing this letter -- this is from, from  
12 Officer Jenkins -- to inform you that your permit for a parade  
13 has been rejected by the traffic emergency operations section.

14 A. Uh-huh.

15 Q. Who would that be?

16 A. When that was written, one person, right now today  
17 there are two different people.

18 Q. Okay.

19 A. Traffic and emergency operations section have been  
20 severed. They are no longer one entity.

21 Q. Okay.

22 A. Traffic operations now would be Captain Murnin,  
23 emergency operations section would be Captain Polonis.

24 Q. I see.

25 A. At the time that was written, it would have been

1 Captain Polonis.

2 Q. I understand. Okay. Now, I'm handing you the packet  
3 which is an application for the Texas A&M Army March In, which  
4 is numbered 01538 through 01552. And I would direct your  
5 attention to the printout, what appears to be the printout of  
6 police officers who worked the event on page 01551. And this  
7 appears to be an event that was approved by you; is that  
8 correct?

9 A. That's correct.

10 Q. And what was the date of that event?

11 A. August 7th -- I'm sorry. September the 16th of 2006.

12 Q. Okay. And at that time was the current police  
13 officers contract, bargaining contract in effect?

14 A. The collective bargaining agreement that we're  
15 working under now in 2000 -- I believe it was. The current  
16 contract is about to expire. So I think it was.

17 Q. Okay. And if you look at the police officers there,  
18 some of them apparently worked 2.5 hours of overtime; is that  
19 correct?

20 A. That's correct.

21 Q. And why is it that in that event you were permitted  
22 to employ them for 2.5 hours rather than 3 hours?

23 A. Because I don't have -- I have to pay them three  
24 hours if I call them in early. If I hold them over, I only  
25 have to pay for the amount of time they are held over. I don't

1 have to pay them an additional three hours.

2 The collective bargaining contract covers only  
3 calling someone back to duty after they've been released from  
4 duty. It would be the same as if they made a late call on  
5 patrol. They are only entitled to actual time worked.

6 Q. And are they paid for time and a half for those  
7 hours?

8 A. For the time worked in excess of their regular eight  
9 hour work day, that would be correct.

10 Q. Thank you. And I'm looking at -- I'm gonna pass you  
11 now the Museo -- here, I can take those back. And you  
12 recall -- I think you've already testified that you worked that  
13 event?

14 A. Uh-huh.

15 Q. And how --

16 A. I'm sorry. Yes.

17 Q. How many officers did you use in that event?

18 A. It looks like 31.

19 Q. And how many of those officers were on duty and how  
20 many off duty?

21 A. It looks like a captain, a sergeant and one officer  
22 were off duty. Everybody else was on duty.

23 Q. So how many officers then was that on duty?

24 A. 28.

25 Q. And this is a packet beginning with 01044 through

1 01070. And this is the Courthouse to Jailhouse Run. And that  
2 was also on your shift; is that correct?

3 A. Uh-huh. I'm sorry. Yes.

4 Q. And how many officers were required there?

5 A. I don't seem to -- I don't find a work sheet for this  
6 one included here.

7 Q. Is there even a list of officers?

8 A. I don't see one. I'm looking.

9 MS. KASTELY: Let's go off the record for a  
10 minute.

11 MS. KLEIN: Okay.

12 (Whereupon, a break was taken)

13 Q. BY MS. KASTELY: I have an indication, Officer  
14 O'Dell, from Officer Jenkins' material indicating that the  
15 Courthouse March -- I'm sorry. What was the number of that one  
16 that we just passed you?

17 A. 01044.

18 Q. And the permit number?

19 A. Oh, the permit number. 2007-79.

20 Q. 79. Okay. And I have an indication from Officer  
21 Jenkins' material that there were a total of 50 officers who  
22 worked that event. Does that seem about right?

23 A. That sounds right.

24 Q. And of those 50, 14 were on duty and 36 were off  
25 duty?

1 A. That's correct.

2 Q. Does that seem about right? Okay. And could you  
3 predict ahead of time that on the day of the Courthouse to  
4 Jailhouse Run you would only have 14 on duty officers  
5 available, while on the date of the -- I'm sorry -- the other  
6 one -- this one -- the Museo you would have 28 on duty officers  
7 available?

8 A. Well, let me explain something on the, on the  
9 Courthouse Run. To tell you that I only had 14 available that  
10 day would be misleading. That may not have been the case.  
11 There may have been more than that on duty.

12 Q. Then why would only 14 have been assigned to this  
13 event?

14 A. This event is sponsored by, I believe, the San  
15 Antonio Bar Foundation. And it is to benefit the Police  
16 Athletic League, which is a police function. So all the  
17 proceeds go to the Police Athletic League.

18 So numerous officers are either assigned as  
19 their duty for that day from the SAFFE Unit or volunteer from  
20 the SAFFE Unit to take as many of these positions as necessary.  
21 And the only on duty people that are assigned are the people  
22 that where if they can't reach the number to staff the entire  
23 event, we make up the difference with on duty personnel.

24 Q. Okay. And so would those members of the SAFFE Unit  
25 be compensated for their work on this?

1 A. If they were on duty, it would just be their own duty  
2 assignment. If they were off duty, they would have had to have  
3 volunteered their time.

4 Q. Okay. And why wouldn't they be paid as normal off  
5 duty officers?

6 A. Again, this is to benefit a police function, the, the  
7 Police Athletic League. And I don't know that how many of  
8 them, if any, were actually off duty or how many of them were  
9 just on duty SAFFE officers from different areas of town.

10 Q. I see.

11 A. But it was, it was basically to benefit a police  
12 function.

13 Q. I see.

14 A. So you could get volunteers to come in to do that.  
15 It's a worthy cause.

16 Q. Yeah. I understand. But you said that they would be  
17 required as part of their participation in the SAFFE Unit, is  
18 that correct, to --

19 A. That could be their assignment for the day. When  
20 they are here on duty, their assignment in a SAFFE Unit can be  
21 whatever their mission is for the day. So it's possible. I  
22 know that SAFFE Unit officers are assigned to this. How they  
23 get selected? I don't know what that process is. I just get  
24 the list.

25 Q. And who's in charge of the assignment of SAFFE Unit

1 officers?

2 A. The assignment of who gets -- who works this and who  
3 doesn't?

4 Q. Yes.

5 A. It would be the individual SAFFE supervisor from the  
6 different substations.

7 Q. And what is SAFFE?

8 A. It's an acronym for San Antonio Fear Free  
9 Environment. It's a group of officers at each substation that  
10 tackle problems outside of normal patrol duty. They would go  
11 to neighborhood meetings. They would hold -- meet with groups  
12 of people concerned about different issues in their community.

13 And they are basically a liaison, if you want to  
14 look at it that way, between problems that the community is  
15 having and the police department to try to work out solutions  
16 to those problems. It could be anything from graffiti to  
17 burglary to traffic. It could be anything. They really attack  
18 a variety of problems.

19 Q. Is that also true for the -- or what's the name of  
20 this event? It's the -- Courthouse to Jailhouse Run.

21 A. Yes.

22 Q. Is that also true of the Police Memorial Run?

23 A. I'm not familiar with that one. I would have to look  
24 at the permit.

25 Q. Are officers who are members of PAL also sometimes

1 required to work parades for free?

2 A. Not to my knowledge.

3 Q. And what is PAL?

4 A. Police Athletic League. They are like -- department  
5 wide, there may be two or three people assigned to that duty,  
6 the Police Athletic League, I think. It may only be one  
7 officer assigned to that duty.

8 Q. When the San Antonio Police Department works an  
9 event, is it ever assigned to anyone other than the traffic  
10 control division?

11 A. If it's a traffic function, it would be assigned to  
12 the traffic control units.

13 Q. And the downtown operations department sometimes  
14 sponsors marches or parades; is that right?

15 A. I wouldn't have any knowledge of whether they do  
16 that. They're a fairly new group. And if they do that, I'm  
17 not aware of it.

18 Q. So you don't have any correspondence with anyone in  
19 that office regarding parades?

20 A. Not generally.

21 Q. In, in some instances do you?

22 A. The man that I mentioned earlier, Tony Pizzi, is  
23 technically an employee of downtown operations, which we have  
24 frequent contact with him.

25 Q. I see. And another person that's mentioned in the

1 permit applications is sometimes Tanya --

2 A. Tanya Drake?

3 Q. Drake. Yes. And what is her role?

4 A. She's employed in downtown operations. I'm not sure  
5 what her title is.

6 Q. And do you ever work with her on events?

7 A. I've been to meetings for large scale events where  
8 she's, she's been there. But on a day-to-day basis, I do not  
9 work with her.

10 Q. Okay. I wanted to ask you then about -- just a few  
11 more. Well, let me just ask you generally. In cases where the  
12 Bexar County Sheriff's Office handles an event, how does that,  
13 how does that happen? What is the process through which it  
14 occurs?

15 A. We talked about earlier an event handled by Officer  
16 Lutton. And the process for the sheriff's department would be  
17 exactly the same process that Officer Lutton would go through  
18 to handle an event.

19 Q. And is that an official function of the Bexar County  
20 Sheriff's Office?

21 A. Generally, no.

22 Q. When would it be an official function of the Bexar  
23 County Sheriff's Office?

24 A. I don't know of, I don't know of one off the top of  
25 my head that would be an official function that they would

1 handle.

2 Q. Okay. So if it's not an official function, what is  
3 it?

4 A. It's exactly the same situation that Officer Lutton  
5 had. It would be a group of off duty sheriff's deputies  
6 negotiating with whoever the event promoter was to provide  
7 traffic control for their event.

8 Q. Okay. And do some Bexar County sheriff's officers,  
9 to your knowledge, have, have companies that offer such  
10 services?

11 A. I wouldn't have any way of knowing that. But it's  
12 possible.

13 Q. Okay. Have you worked the Harlandale Cultural Arts  
14 Parade?

15 A. I would have to look at the permit again.

16 Q. Okay.

17 MS. KASTELY: Can you pull that one. It should  
18 be number 44.

19 MS. RODRIGUEZ: It's not here.

20 MS. KASTELY: I'll skip that one.

21 Q. BY MS. KASTELY: Let me just ask you this, this is a  
22 packet that's numbered from 01383 to 01394, and it is an  
23 application for an Immigration March on April 10th, 2006. And  
24 I want to direct you to the page 01386 and ask you to look at  
25 that. I assume from your testimony that that's a document

1 that, that Officer Jenkins would have completed; is that

2 correct?

3 A. It has his signature.

4 Q. And on that document it indicates that the permit

5 holder would only be charged for off duty police services,

6 correct?

7 A. I'm not sure it says that there. On here it says

8 amount to be paid by applicant. It has a number that does not

9 match up to the, to the costs.

10 Q. Okay. And it is less than the total cost?

11 A. I see where you got that. It looks like off duty

12 costs.

13 Q. Okay. Are you familiar with any marches in which the

14 applicant holder or permit holder had been charged for off duty

15 only police services?

16 A. I wasn't familiar with this one until you showed me

17 this. No, ma'am.

18 Q. Are you aware of any other events like --

19 A. No.

20 Q. Would you be surprised if I told you that there were

21 several such events?

22 A. I would have to take your word for it. I have no, no

23 knowledge that that happened.

24 Q. Okay.

25 MS. KASTELY: I think we're almost there. Let

1 me take five minutes off the record and make sure there's  
2 nothing else I want to ask you now.

3 MS. KLEIN: Okay.

4 (Whereupon, a break was taken)

5 Q. BY MS. KASTELY: This is another one that I wanted to  
6 show you. It's a packet that begins with 01745. It is also  
7 one that's, that's signed by Officer Quintanilla. But I wanted  
8 to ask you if you have any knowledge of it. It goes from, I'm  
9 sorry, 01745 through 01761. And it is the 9/11 March that  
10 occurred on September 11th, 2006. Do you have any recollection  
11 of that event?

12 A. I don't.

13 Q. Okay. Okay. Maybe we'll have to talk to Officer  
14 Quintanilla about that. And this is an E-mail that's marked  
15 01139 through 01140. And I wonder -- this involves the Blue  
16 Santa Parade. I wonder if you were involved in the Blue Santa  
17 Parade? Are you involved with the Blue Santa Parade?

18 A. No, I'm not.

19 Q. And as you can see --

20 A. Well, now wait a minute. There's a possibility that  
21 my officers might. I don't recall this. Let me see if I can  
22 see -- if you have -- do you have the time of the parade, the  
23 time and date?

24 Q. I believe it occurred on December 8th from 10 to 2,  
25 which is Saturday.

1 A. Let me think for a second. I've got to do some  
2 mental math, which is not real easy to do right now. That  
3 should have been -- happened on my shift.

4 Q. Okay. Do you recall any engagement with the -- with  
5 any Blue Santa Parade? It happens every year, right?

6 A. No, I don't recall anything specific. This is not a  
7 big event at all.

8 Q. Okay. It lists about 1500 people participating; is  
9 that correct?

10 A. I've never been to it. So I don't know.

11 Q. And that E-mail indicates that Chief McManus says  
12 that it should be handled outside the permitting process. And  
13 is there any reason that you know of why it would be handled  
14 outside the permitting process?

15 A. Only because that was Chief McManus' instruction.

16 Q. And as far as you know, he has the power to do it,  
17 right?

18 A. Only he can speak for what powers he has or doesn't  
19 have. I'm not really sure how much powers he has.

20 Q. Okay. Who should I talk to who would know about  
21 that?

22 A. About the powers of the Chief of Police?

23 Q. Yes.

24 A. I guess the chief.

25 Q. Is there anything that you know of in the parade

1 ordinance or the standard operating procedures that would  
2 preclude Chief McManus from indicating various events that  
3 would not be permitted -- that would be permitted without a  
4 permit?

5 A. That would allow him to do that? I don't know that  
6 that's addressed specifically one way or the other in either.

7 MS. KASTELY: I'll pass the witness.

8 MS. KLEIN: We'll reserve our questions.

9 MS. KASTELY: While we're on the record, we are  
10 going to leave the deposition open with the remaining time that  
11 we have in the event that further evidence arises that we need  
12 to ask you about.

13 THE WITNESS: Okay.

14 MS. KASTELY: Thank you.

15 (Off the record)

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1 CHANGES AND SIGNATURE

2 WITNESS NAME: CHARLES THOMAS O'DELL

3 DATE OF DEPOSITION: JULY 29, 2008

4 PAGE LINE CHANGE REASON

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1 I, CHARLES THOMAS O'DELL, have read the foregoing  
2 deposition and hereby affix my signature that same is true and  
3 correct, except as noted above.

4  
5

6 \_\_\_\_\_  
CHARLES THOMAS O'DELL

7

8 THE STATE OF \_\_\_\_\_)

9 COUNTY OF \_\_\_\_\_)

10

11 Before me, \_\_\_\_\_, on this day  
12 personally appeared CHARLES THOMAS O'DELL, known to me (or  
13 proved to me under oath or through \_\_\_\_\_)  
14 (description of identity card or other document) to be the  
15 person whose name is subscribed to the foregoing instrument and  
16 acknowledged to me that they executed the same for the purposes  
17 and consideration therein expressed.

18 Given under my hand and seal of office this  
19 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF \_\_\_\_\_  
COMMISSION EXPIRES: \_\_\_\_\_

1 REPORTER'S CERTIFICATION  
2 DEPOSITION OF CHARLES THOMAS O'DELL  
3 JULY 29, 2008

4 I, George N. Taylor, Certified Shorthand Reporter in and  
5 for the State of Texas, hereby certify to the following:

6 That the witness, CHARLES THOMAS O'DELL, was duly sworn by  
7 the officer and that the transcript of the oral deposition is a  
8 true record of the testimony given by the witness;

9 That the deposition transcript was submitted on August  
10 \_\_\_\_\_, 2008 to Deborah Lynne Klein, for the witness'  
11 examination, signature and to be returned by August \_\_\_\_\_,  
12 2008 to our office;

13 That the amount of time used by each party at the  
14 deposition is as follows:

15 DEBORAH LYNNE KLEIN ..... 00 HOUR(S):00 MINUTE(S)

16 AMY KASTELY ..... 03 HOUR(S):57 MINUTE(S)

17 That pursuant to information given to the deposition  
18 officer at the time said testimony was taken, the following  
19 includes counsel for all parties of record:

20 DEBORAH LYNNE KLEIN, FOR THE DEFENDANT,

21 AMY KASTELY, FOR THE PLAINTIFFS;

22 That \$609.00 is the deposition officer's charges to the  
23 Plaintiffs for preparing the original deposition transcript and  
24 any copies of exhibits;

25 I further certify that I am neither counsel for, related

1 to, nor employed by any of the parties or attorneys in the  
2 action in which this proceeding was taken, and further that I  
3 am not financially or otherwise interested in the outcome of  
4 the action.

5 Certified to by me this \_\_\_\_\_ day of August, 2008.

6

7

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\_\_\_\_\_  
George N. Taylor  
Texas CSR No. 979  
Expiration Date: 12/31/08  
Alamo Area Court Reporters  
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