

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 )  
5 AL )

5 PLAINTIFFS )  
6 VS. ) CIVIL ACTION NO.  
7 ) SA-07-CA-971-XR

7 CITY OF SAN ANTONIO, )  
8 DEFENDANT )

9 )  
10 )  
11 )

11 -----

12 ORAL DEPOSITION OF

13 WILLIAM JENKINS

14 JULY 15 AND AUGUST 4, 2008

15 -----

16 ORAL DEPOSITION OF WILLIAM JENKINS, produced as a witness

17 at the instance of the Plaintiffs, and duly sworn, was taken in

18 the above-styled and numbered cause on the 15th day of July

19 2008, from 1:06 p.m. to 3:13 p.m., and on August 4, 2008 from

20 9:35 a.m. to 2:31 p.m., before George N. Taylor, CSR in and for

21 the State of Texas, reported by machine shorthand, at the

22 offices of The City Attorney Litigation Division, 111 Soledad,

23 10th Floor, San Antonio, Texas, 78205, pursuant to the Federal

24 Rules of Civil Procedure.

25

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25           MS. GENEVIEVE RODRIGUEZ

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1 THE COURT REPORTER: Today is July 15, 2008.  
2 We're here at 111 Soledad to depose William Jenkins in the case  
3 styled International Woman's Day March Planning Committee, et  
4 al Vs. City of San Antonio.

5 Will counsels please introduce themselves.

6 MS. KASTELY: My name is Amy Kastely. I am  
7 representing the International Woman's Day Planning Committee  
8 and the Coalition for Free Speech in San Antonio. With me is a  
9 Elena Serna, my assistant, and Graciela Sanchez, representing  
10 the International Woman's Day and Genevieve Rodriguez,  
11 representing the Coalition For Free Speech.

12 MS. SHEEHAN: And I'm Cathy Sheehan, and I'm  
13 here representing the City of San Antonio.

14 WILLIAM JENKINS,  
15 having been first duly sworn, testified as follows:

16 EXAMINATION

17 Q. BY MS. KASTELY: Mr. Jenkins, can you just state your  
18 full name, please, Officer Jenkins.

19 A. William Jenkins.

20 Q. And where do you work?

21 A. City of San Antonio Police Department.

22 Q. Have you had your deposition taken before, Officer  
23 Jenkins?

24 A. Yes.

25 Q. Many times?

1 A. No.

2 Q. Okay. Well, you know that it's -- the testimony is  
3 just as if it were in court. You are under oath. And we, we  
4 need to speak because all of the information is being taken  
5 down by the court reporter. So we can't just nod or -- and we  
6 also need to be careful not to interrupt each other.

7 A. Yes, ma'am.

8 Q. Okay. And also, please, if you want a break, just  
9 let us know and we can take a break at any time.

10 A. Yes, ma'am.

11 Q. Are you being represented today?

12 A. By the city attorney's office.

13 MS. SHEEHAN: By the city attorney's office.

14 MS. KASTELY: And you are representing Officer  
15 Jenkins?

16 MS. SHEEHAN: (Moving head up and down.)

17 Q. BY MS. KASTELY: Officer Jenkins, what did you do to  
18 prepare for your deposition today?

19 A. I read my direct examination from the original trial.

20 Q. Did you --

21 (Mr. Pasqual walked into the room)

22 MS. KASTELY: Could you identify yourself, sir?

23 MR. PASQUAL: Jack Pasqual.

24 MS. KASTELY: And you are representing?

25 MR. PASQUAL: City of San Antonio.

1 MS. KASTELY: Great. Thank you, sir.

2 MR. PASQUAL: Thank You.

3 Q. BY MS. KASTELY: You, you read your direct  
4 examination in the hearing on the temporary injunction in this  
5 case?

6 A. Yes, I believe.

7 Q. And did you review any other documents?

8 A. No, ma'am.

9 Q. No other documents?

10 A. No, ma'am.

11 Q. And did you speak with anyone about this deposition?

12 A. Spoken with the city attorney.

13 Q. Okay. And who else did you speak with about this  
14 deposition?

15 A. That would have been it.

16 Q. Okay. Did you speak with your superior officers?

17 A. Told them I had a deposition I had to come here, and  
18 that was it.

19 Q. Okay. Did they ask you what the deposition was  
20 about?

21 A. No. They already knew.

22 Q. Okay. Now, how long have you been -- well, what  
23 exactly is your current position in the police department?

24 A. The, the administrative officer for the traffic  
25 section.

1 Q. And how long have you been administrative officer for  
2 the traffic section?

3 A. I think it was June of '03.

4 Q. And what was your employment before that?

5 A. I was a motorcycle officer on the traffic unit for  
6 eight years and on the traffic unit, I think, four years prior  
7 to that.

8 Q. And what was your position for those four years?

9 A. Patrolman.

10 Q. Patrolman?

11 A. Traffic officer.

12 Q. Okay. Is that when you first joined the police  
13 department?

14 A. No. I was on patrol for three and a half to four  
15 years before coming to the traffic division.

16 Q. And what unit were you assigned to during those three  
17 and a half to four years?

18 A. Central, West. I believe, I believe it was those  
19 two.

20 Q. And what are your duties in your current position as  
21 administrative -- I'm sorry. What did you say, administrative  
22 --

23 A. I'm the administrative officer.

24 Q. Okay. What are your current duties?

25 A. My current duties are, I take applications for

1 parades, runs and walks, solicitation permits, and assist in

2 any capacity that the captain asks me to do.

3 Q. Do you take applications for special events other

4 than parades?

5 A. No, ma'am.

6 Q. And what was your training for this position?

7 A. I trained for approximately two or three months with

8 the officer who was there previous to me.

9 Q. And what was his name?

10 A. Officer Eric Shuey.

11 Q. And did Officer Shuey provide you with any written

12 guidelines for your new position?

13 A. Just the ordinances.

14 Q. Anything else?

15 A. Not that I can remember.

16 Q. And what year was that now?

17 A. June of '03.

18 Q. Did anyone of your superior officers talk to you

19 about how to function in your new job?

20 A. I'm sure we did. I just -- I can't remember what we

21 might have discussed.

22 Q. Okay. What ordinances were they that were given to

23 you by Officer Shuey?

24 A. I had the parade ordinance, there was a run

25 ordinance, solicitation ordinance.

1 Q. And do events -- I know I asked you about other  
2 special events. But events like The Final Four, that is when  
3 they have street interference, are they treated as parades or  
4 processions?

5 A. No, ma'am. They are not.

6 Q. What are they treated as?

7 A. They're treated as block parties.

8 Q. Block parties?

9 A. Uh-huh.

10 Q. And how does one go about getting a permit for a  
11 block party?

12 A. They would contact officer -- I mean -- not officer  
13 -- John Rodriguez.

14 Q. And what department is he in?

15 A. Public works.

16 Q. Would the police department provide police services  
17 for such events?

18 A. It depends if it's asked for, for us to do so, or  
19 not.

20 Q. Okay. And who would be asking for that?

21 A. If the -- if it was a city event such as The Final  
22 Four or something that would come from the manager's office or  
23 whatever, downtown operations.

24 Q. Okay. Would it come from John Rodriguez?

25 A. No.

1 Q. So if the organizer of the The Final Four went to  
2 John Rodriguez, he would apply for a block party permit; is  
3 that correct?

4 A. Yes.

5 Q. And then who would contact the manager's office or  
6 some other official to receive police services?

7 A. I really wouldn't -- I couldn't tell you that. I  
8 don't know.

9 Q. Okay. And if someone -- if some official decided  
10 that police services would be given or would be, would be  
11 provided for a block party, how would they communicate that to  
12 the San Antonio Police Department?

13 A. Through our chain of command.

14 Q. Okay. And what would be the chain of command in such  
15 a situation?

16 A. It could go from the Chief or Assistant Chief and  
17 then it would trickle down through the command still.

18 Q. And would it eventually trickle down to you?

19 A. It would trickle down to the lieutenant who would be  
20 responsible for the event.

21 Q. Would it be a lieutenant in the traffic control  
22 division?

23 A. More than likely.

24 Q. Isn't it -- well, what are the duties that are  
25 assigned to the traffic control division?

1 A. Are you talking about on an everyday basis or --

2 Q. Well, generally, as I understand it, the police  
3 department has various divisions; is that correct?

4 A. That is correct.

5 Q. And various responsibilities are assigned to  
6 different divisions?

7 A. Yes.

8 Q. So what are the ones that are assigned as a general  
9 matter to the traffic control division?

10 A. Our primary function is to take care of the highway  
11 systems, issue citations as viewed. They would take care of  
12 emergency situations that may come about. They would take care  
13 of parades, runs, things like that, special events, Alamodome  
14 events.

15 Q. Okay. And special events like The Final Four?

16 A. Yes.

17 Q. And the Alamodome events that you referred to, what  
18 events -- what are some examples of those events that the  
19 traffic control division takes care of?

20 A. Well, we used to do the Spurs when they were there.  
21 The -- we take care of ingress and egress for football games,  
22 graduations, other large events that happen at the Dome that  
23 have to do with traffic control.

24 Q. Okay. Does it ever happen that any of those events  
25 that there is a, a charge -- an invoice sent to any person

1 outside of the City of San Antonio Government?

2 A. Yes.

3 Q. And how does that happen?

4 A. The event organizer may ask for security services, at  
5 which time security services are billed out to the organizer of  
6 the event.

7 Q. Can you think of an example in the last five years  
8 when that's happened?

9 A. Final Four.

10 Q. Any others?

11 A. Toyota.

12 Q. What was that Toyota event?

13 A. They had something like 200 some odd buses that they  
14 were running a shuttle in the downtown area, and they asked us  
15 for our assistance to make sure that the buses and traffic flow  
16 in the downtown area was not interrupted substantially.

17 Q. Okay.

18 A. I don't know -- I just --

19 Q. Would you be involved in those, in those billings?

20 A. No. Those -- what would happen is the lieutenant  
21 would go ahead and make up a billing sheet for it. And those,  
22 those particular events for The Final Four were sent to  
23 downtown operations. And where it went for Final Four from  
24 there? I have no idea.

25 Q. Okay. And the lieutenant that you referred to, who

1 is that?

2 A. It could be Lieutenant Edward Quintanilla or  
3 Lieutenant Chuck O'Dell. They are the lieutenants right now.

4 Q. And you said that sometimes event organizers will  
5 request security services. What do you mean by security  
6 services?

7 A. They would take care of such as your block party.

8 Q. Uh-huh.

9 A. And they would take care of the, the interior  
10 security of the event to make sure that there was no problems  
11 inside the event itself.

12 Q. I see. And what about if the, if the block party  
13 caused an interference with the flow of traffic, would police  
14 services be available to help with that?

15 A. Due to -- are we talking about Final Four?

16 Q. Okay. Let's talk about Final Four.

17 A. Okay. We already had a contingency for traffic  
18 control that was placed around the secured security area there  
19 that took care of the traffic.

20 Q. Okay. And you say you already had that. How was  
21 that -- when was that first initiated?

22 A. Probably six to eight months prior to the event  
23 getting here.

24 Q. Okay. And for Alamo events like the Spurs when the  
25 Spurs were there, would a similar process be followed, that is

1 if the organizer requested security services the police would  
2 provide it?

3 A. The Alamodome has a, I guess, an gentleman's  
4 agreement with the Spurs. I don't know if it's a contract or  
5 what. It's beyond me. But for all major events in the  
6 downtown area -- I'm sorry, all major events in the Dome above,  
7 I think it's either 12 or 15,000 -- I'm not sure of the exact  
8 number -- we will send traffic officers out for egress and  
9 ingress into the Alamodome.

10 Q. I see. And who would be charged for those traffic  
11 officers?

12 A. That is a part of the agreement with the Dome. There  
13 is no charge.

14 Q. Okay. Now, you mentioned the ordinances that you  
15 were given by Officer Shuey. I wanted to give you a copy of  
16 the 1998 parade ordinance.

17 MS. KASTELY: And I'm not gonna offer this into  
18 evidence. I'm gonna try to keep the costs down.

19 MS. SHEEHAN: Okay.

20 Q. BY MS. KASTELY: But are you familiar with that.

21 MS. SERNA: '88.

22 Q. BY MS. KASTELY: I'm sorry. It should be 1988. Are  
23 you familiar with that, Officer Jenkins?

24 A. Give me just a minute to take a look at it, please.

25 Q. Sure.

1 A. Okay.

2 Q. Okay. Now, this ordinance requires that there be a  
3 parade permit for anyone who would engage in or participate in  
4 a parade; is that correct?

5 A. That is correct.

6 Q. And how is a parade defined under this ordinance?

7 MS. SHEEHAN: I object. It calls for a legal  
8 conclusion and it speaks for itself.

9 Q. BY MS. KASTELY: Let me ask you a question, Officer  
10 Jenkins. Under this ordinance, a parade is any march,  
11 demonstration in or upon any street, alley or other public  
12 thoroughfare in the city.

13 How do you and how did you interpret the words  
14 street, alley or other public thoroughfare when you were  
15 applying this ordinance?

16 A. Any street or any alley or any other thoroughfare  
17 which would be city-owned property.

18 Q. Okay. Can you give me an example of a, of a  
19 thoroughfare that is city-owned property other than a street or  
20 an alley?

21 A. A thoroughfare is such as Wurzbach Parkway.

22 Q. Okay. Okay. What about a sidewalk, would a sidewalk  
23 be included as a thoroughfare?

24 MS. SHEEHAN: I'm gonna object. It calls for  
25 him to make a legal conclusion.

1 Q. BY MS. KASTELY: You can go ahead and answer.

2 A. I would feel like, yes.

3 Q. Okay. And so when you applied this ordinance, did  
4 you understand that a permit would be required if a parade was  
5 held on a sidewalk?

6 A. I can't remember, I can't remember having a parade on  
7 a sidewalk.

8 Q. Okay. And then under this ordinance, is there an  
9 application required?

10 A. Yes.

11 Q. And what is the timing of that application? How long  
12 before the event does the application have to be submitted?

13 A. 30 days.

14 Q. Okay. Did you -- well, I'm sorry. In your work, do  
15 citizens occasionally contact you by telephone or in person and  
16 ask you about the parade permit process?

17 A. Yes.

18 Q. And when this ordinance was in effect, did you inform  
19 people about the 30-day application deadline?

20 A. I'm sure I have.

21 Q. And did any people ever apply for a parade permit  
22 with less than 30 days before the event?

23 A. Yes.

24 Q. And what would happen then?

25 A. We would go ahead and determine whether we could

1 actually handle that event or not. We would sit down with the  
2 applicant and more than likely we worked it out where we could  
3 get the event done.

4 Q. Do you recall any instance in which a permit was  
5 denied because it was submitted with less than 30 days?

6 A. Not off hand, I can't.

7 Q. Okay. And now you'll recall that under this  
8 ordinance, the permit holder under, let's see, under Section  
9 19440 B, the permit holder will be responsible for the costs of  
10 barricading, policing and cleaning up the parade route. The  
11 ordinance also provides -- I'm sorry. This paragraph shall not  
12 apply to parades of a political nature. Do you recall that?

13 A. Yes ma'am.

14 Q. And how did you interpret this provision and  
15 particularly the exemption for parades of a political nature?

16 A. I think as we discussed before in the direct  
17 examination at the trial, I never did get anything from the  
18 city attorney's office of an explanation of that.

19 Q. Okay. And how did you understand that exemption?

20 A. The way that I interpreted that --

21 Q. Yes, sir.

22 A. -- was such as elected officials and things like that  
23 wanting to go ahead and have an event.

24 Q. Did you ever have an event by -- or organized by an  
25 elected official?

1 A. I could have. I know there has been events where  
2 elected officials have been in it and have advertised their  
3 election coming up. Whether they were actually a part of it?  
4 I don't know.

5 Q. Do you recall ever receiving a permit application for  
6 such an event?

7 A. Not that I can really pin point. No.

8 Q. Do you recall ever applying this exemption?

9 A. No.

10 Q. Did anyone within the police department ever talk to  
11 you about the meaning of the term parades of a, of a political  
12 nature?

13 A. Not that I recall.

14 Q. Do you recall a discussion with Officer Shuey?

15 A. To be -- I really don't remember that far back in  
16 regards to that.

17 Q. Okay. During the spring of 2004, you'll recall that  
18 discussions began about a new parade ordinance. Were you  
19 involved in those discussions?

20 A. Initially, yes.

21 Q. And during those discussions did you have a  
22 conversation with anyone about the exemption for parades of a  
23 political nature?

24 A. It was brought up by the city attorney's office.

25 Yes.

1 Q. And what did the city -- well, who in the city  
2 attorney's office did you talk about that with?

3 A. There was a couple. Veronica Zerduche was there, and  
4 I can't remember the other -- her aide or somebody else, I  
5 can't remember what her name was.

6 Q. And what was said in your conversation with members  
7 of the city attorney's office about the meaning of --

8 MS. SHEEHAN: Objection, form.

9 Q. BY MS. KASTELY: -- exemption?

10 MS. KASTELY: I'm sorry?

11 MS. SHEEHAN: Objection to form.

12 Q. BY MS. KASTELY: What was said in the conversation?

13 A. They said that they were gonna have to look at that  
14 and they were gonna have to define that and that they were  
15 gonna work on that whenever the new ordinance came into effect.

16 Q. And did they report back to you after they had worked  
17 on the meaning of that phrase?

18 A. No. I was pretty much out of the loop at that time.  
19 It stayed in the city attorney's office and the city manager's  
20 office and with policy-makers of my department.

21 Q. Okay. Now, I wanted to ask you about one event that  
22 happened in May of 2006. And we both heard Jolynn Garcia  
23 testify about the Immigration March. There were two that  
24 spring, do you recall, of 2006?

25 MS. SHEEHAN: I object, whether he's heard the

1 testimony or I'm not. I'm not sure he was in the courtroom.

2 MS. KASTELY: Okay. I'm not sure if he was  
3 there. I'll withdraw that part of the question, and let me  
4 rephrase.

5 Q. BY MS. KASTELY: Do you recall that in the spring of  
6 2006 there were two marches addressed to immigration  
7 legislation?

8 A. Yes.

9 Q. And do you recall that there was one on April 10th in  
10 which a permit application was applied for by Jaime Martinez?

11 A. I'm not sure about the exact date, but there was one  
12 applied by Jaime.

13 Q. Okay. And do you recall that that occurred in May of  
14 2006?

15 A. Not sure of the exact date, ma'am.

16 Q. Okay. Do you recall that the second Immigration  
17 March occurred in -- I'm sorry. Let me correct myself. The  
18 first Immigration March was in April of 2006 and the second  
19 Immigration March was in May of 2006. Does that seem accurate  
20 to you?

21 A. I would say it's close. I can't -- I don't know the  
22 exact dates, ma'am.

23 Q. Okay. And as to the second Immigration March in May  
24 of 2006, do you recall if a parade permit was issued for that  
25 march?

1 A. You're not talking about Jaime's march?

2 Q. That's correct. About the other march.

3 A. I remember us having a conversation inside of our  
4 conference room at our office. There was three individuals who  
5 were present there. And they said that they were going to go  
6 ahead and have a sidewalk procession with their event.

7 I'm not 100 percent sure if a permit was given  
8 to them or not. But that particular event wound up with a  
9 very, very large contingency of people and wound up not being  
10 able to be handled on the sidewalk and it flowed out into the  
11 street.

12 Q. I see. And in that meeting that you had with three  
13 of the organizers, do you recall why they decided not to have a  
14 street event?

15 A. No. I do not.

16 Q. Do you believe it was because of the costs that would  
17 be involved in getting a parade permit?

18 A. I don't remember anything in that particular meeting  
19 that any costs were even discussed. They said they were going  
20 to be on the sidewalk.

21 Q. Uh-huh.

22 A. And we allowed them to have their event.

23 Q. Okay. Did you give them an estimate of what the  
24 costs of police services and barricades would be?

25 A. I do not believe I did.

1 Q. And do you recall how many people they said would be  
2 in their event?

3 A. I want to say it was like a 1000, 1500, something  
4 like that.

5 Q. Okay. Do you recall how many people attended the  
6 April Immigration March, the one that was permitted to Jaime  
7 Martinez?

8 A. Well over 10,000.

9 Q. Okay. And did you have reason to think that the  
10 second Immigration March would be substantially smaller?

11 A. We were going by what the applicant had told us for  
12 the event. My personal opinion was, I thought it was going to  
13 be larger. But we really needed to go by -- they said there  
14 was no advertising for this event -- I remember that -- that  
15 all it was was leaflets. I had no, I had no idea it was going  
16 to be that big.

17 Q. Okay. Did you have any concerns about this being a  
18 march that was contained on the sidewalk?

19 A. Yes, I did.

20 Q. And what was your concerns?

21 A. I didn't feel like it could be contained on the  
22 sidewalk.

23 Q. And what would be the consequences if -- well, let me  
24 take a step back. What do you mean by, it couldn't be  
25 contained on the sidewalk?

1 A. I didn't feel like they could have their event on the  
2 sidewalk and still allow passage on that sidewalk.

3 Q. And why not?

4 A. I just felt like it was too many people.

5 Q. Okay. And why would you be concerned if it was too  
6 many people?

7 A. Because it would flow out into the street, like it  
8 did.

9 Q. And what would be the consequences if it flowed out  
10 into the street?

11 A. You would have traffic problems, traffic snarls,  
12 traffic backed up for that event.

13 Q. Okay. And did you inform the organizers of your  
14 concerns?

15 A. I don't remember. I don't think I did.

16 Q. Okay. Is there any, is there any offense committed  
17 if a sidewalk march interferes with normal pedestrian traffic?

18 MS. SHEEHAN: I object as asking for a legal  
19 conclusion.

20 Q. BY MS. KASTELY: As an officer of the law, is there  
21 any offense committed in that situation?

22 MS. SHEEHAN: Same objection.

23 Q. BY MS. KASTELY: You can answer it.

24 A. Okay. There is, blocking public passageway.

25 Q. Okay. And what about walking in the street, is that

1 an offense?

2 A. Yes, ma'am, where a sidewalk is provided.

3 Q. Did you inform the organizers that the participants  
4 will be breaking the law if they had more than 1,000 people or  
5 even 1,000 people on a sidewalk?

6 A. No, ma'am.

7 Q. Did you inform them that they would be breaking the  
8 law if they walked in the street?

9 A. No, ma'am.

10 Q. Why not?

11 A. I wasn't at that event.

12 Q. But you met with them in which -- and they told you  
13 that they were gonna walk on the sidewalk, correct?

14 A. That is correct.

15 Q. Okay.

16 A. If I could say --

17 Q. Yes, please.

18 A. My job as the administrative officer is to make  
19 recommendations only, ma'am. These are my opinions only.

20 Q. Yes.

21 A. It is not my job to determine the amount of officers  
22 and how the event is to be run.

23 Q. I appreciate that.

24 A. Okay.

25 Q. But you do make recommendations and estimates when

1 you typically meet with applicants; is that correct?

2 A. That's correct.

3 Q. And when you met with applicants under the 1988  
4 ordinance, how did you evaluate how many police officers and  
5 how many traffic control devices would be required?

6 A. As I've stated in direct examination, we'd start with  
7 a map.

8 Q. Uh-huh.

9 A. We would go ahead and look at the, the intersections  
10 that were involved for the particular event. That information  
11 would be given to the lieutenant. The lieutenant would then  
12 draw up his traffic control plan for the event, make a  
13 determination on how many officers he needed for that event,  
14 and then make a determination on the traffic control devices  
15 that needed to be there. And then he would give that  
16 information to me to follow the uniform -- or traffic manual of  
17 uniform traffic controls to have those devices put on the  
18 roadway.

19 Q. Okay. So is your testimony that you yourself did not  
20 initiate an estimate of the number of officers and the number  
21 of traffic control devices that would be required?

22 A. Yes. I can give that to the lieutenant.

23 Q. Okay. And typically would you give that to the  
24 lieutenant?

25 A. Yes.

1 Q. And the factors that you, you would use in assessing  
2 those numbers would include, as you've testified, the number of  
3 intersections; is that correct?

4 A. That is correct.

5 Q. And what else?

6 A. Whether it's multi-lane, what kind of traffic  
7 situations you have during that time of day, or whatever comes  
8 into account.

9 Q. Uh-huh.

10 A. You know, whether there's hospitals around the  
11 location and just typical things like that.

12 Q. And so the volume of vehicular and pedestrian traffic  
13 would be one factor on a typical day?

14 A. Yes.

15 Q. And what about the number of participants?

16 A. Participants, takes that into effect. Yes.

17 Q. Would you also consider the number of vehicles or  
18 floats or animals in the procession?

19 A. Yes, ma'am.

20 Q. What about emergency vehicle routes, would you  
21 consider that when you assess under the 1988 ordinance?

22 A. Yes.

23 Q. Now, I want to ask you just a couple of more under  
24 the 1988 ordinance. I recall myself participating in a  
25 procession on a sidewalk. And I was told that the police would

1 require that the groups walk in groups of no more than 20. Do  
2 you recall such a practice?

3 A. Actually, it was 25, is what I had discussed with  
4 them. The reason being was is that when we discussed that  
5 particular event, they said they did not want any police  
6 officers on the event, that they were gonna go ahead and follow  
7 all traffic laws. And there was construction on that  
8 particular route at that time.

9 Q. What, what march are you talking about? Which one  
10 do you recall?

11 A. It would have been the International Woman's Day  
12 March, I believe.

13 Q. And what year?

14 A. It was two years ago.

15 Q. So that would have been --

16 A. The one that was downtown.

17 Q. 2006?

18 A. No, ma'am. 2007.

19 Q. Okay. 2007?

20 A. Uh-huh.

21 Q. And so you advised that there needed to be groups of  
22 25 people; is that correct?

23 A. I asked them if they would do that, that way we could  
24 maintain traffic downtown, public safety downtown, and with the  
25 construction that was going on, on the sidewalks, that I felt

1 that that was a safe way to do the event.

2 Q. Okay. Do you recall any other events in which you  
3 advised that the procession should divide into groups of 25  
4 each?

5 A. The reason for that, ma'am, was because of the  
6 construction at the time. They demanded to have that  
7 particular route. And I said, okay. But can you do this for  
8 us?

9 Q. Okay. So do you recall any other instances in which  
10 the advice was given that groups should remain at 25 or less?

11 A. No, ma'am. It was due to circumstances.

12 Q. So is that the only time that you recall such advice?

13 A. Uh-huh.

14 Q. Now, I wanted to ask you about another ordinance and  
15 that is the one also passed in 1988. Do you recognize that?

16 A. No, ma'am.

17 Q. Okay. I'm surprised because we obtained this as part  
18 of the contents of the notebook that you had at the temporary  
19 injunction hearing. Do you recall that?

20 A. Yes, ma'am.

21 Q. Who compiled that notebook?

22 A. Eric Shuey.

23 Q. And when did he compile it?

24 A. I have no idea, ma'am.

25 Q. Did he compile it in 2007?

1 MS. SHEEHAN: Well, he's already testified he  
2 doesn't know.

3 MS. KASTELY: I'm asking him in more detail.

4 Q. BY MS. KASTELY: Did he compile it in 2007?

5 A. I imagine it was in that notebook, if you've got a  
6 copy of it.

7 Q. Did it say when it was compiled?

8 A. Oh, I don't know, ma'am.

9 Q. Okay. Let me ask you, you started in this job in  
10 June of 2003, and you testified that Officer Shuey gave you  
11 training?

12 A. Uh-huh.

13 Q. Did he provide you with this notebook at that time?

14 A. Yes, he did.

15 Q. Okay. And has that notebook been in your possession  
16 since that time?

17 A. Yes, it has.

18 Q. And has Officer Shuey added to or taken away from  
19 that notebook since that time?

20 A. Not to my knowledge.

21 Q. Okay. So you received the notebook in 2003?

22 A. That is correct.

23 Q. And presumably this ordinance was in that notebook in  
24 2003; is that correct?

25 A. I guess so, ma'am.

1 Q. And with this discussion, are you still -- is your  
2 testimony still that you've never seen it before?

3 A. I have never seen this before. It may have been in  
4 there. I've never read it.

5 Q. Okay. Did you study the notebook?

6 A. No, ma'am. I did not. The only thing that I looked  
7 at at that notebook was the current ordinances that were into  
8 effect at that time involving parades, runs and solicitations.  
9 I've never read this.

10 Q. Do you have reason to believe that this ordinance is  
11 not currently in effect?

12 A. I have no idea, ma'am.

13 Q. Did you ever ask anyone about that ordinance?

14 A. Ma'am, I've never seen it. It may have been in the  
15 book. All I maintained was the three ordinances that I talked  
16 to you about.

17 Q. Okay. Have you ever talked about city sponsorship of  
18 processions or parades?

19 A. No, ma'am.

20 Q. Let me make sure that you understand that question,  
21 officer.

22 A. Okay.

23 Q. Officer Jenkins, have you ever had a conversation  
24 about the city sponsoring or co-sponsoring a parade or, or  
25 procession?

1 A. Yes, I have. I'm sorry.

2 Q. And when have you had a discussion about city  
3 sponsorship?

4 A. It would have been just them telling me that the city  
5 is going to sponsor this event. They are going to go ahead and  
6 pick up whatever charges they decide that they're going to pick  
7 up for that particular event.

8 Q. Okay. And can you recall an instance in which you  
9 were informed that the city was going to sponsor an event?

10 A. I believe it was the Alameda Museum, The Final Four,  
11 the marathon, the, the Diez y Seis Parade, the Cesar Chavez  
12 March, oh, Martin Luther King.

13 Q. I'm sorry. Any others come to mind?

14 A. Not right now.

15 Q. Do you believe there may be others?

16 A. I'm sure there are.

17 Q. And how, for example, in the Alameda March, how were  
18 you informed that the city was going to sponsor the event?

19 A. The downtown operations got in touch with us.

20 Q. And who would that be?

21 A. That would have been Tanya Drake or the director,  
22 Paula Stalka.

23 Q. And would you receive a written memorandum from the  
24 downtown operations?

25 A. I don't believe I did on that one, ma'am.

1 Q. Okay. How would you then be informed?

2 A. Over the telephone.

3 Q. And what consequence would such information have for  
4 how you handle that event?

5 A. That's -- I'm not quite sure what you mean by  
6 consequence.

7 Q. Would you do anything differently in situations when  
8 you had been told that the city was going to sponsor or  
9 co-sponsor an event?

10 A. No, ma'am.

11 Q. Would you prepare an invoice for police services?

12 A. Yes. An estimate? Yes.

13 Q. An estimate for police services?

14 A. Uh-huh.

15 Q. And would you indicate on your estimate that the  
16 applicant was not going to pay for the police services?

17 A. No.

18 Q. Would you prepare an invoice for police services?

19 A. Yes, I have.

20 Q. Would you always prepare an invoice for police  
21 services when an event was sponsored by the city?

22 A. No.

23 Q. In the instances in which an event was sponsored by  
24 the city, was it your understanding that City Council would be  
25 involved in the decision to sponsor an event?

1 A. They used to. Yes.

2 Q. Up until what time?

3 A. Up until probably about a year and a half ago, I  
4 guess, a year ago.

5 Q. And how were they involved up until about a year and  
6 a half ago?

7 A. They would just tell us it was a city sponsored  
8 event. How that process took place? I have no idea, ma'am.

9 Q. So you, so you don't know whether City Council voted  
10 to have events be city sponsored?

11 MS. SHEEHAN: I object as it calls for  
12 speculation.

13 Q. BY MS. KASTELY: I'm just asking, do you know whether  
14 or not the City Council voted to have events sponsored?

15 A. I can remember a year and a half to two years ago  
16 every single ordinance went to City Council. How it was  
17 processed from there? I have no idea, ma'am.

18 Q. Okay. When you say, every single ordinance, do you  
19 mean every single permit?

20 A. Every single parade ordinance or run ordinance used  
21 to be presented to Council for their approval. It was actually  
22 on the docket.

23 Q. Okay. Did every parade or procession that received a  
24 parade permit have to go to City Council?

25 A. A year and a half to two years ago? Yes, ma'am.

1 Q. Were there any parades that could receive a permit  
2 that did not have to go to City Council?

3 A. Are we talking now?

4 Q. Under the 1988 ordinance?

5 A. I'm not sure if Cesar Chavez did or not, because they  
6 had their own separate ordinance.

7 Q. Okay. Now, let me look at the 2007 ordinance. Do  
8 you recognize that?

9 MS. SHEEHAN: Can we identify for the record  
10 that you are talking about the ordinance that deal with  
11 processions, parades and not the specific ordinances that are  
12 dealing with separate parades?

13 MS. KASTELY: Yeah. I was going to ask him to  
14 identify that. But I can certainly agree with that. We're  
15 talking about in this case Ordinance 2007-1129-1193.

16 MS. SHEEHAN: Okay.

17 Q. BY MS. KASTELY: Are you familiar with that  
18 ordinance?

19 A. Give me just a minute, ma'am.

20 MS. SHEEHAN: Can we take a short break?

21 MS. KASTELY: Off the record.

22 (Whereupon, a break was taken)

23 THE WITNESS: I was wondering where the, the  
24 other sheet that you presented to me was. Okay. Oh, here it  
25 is.

1 Q. BY MS. KASTELY: Okay. So we were just going to  
2 direct your attention to the 2007 ordinance. Let me get it  
3 myself. And so are you familiar with this ordinance?

4 A. Yes, ma'am.

5 Q. And this is what we called the 2007 parade ordinance,  
6 right?

7 A. That is correct.

8 Q. And under this ordinance, what events must be  
9 permitted?

10 A. Just off the top of my head -- like I said, it's been  
11 a while since I reviewed this -- any event that is on the  
12 street that has to do with non-First Amendment events, I  
13 believe. Like I said, it's been a while since I've even read  
14 this thoroughly.

15 Q. Okay. Have you been required to apply this ordinance  
16 recently?

17 A. I've been told I cannot apply this --

18 Q. Okay. Did you apply this ordinance in December of  
19 2007 through February of 2008?

20 A. I believe I did. I think those are the correct  
21 dates.

22 Q. And under this ordinance, if you -- if we look at the  
23 definition of procession, it says that a procession is any  
24 group of persons moving along a thoroughfare, street, alley  
25 from a point of origin to a point of termination. Is that your

1 understanding of what a procession is under this ordinance?

2 A. Yes, ma'am.

3 Q. And in addition, it provides that, or a group of  
4 persons moving in an orderly formal manner anywhere else in the  
5 city from a point of origin to a point of termination. So  
6 presumably --

7 A. I'm sorry. Where are you reading that, ma'am?

8 Q. In the definition of procession under 19630,  
9 Subsection 4.

10 MS. SHEEHAN: Can you restate your question?

11 MS. KASTELY: Yes.

12 Q. BY MS. KASTELY: I first asked whether it was correct  
13 in your view that a procession under this ordinance includes  
14 the movement of a group of people from one place to another on  
15 a street, alley or public thoroughfare. And your answer was,  
16 yes, that is part of your understanding. Is that still  
17 correct?

18 A. Yes.

19 Q. And if you read the definition, you can see that a  
20 procession would also include a group of persons moving from  
21 one point to another anywhere else in the city; is that  
22 correct?

23 A. That's what it says here. Yes, ma'am.

24 Q. And so that would mean anywhere other than on a  
25 street, alley or public thoroughfare, right?

1 MS. SHEEHAN: I object. It calls him to  
2 interpret an ordinance.

3 MS. KASTELY: Which he has to do as part of his  
4 job.

5 Q. BY MS. KASTELY: Isn't that correct, officer?

6 A. That is correct.

7 Q. Could you tell me whether this would include a group  
8 of persons walking anywhere else other than a street, alley or  
9 public thoroughfare?

10 A. I don't believe it was meant to be that way, ma'am.

11 That's my interpretation. And I would have to get with city  
12 legal to formulate it the way that you are giving me the  
13 termination at this time. My understanding is it was just a  
14 street, public thoroughfare, just like the old ordinance was  
15 written back in '88.

16 Q. Okay. So how do you interpret anywhere else in the  
17 city?

18 A. That's where I would have to go ahead and get an  
19 interpretation from the attorney's office, ma'am.

20 Q. Okay. And have you had occasion to request an  
21 interpretation from the city attorney's office?

22 A. No, ma'am. 'Cause it hasn't been formulated to me  
23 the way that you are putting it to me right now.

24 Q. I am not putting it to you. It's in the ordinance,  
25 correct?

1 A. It's in the ordinance. But like I said, the way it's  
2 being formulated right now, it's never been put to me in that  
3 manner.

4 Q. Okay. Now, what is the deadline for filing of an  
5 application under this 2007 ordinance?

6 A. For what type of event?

7 Q. Well, for a non-First Amendment event?

8 A. I believe it's 45 days.

9 Q. And for a First Amendment event?

10 A. It can be -- if I'm not mistaken, I think it's two  
11 days.

12 Q. So it's important for you to decide whether or not a  
13 particular application is for a First Amendment event or not;  
14 is that correct?

15 A. Yes, ma'am.

16 Q. And how do you determine whether or not an event --  
17 or an application is for a First Amendment event?

18 A. I was told there was two ways to do it. One was to  
19 get a -- contact the city attorney's office, or if it was a  
20 type of event that was just clearly known to us to be a First  
21 Amendment event that we could, could go ahead and process the  
22 permit.

23 Q. So --

24 A. But still -- you need to understand, it's still not  
25 my determination.

1 Q. I understand. Absolutely.

2 A. Okay.

3 Q. And as you testified, you did receive some, some  
4 applications under this ordinance. How many times did you  
5 contact the city attorney to ask them whether or not this was a  
6 First Amendment event?

7 A. I don't believe we've had to.

8 Q. And how many times did you on your own determined  
9 that this was clearly known to you as a First Amendment event?

10 MS. SHEEHAN: Hypothetically you mean?

11 MS. KASTELY: He testified that that was the  
12 second way that he would determine.

13 Q. BY MS. KASTELY: Do you ever determine that this was  
14 clearly a First Amendment event?

15 A. I have determined that some of 'em have come across,  
16 and I felt they were First Amendment events.

17 Q. Can you give me an example of one of those?

18 A. The ADA March.

19 Q. Any others?

20 A. Not off the top of my head, I can't give you.

21 Q. And why did you determined that the ADA March was  
22 clearly a First Amendment event?

23 A. It is, it is a march and they're asking about -- or  
24 they are trying to make people aware of their disabilities and  
25 how certain things affect their disabilities, is what I was

1 told.

2 Q. Okay. What about the San Fernando procession in  
3 December?

4 A. That is not -- I did not consider that a First  
5 Amendment event.

6 Q. And why not?

7 A. I just didn't.

8 Q. Did you ask the city attorney about it?

9 A. No, I did not.

10 Q. Did you, did you ask the applicant about whether or  
11 not it's a First Amendment event?

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

13 Q. Can you recall ever asking an applicant whether or  
14 not they were applying for a First Amendment event?

15 A. I have, and I can't remember who they were.

16 Q. Can you recall when that was?

17 A. It would have been within the last couple of months.

18 Q. Okay. And if an applicant said to you, what is a  
19 First Amendment event? How would you explain it to them?

20 A. I would go ahead and just pull this out, right here.

21 And there was a section in here, I believe, that they put in  
22 here of what a First Amendment activity and a First Amendment  
23 procession was and what a non-First Amendment procession was.  
24 They're 6, 7 and 8.

25 Q. And it provides that a First Amendment procession

1 means a procession the sole or principal object of which is a  
2 First Amendment activity. Is that the definition you are  
3 referring to?

4 A. No, ma'am. First Amendment activity shall mean all  
5 expressive and associative activity that is protected by the  
6 United States and Texas Constitution, including speech, press,  
7 assembly, and the right to petition, but not including  
8 commercial advertising.

9 Q. Okay. And so how do you determine whether or not a  
10 particular activity is protected by the United States and the  
11 Texas Constitutions?

12 A. I would ask them what, what they are marching for.

13 Q. And if they say they are marching for, for the  
14 purpose of expressing their love and adoration for the Virgin  
15 de Guadalupe, would that be a First Amendment activity?

16 A. I have no idea what that title is. That would be  
17 something I would definitely send to the city attorney's  
18 office. I have no idea what you are discussing.

19 Q. Okay. If they told you that they were proceeding in  
20 order to show their adoration of St. Mary, would that be a  
21 First Amendment event?

22 A. That would have to be something that the city  
23 attorneys would have -- that's a religious event, as far as I'm  
24 concerned. And I am not sure how they would rule on that.

25 Q. Okay. What if they told you that they were marching

1 because they wanted to show their respect and valuing of  
2 cultural arts?

3 A. I would say, yes, that could be a First Amendment  
4 event.

5 Q. And what if they were marching in support of the  
6 rights of immigrants?

7 A. First Amendment.

8 Q. Okay. Now, we get to the, what apparently is the  
9 current ordinance, and that's the 2008 parade ordinance. Are  
10 you familiar with that?

11 A. I have not seen this one, ma'am.

12 Q. This is the ordinance that was adopted in March of  
13 2008. Have you been shown that?

14 A. I don't remember ever seeing anything with  
15 International Woman's Day March in connection with the court  
16 case coming across my desk.

17 Q. Okay.

18 A. I remember this one.

19 Q. Okay. Let me just ask you one other question on  
20 these and then we'll go ahead to the standard operating  
21 procedures. Under the 2007 ordinance, which you say you are  
22 familiar with --

23 A. Uh-huh.

24 Q. -- and the definition of procession that we just  
25 discussed, where it provides that a procession is a group of

1 persons moving along in an orderly manner on any street, alley  
2 or public thoroughfare or a group of persons moving along in an  
3 orderly manner anywhere else in the city in such a way as to  
4 impede the normal flow or regulation of pedestrian or vehicular  
5 traffic. Okay. That's the definition of procession.

6           Would a group of 5,000 people on the sidewalk  
7 impede the normal flow of pedestrian traffic?

8     A. Yes.

9     Q. And would a group of 500 people on a sidewalk impede  
10 the flow of pedestrian traffic?

11    A. It could. Yes.

12    Q. Okay. Now, I want to look at the standard operating  
13 procedures. Have you seen this document before?

14           MS. KASTELY: I think this has not been produced  
15 by the attorney -- well, it's not Bates stamped. So I think we  
16 will have that marked as an Exhibit.

17           (Exhibit 1 Marked)

18    Q. BY MS. KASTELY: Are you familiar -- I'm now gonna  
19 hand you what has been marked as Exhibit No. 1. It's the same  
20 thing you are looking at.

21    A. Okay.

22    Q. Let me have you look at that.

23    A. Okay.

24    Q. It's the marked copy. And you've gotten a chance to  
25 leaf through it. Are you familiar with that document?

1 A. I am familiar with a portion of this document.

2 Q. What portion of the document are you familiar with?

3 A. It would have been the maps that were on the back and  
4 the information in regards to -- let's see if I can find it  
5 here -- in regards to the permit officer's duties.

6 Q. And what section is that that you are referring to?

7 A. The general requirements, the duties of the permit  
8 holder, the deadlines, the processing of an application --

9 Q. Are you familiar with the -- go ahead.

10 A. No. Go ahead, ma'am.

11 Q. Are you familiar with the section entitled, factors  
12 in determining routing and staffing?

13 MS. SHEEHAN: What section is that?

14 MS. KASTELY: That's Section 06.

15 THE WITNESS: That is up to the lieutenant,  
16 ma'am.

17 Q. BY MS. KASTELY: And what about Section 07, types of  
18 processions?

19 A. That is also what the lieutenant determined as types  
20 of processions.

21 Q. Okay. Did you participate in defining types of  
22 processions?

23 A. No, ma'am. I did not.

24 Q. And so as far as you know, who is responsible for  
25 drafting this portion of the standard operating procedure?

1 A. Lieutenant Chuck O'Dell.

2 Q. And has there come a time in which you were told that  
3 this standard operating procedure would govern your  
4 determinations and estimates on parade permits?

5 A. At this time, ma'am, this has not been physically  
6 handed to me. So I do not even have a true copy of this.

7 Q. I see. So just to be clear, your testimony is that  
8 you are not familiar with the types of processions that are  
9 defined in this standard operating procedure; is that correct?

10 A. Let me read what he has there.

11 Q. Well, before you do that, officer, your testimony is  
12 that you are not familiar with this formulation of the types of  
13 procedures -- of types of processions; is that correct?

14 A. I'm not sure what you're, what you're asking me,  
15 ma'am.

16 Q. Okay. Let's go off the record for a minute.

17 MS. SHEEHAN: Okay. That's fine.

18 (Whereupon, a break was taken)

19 Q. BY MS. KASTELY: Officer Jenkins, we've just been  
20 talking and you again told me that you didn't have anything to  
21 do with the drafting of the, of the standard operating  
22 procedure and haven't applied it yet in the line of your work;  
23 is that correct?

24 A. Yes. That is correct.

25 Q. When you make recommendations -- well, let me ask you

1 -- let me take a step back. You have had occasion to make  
2 recommendations of police service and traffic control  
3 barricades or devices under the 2007 ordinance; isn't that  
4 correct?

5 A. Yes.

6 Q. And inasmuch as you have made such recommendations  
7 after March of 2008, your recommendations have been made under  
8 the ordinances as it was amended in March of 2008; is that  
9 correct?

10 A. I believe so.

11 Q. And what factors do you consider in evaluating the  
12 number of police officers and the types of traffic control  
13 devices that are required under those ordinances?

14 A. We would determine whether they needed a forming  
15 area, a disbanding area for their event. We would determine  
16 the streets that they have asked for and determine a traffic  
17 plan based upon that.

18 Q. And the factors that you would consider, you've  
19 already listed for me the factors that you considered when you  
20 applied the 1988 parade ordinance. Are the factors any  
21 different under the current parade ordinances?

22 A. I don't think so.

23 Q. And under the current parade ordinances, do you  
24 consider the Texas Manual of Uniform Traffic Control Devices?

25 A. Yes.

1 Q. And what parts of the Texas Manual of Uniform Traffic  
2 Control Devices apply to situations of that sort of, created by  
3 parades?

4 A. If you have like a forming area for your event,  
5 because you cannot stage your event on private property, and  
6 you have to use your streets, then a traffic control plan will  
7 need to be used, barricades, advance warning devices, road  
8 closed telling, you know, oncoming traffic that a certain road  
9 is closed for an event.

10 MS. KASTELY: I just object as non-responsive.

11 Q. BY MS. KASTELY: I want to ask you, what parts of the  
12 manual apply to situations created by a permitted parade?

13 A. It would be the time frame in which an event actually  
14 took place, and you would have to go ahead and barricade the  
15 situation off.

16 Q. Okay. I've looked at the traffic manual. And this  
17 is part 6 of the Texas Manual on Uniform Traffic Control  
18 Devices. Does part 6 apply to situations like this?

19 A. You would've had advance warning, transitions --

20 Q. Okay. Let me ask you: Are you familiar with the  
21 manual, Officer Jenkins?

22 A. Yes, I am.

23 Q. And part 6 goes to temporary traffic control  
24 situations; is that correct?

25 A. Uh-huh.

1 Q. And under the manual, would events that we've been  
2 talking about be, be characterized as temporary traffic control  
3 situations?

4 A. Yes, they would.

5 Q. And that's as opposed to permanent things like  
6 traffic lights and stop signs and things like that; is that  
7 correct?

8 A. As far as I remember, yes, ma'am.

9 Q. And what sort of training did you have on the, the  
10 manual?

11 A. I went through a three day course at TEAXS.

12 Q. What's TEAXS?

13 A. Texas A&M Extension Service, I believe is what it is.  
14 And then I've had one refresher course.

15 Q. And when did you first receive that training?

16 A. Probably been May of '03.

17 Q. And when was the refresher course?

18 A. Last year, I believe.

19 Q. Okay. And so the, the situation you were discussing  
20 when there's a forming area in the street and you were  
21 beginning to talk about various barricades and re-routing and  
22 such that would be required, you are talking about what would  
23 be required under part 6 of the manual, correct?

24 A. Temporaries. Yes.

25 Q. And when you take permit applications for parades --

1 I'm gonna hand you this. I'm gonna ask that it be marked as

2 Exhibit 2. Is that document familiar to you?

3 A. Yes, it is.

4 Q. What is that?

5 A. That is an application for permit, for parade permit

6 that we use for all of our events.

7 MS. KASTELY: We're gonna mark that as Exhibit

8 2. It is Bates stamped as IWDM 02012. However, we have marked

9 out the information that was on that page so that this would be

10 a blank page.

11 (Exhibit 2 marked)

12 Q. BY MS. KASTELY: And as you have just testified, this

13 is the form that you use when people come to you to apply for

14 permits; is that correct?

15 A. It's a blank sheet. Yes.

16 Q. And so you said that you would ask people to fill

17 this out, and in the course of filling it out they would tell

18 you the assembly time, the start time and the disbanding time;

19 is that correct.

20 A. No, ma'am. They would not fill this out.

21 Q. Okay.

22 A. I would do this on the computer based upon the

23 information that I received from them.

24 Q. Okay. So what is it that you ask them to tell you?

25 A. Pretty much everything that's on this sheet, ma'am.

1 Q. And when you say assembly time, does anyone ever ask  
2 you what that means?

3 A. I've never had anybody ask me.

4 Q. Okay. So you ask them what is the assembly time?

5 A. Yes.

6 Q. And they --

7 A. I asked them if they want 30 minutes, an hour,  
8 whatever they need.

9 Q. Okay. And what is the start time? What do you mean  
10 by start time?

11 A. The official time that their event is supposed to  
12 leave the forming area.

13 Q. And what is the disbanding time?

14 A. The time that they have left the forming area, their  
15 event is completely done and off the roadway.

16 Q. Okay. You don't mean -- you just testified that the  
17 disbanding time is when they leave the forming area?

18 A. I mean disband -- I'm sorry. Disbanding area.

19 Q. Okay. And so if a, if a march, for example, has a  
20 rally in a park as part of their gathering, they would write,  
21 write the assembly time as the beginning of their rally; is  
22 that correct?

23 A. Yes.

24 Q. And the start time would be when they leave that  
25 first park and go into the street?

1 A. That is correct.

2 Q. And what would be the disbanding time?

3 A. The time that they were actually off the street.

4 Q. And what if they were gonna have a rally at the other

5 end that would last an hour, would you ask them that

6 information?

7 A. No. Because they're off the street.

8 Q. Okay. So in your view, the time between the start

9 time and the disbanding time is the time that the event is on

10 the street?

11 A. That is correct.

12 Q. Okay.

13 A. Oh, can I change something?

14 Q. Please.

15 A. The assembly time can be on the street, too.

16 Q. Okay. When would the assembly time be on the street?

17 A. When you have floats, bands and things like that,

18 when they are forming on the street itself and not on private

19 property.

20 Q. Okay. I am taking -- this is the 2007 application

21 for the Monte Vista 4th of July Parade. It is Bates stamped

22 00734 through 00740. And I'm gonna hand that to you and ask

23 you if you recognize it?

24 A. Yes, ma'am.

25 Q. Okay. So what is the start time for that event in

1 2007?

2 A. 9:30 a.m.

3 Q. And what is the disbanding time?

4 A. 10:30 a.m.

5 Q. And what is the length of that procession?

6 A. I have no idea. I've never walked it or have been to  
7 it.

8 Q. Does it indicate on that sheet what is the length of  
9 the event?

10 A. Approximately, half a mile.

11 Q. Okay. One half mile?

12 A. Uh-huh.

13 Q. So in your understanding then it took -- how many  
14 people were participating in that event?

15 A. They had 400 -- they said they had 400.

16 Q. Okay. So in your understanding, in that event 400  
17 people walked one half mile and it took them an hour; is that  
18 correct.

19 A. That's what they asked for, ma'am.

20 Q. Is that what you understood by that application?

21 A. Yes. They asked for one hour, 9:30 to 10:30 a.m.

22 Q. Did you think that they would be walking very slowly?

23 A. That would be an extremely slow walk. Yes.

24 Q. Extremely slow?

25 A. Uh-huh.

1 Q. How long does it normally take to walk a half of  
2 mile?

3 MS. SHEEHAN: I gonna object to speculation.

4 Q. BY MS. KASTELY: How long would it take you to walk a  
5 half a mile?

6 MS. SHEEHAN: I gonna object. That's  
7 irrelevant.

8 Q. BY MS. KASTELY: You can answer.

9 A. I probably could do it in less than 15 minutes.

10 Q. Okay.

11 A. Moderately.

12 Q. Did you ask them why they would be walking so slowly?

13 A. No, ma'am.

14 Q. Now, I'm handing you what's Bates stamped 00725 to  
15 00731. And it purports to be the application for the Northwood  
16 Neighborhood Association 4th of July Parade. And I'm gonna ask  
17 you the same questions. When did that start?

18 A. 9:45.

19 Q. And when did that end?

20 A. 10:30 am -- or 11:30 a.m. I'm sorry.

21 Q. 11:30?

22 A. Uh-huh.

23 Q. And how long was that march?

24 A. And hour -- I'm sorry. It would have been an hour  
25 and a half -- an hour and 45 minutes.

1 Q. And what is the length that they marched?

2 A. A half a mile, it says.

3 Q. Half a mile?

4 A. Uh-huh.

5 Q. And how many people marched there?

6 A. 250.

7 Q. And in your view, do you think that they actually

8 took an hour and 45 minutes to walk a half of mile?

9 MS. SHEEHAN: I object. Calls for speculation.

10 Q. BY MS. KASTELY: At the time you took this permit

11 application did you believe that they would be on the street

12 for an hour and 45 minutes?

13 A. No.

14 Q. Did you prepare -- in this case, did you prepare an

15 estimate of the traffic control plan?

16 A. No. I would not have.

17 Q. And why not?

18 A. Because it was handled by an off duty officer.

19 Q. Okay. And what about the Monte Vista Parade?

20 A. Yes.

21 Q. And what was your estimate in that case?

22 A. 394.72.

23 Q. And what did that consist of?

24 A. Five officers.

25 Q. And why were five officers necessarily?

1 A. When we figure a lead and a tail, two officers and a  
2 supervisor.

3 Q. Okay. And for how long would they be directing  
4 traffic?

5 A. This is based upon three hours.

6 Q. And why is it based upon three hours?

7 A. Because I base almost every single event that I have  
8 on at least three hours.

9 Q. And why do you do that?

10 A. It's just an easy number to control.

11 Q. Okay. Does it matter how long the event is going to  
12 be on the streets?

13 A. Yes, it does.

14 Q. Well, if an event is going a half a mile, would you  
15 estimate that it would be on the streets for three hours?

16 A. It could be on the street for three hours, ma'am.

17 Q. And your testimony is that that is what you would  
18 normally estimate?

19 A. That's the way I just do my estimating.

20 Q. Okay. Now, you said that you had not prepared a  
21 traffic control plan for the Norwood Parade because it was  
22 going to be handled by an off duty officer; is that correct?

23 A. The Northwood?

24 Q. I'm sorry. What is this one?

25 A. Northwood.

1 Q. Yeah, Northwood. So you did not prepare a traffic  
2 control plan in that case?

3 A. No.

4 Q. And why is that?

5 A. Officer Guary contacted me on the phone.

6 Q. Okay.

7 A. He said he was gonna supply four officers for this  
8 event, a lead, a tail and two officers on bicycles to run this  
9 event.

10 Q. Who is Officer Guary?

11 A. He is an officer of San Antonio Police Department.

12 Q. Is he in the traffic control division?

13 A. No. He is not.

14 Q. And is it written anywhere how many officers Officer  
15 Guary would arrange?

16 A. No. Not that I know of.

17 Q. Is it your responsibility to create a traffic control  
18 plan in a case like this where it's going to be handled by an  
19 off duty officer?

20 A. No. It's the officer's job to supply us or tell us  
21 what he plans to use for this event, and then we go ahead and  
22 approve that, or not.

23 Q. And yet you said that it's not -- there's no  
24 requirement that that officer write down what that plan is?

25 A. No, ma'am.

1 Q. What if an event is going to be handled by a  
2 constable's office, is there a requirement that the constable  
3 write down a traffic control plan for you to evaluate?

4 A. It is -- they are supposed to come to our office and  
5 discuss what they want to do with the particular event. As a  
6 matter of fact, I -- with all the events that the constables  
7 have come in to, I have assisted them with their traffic  
8 control plan.

9 Q. Okay. And how do you decide whether or not the  
10 amount of officers and the amount of traffic control devices  
11 that a off duty officer or a constable wants to use is an  
12 appropriate number?

13 A. I do not.

14 Q. Who does?

15 A. The lieutenant.

16 Q. And, and how does the lieutenant get that  
17 information?

18 A. He gets it from me.

19 Q. Does the lieutenant sit in on a meeting with the  
20 constable or the off duty officer?

21 A. They have. Yes.

22 Q. Do they always?

23 A. No.

24 Q. And does Officer Guary have training in traffic  
25 control plans?

1 A. Yes.

2 Q. Is he familiar with the Texas Manual of Uniform

3 Traffic Control Devices?

4 MS. SHEEHAN: If you know.

5 THE WITNESS: I have no idea.

6 Q. BY MS. KASTELY: And another officer is Officer

7 Lutton. Who is Officer Lutton?

8 A. He is a bike patrol officer downtown.

9 Q. And does he occasionally do traffic control?

10 A. Yes, he does.

11 Q. Is he in the traffic control division?

12 A. No. He's on bike patrol.

13 Q. Okay. And in the situation where Officer Lutton says

14 that he will handle a parade, do you prepare a traffic control

15 plan?

16 A. No. I do not.

17 Q. So you allow Officer Lutton to prepare the traffic

18 control plan?

19 A. That is correct.

20 Q. Now, when you have an application for a parade such

21 as the two that you just looked at, do you calculate how long

22 it will take for the procession to cross each intersection?

23 A. Not particularly. No.

24 Q. And in terms of the charging for police services, are

25 all of the payments for police services for parades and

1 processions, do all of them go through you?

2 A. Yes.

3 Q. And in each case do you send an invoice to the  
4 permittee?

5 A. Yes. It's a request letter. It's not an invoice.

6 Q. Okay. What is a request letter?

7 A. Just stating that their event took place and the  
8 amount that they owe to the San Antonio Police Department, due  
9 back to the city within 30 days.

10 Q. Okay. And, of course, you've already testified that  
11 some events that you understand to be sponsored or co-sponsored  
12 you don't prepare that request letter; is that correct?

13 A. I'm sorry?

14 Q. You've already testified that in, that in some  
15 events, that is those events that you understand are being  
16 sponsored or co-sponsored by the city, you don't prepare a  
17 request letter?

18 A. If they have asked, I have.

19 Q. If they ask for --

20 A. If they've asked for the invoice, I have presented it  
21 to them.

22 Q. I see. But there are some situations in which you  
23 have not prepared a request letter?

24 A. That is correct.

25 Q. And the documents that were, were provided to the

1 plaintiffs in this case, as I understand it, come from your  
2 files; is that correct?

3 A. That is correct.

4 Q. And in each case if a request letter was produced,  
5 would it have been in your files?

6 A. It would not have been attached to the permit. It  
7 would have been kept in a notebook that I have for request for  
8 payment.

9 Q. Okay. And when we provided the city attorney with  
10 our request for production and asked for all documents relating  
11 to the payment or invoicing or billing of police services,  
12 would your files have been provided?

13 A. You received a spread sheet with all payments and  
14 everything that was received in my office.

15 MS. KASTELY: Can we go off the record?

16 MS. SHEEHAN: Fine.

17 (Whereupon, a break was taken and Mr. Pasqual  
18 left the room)

19 Q. BY MS. KASTELY: We're back on the record. And  
20 Officer Jenkins, you testified about a spread sheet that you  
21 created that would show what payments had been made to the City  
22 of San Antonio Police Department for services connected to  
23 parades in the last five years; is that correct?

24 A. Yes.

25 Q. And I'm handing you the notebook, including pages

1 that are Bates stamped 00226 through 00274. And those are in  
2 your notebook under heading -- well, are you, are you starting  
3 at 00226?

4 A. I don't know how you are --

5 Q. All right. It's actually your last section, costs.

6 A. Okay.

7 Q. It's under the heading of costs.

8 A. Uh-huh.

9 Q. Okay. Are these the spread sheets to which you  
10 referred?

11 A. No. These are the spread sheets on 00102.

12 Q. 00102. Okay. And what is that entitled here, it is  
13 in the section marked estimates outside agency; is that  
14 correct?

15 A. Uh-huh.

16 Q. Okay.

17 MS. SHEEHAN: Is this marked as --

18 Q. BY MS. KASTELY: And what's the Bates marking?

19 A. 00102.

20 Q. Okay. I don't have a copy. But you explain to me  
21 what's on there.

22 A. Okay. The parade permit number, the name of the  
23 parade, the day of the parade, who worked the parade, straight  
24 time cost, comp time cost, overtime cost, and actual cost.

25 Q. Okay. And where does it indicate how much was paid

1 for those parades?

2 A. It would have been -- on here, it doesn't say.

3 Q. Okay. Did you prepare a spread sheet that -- where  
4 it had a column for how much had been paid?

5 A. It must not have been in this book here. I supplied  
6 you with everything that I had in that book.

7 Q. Okay. Was, was there another column on this chart on  
8 page 102 -- 00102?

9 A. Yes. This is 102.

10 Q. Was there another column that indicated what had been  
11 paid for?

12 A. I do not know, ma'am.

13 Q. Is there anything that you prepared -- well, let me  
14 take a step back. Can you locate in those materials the spread  
15 sheet to which you are referring when you said there was a  
16 spread sheet that would show what had been paid for?

17 A. Yeah. These events here on 00226.

18 Q. Okay. What does that show?

19 A. The St. Patrick's Day Parade, the actual cost, All  
20 American Armed Forces, the Race for the Cure, the San Juan of  
21 the Cross, 60 Plus Mardi Gras.

22 Q. Where does -- excuse me. But on page 00226, where  
23 does it show how much was paid to you?

24 A. It just shows actual costs, ma'am, of the event.

25 Q. Is there anything that shows how much was paid to

1 you?

2 A. No. Not -- I'd have to flip all the way through  
3 here. Because I think this is a hodge podge of what was in my  
4 notebook.

5 Q. Okay.

6 A. I think there are certain things in here that were  
7 not in that notebook that you asked me for at court.

8 MS. SHEEHAN: Can we go off the record for a  
9 second?

10 MS. KASTELY: Yes.

11 (Whereupon, a break was taken)

12 MS. KASTELY: It appears that we are missing  
13 some of the information documents that Officer Jenkins has  
14 referred to. And as a consequence, we're going to continue  
15 this deposition. That will impact the briefing schedule on the  
16 defendant's motion to dissolve the temporary injunction.

17 So we have now agreed that that briefing  
18 schedule will be extended for two weeks, so that the  
19 plaintiff's response will be due on August 4th. And in the  
20 meantime, we will mutually select dates for the continued  
21 deposition of Officer Jenkins and the deposition of Officer  
22 Chuck O'Dell.

23 MS. SHEEHAN: And you said 2003 to 2008? Is  
24 that what you said?

25 MS. KASTELY: Yes.

1 MS. SHEEHAN: And we're talking about the flow  
2 charts?

3 MS. KASTELY: Yes. What Officer Jenkins has  
4 referred to as spread sheets.

5 MS. SHEEHAN: Okay.

6 MS. KASTELY: We're talking about the documents  
7 that he has referred to as spread sheets from 2003 through  
8 2008. And in particular, we need to ensure that we are  
9 receiving copies that include the recovered column, which would  
10 indicate the payments made to the City of San Antonio Police  
11 Department.

12 MS. SHEEHAN: Okay. And on the record still,  
13 then we are cancelling the deposition of Officer O'Dell for  
14 Thursday?

15 MS. KASTELY: That's correct.

16 MS. SHEEHAN: And we'll then agree to try to  
17 work out dates?

18 MS. KASTELY: Yes.

19 (Deposition adjourned)

20 AUGUST 4, 2008

21 MS. KASTELY: This is the continued deposition  
22 of Officer William Jenkins.

23 CONTINUED EXAMINATION

24 Q. BY MS. KASTELY: Officer Jenkins, in preparation for  
25 the continuing deposition today, have you gotten a chance to

1 review any documents?

2 A. I reviewed the document that you gave me the other  
3 day, the one that was co-sponsored events.

4 Q. Oh, the co-sponsored ordinance?

5 A. Uh-huh.

6 Q. Okay.

7 A. Then I went ahead and finished off a spread sheet for  
8 the total billing of all events through 2008 current.

9 Q. Okay.

10 MS. KLEIN: If I could just on the record, we  
11 provided a copy of that this morning. It's marked as IWDM  
12 05832.

13 Q. BY MS. KASTELY: And did you get a chance to read the  
14 standard operating procedure?

15 A. No, ma'am. I did not.

16 Q. Okay. All right. I wanted to begin by asking you  
17 just to walk me through the process. If I'm part of a group  
18 that wants to have a march in opposition to the invasion of  
19 Iran, and I have this vague idea that I need to have a permit.  
20 I call 311. Would they give me your number?

21 A. Yes, ma'am.

22 Q. And then when I called you, what would happen?

23 A. I would ask that you come into the office or give me  
24 some form through E-mail of what your planned route is.

25 Q. Okay.

1 A. And then --

2 Q. Go ahead.

3 A. And date and time of your event.

4 Q. Okay. Is there a form online that I could fill out?

5 A. Not that I know of, ma'am.

6 Q. And if, if I did send you an E-mail message telling  
7 you the date and time and the route that we were planning,  
8 would it be necessary for me to meet with you?

9 A. Yes. 'Cause you would have to sign the permit.

10 Q. Okay.

11 A. And that's when we would go over the permit to make  
12 sure that what you have asked for is correct on the permit.

13 Q. Okay. And when I -- let's say I didn't send you an  
14 E-mail. I just came in to meet with you. What would happen at  
15 that meeting?

16 A. We would go ahead and sit down and have a permit  
17 drawn, or we would just sit down and have a discussion on what  
18 you plan to do for that particular event. And then you may  
19 come back later to sign the permit once it's completed, or  
20 whatever arrangements that we make.

21 Q. Okay. And the last time we looked at what's marked  
22 as Deposition Exhibit 2, which actually isn't entirely blank.  
23 It has some information about Martin Luther King. But would  
24 you use that form in that first meeting with a person who is  
25 interested in having a march?

1 A. I would make sure that I got this information to

2 complete this form. I think we discussed that earlier.

3 Q. Okay. And would you -- on there it says the date and

4 time of the event; is that correct?

5 A. You are talking about the parade date?

6 Q. Yes.

7 A. Okay.

8 Q. It asks for the parade date?

9 A. Yes.

10 Q. And the day of the week?

11 A. Yes.

12 Q. Okay. It asks for the assembly time, the start time

13 and the disbanding time?

14 A. That is correct.

15 Q. Do you ever ask how much time the march will be in

16 the street?

17 A. I have. Yes.

18 Q. Do you always ask how much time the march will be in

19 the street?

20 A. I would say 95 percent of the time normally.

21 Q. Yet there's nothing in the form that allows you to

22 record that?

23 A. Could you restate the question?

24 Q. Is there any place in that form where you can record

25 the amount of time that the organizers intend to be in the

1 street?

2 A. No.

3 Q. And do you ask whether or not the organizers want to  
4 have the access to the entire street that they are talking  
5 about or just one or two lanes of the street?

6 A. Yes, ma'am, we do.

7 Q. Do you always ask that question?

8 A. Yes.

9 Q. And if they indicate that they want to have just one  
10 or a partial street closure, what is your response?

11 A. I would note that on a sheet of paper or whatever  
12 until I go ahead and fill out this form completely. And then  
13 that would be submitted to the lieutenant.

14 Q. Do you ever disapprove or suggest to the organizers  
15 that it would not be appropriate to have a one lane or less  
16 than a full closure of the street?

17 A. Yes, we have.

18 Q. In what circumstances would you do that?

19 A. When they have streets such as Commerce Street where  
20 they would want to block off the entire street and they are  
21 telling me they only have like 1 or 200 people. We just don't  
22 feel like that would be prudent to block off a major street  
23 like that. So we would discuss with them just doing a one lane  
24 closure for that event.

25 Q. Do you ever recommend the other direction, in other

1 words, if an organizer wants to have a one lane or partial

2 closure, do you suggest to them that that would be

3 inappropriate, that they should have a full closure instead?

4 A. I can't remember if I have or not.

5 Q. And if, if the organizer doesn't indicate to you that

6 they have any preference between a full closure or a partial

7 closure, what will you do?

8 A. That would be up to the lieutenant to decide on

9 whatever he felt was best for the safety of that event.

10 Q. Do you ever recall an instance in which either

11 Lieutenant O'Dell or Lieutenant Quintanilla has suggested that

12 a march be either a partial closure or a full closure?

13 A. I can't think of a particular event. But I'm sure it

14 has happened.

15 Q. Okay. And on that sheet there's a space for

16 barricades. How do you determine whether to check yes or no

17 for the barricades?

18 A. That would be after the discussion with the

19 lieutenant on the event and he has determined that barricades

20 will be used for the event.

21 Q. And is that -- is it your testimony that you discuss

22 each and every permit application with either Lieutenant O'Dell

23 or Lieutenant Quintanilla?

24 A. All new events, I do. Yes.

25 Q. And for events that have taken place in the past?

1 A. We normally take on the same traffic control plan  
2 that we have in the past, unless a concern has come up from the  
3 applicant in regards to the event.

4 Q. Okay. And you said that Lieutenant O'Dell and  
5 Lieutenant Quintanilla decide what barricades would be required  
6 and whether a full or partial closure would be appropriate?

7 A. No. If we have a -- they don't tell me what  
8 barricades are to be used for the event. What they do is they  
9 tell me they have a partial closure for the event. And when  
10 the partial closure for the event comes up, and we have traffic  
11 still on the road that they've told me that they are gonna run  
12 peds on one side, vehicles on the other, then we go ahead and  
13 make the determination of what traffic control devices,  
14 channeling devices we're gonna use to go ahead and separate  
15 people from vehicular traffic.

16 Q. And is there ever an instance in which there is an  
17 on-street march where barricades are not required by the San  
18 Antonio Police Department?

19 A. Yes.

20 Q. And what would be the circumstances in which they  
21 would not be required?

22 A. Our 4th of July Parades that we have.

23 Q. And why are they not required in those parades?

24 A. They are normally in residential areas, somewhere  
25 around 9:00, 10:00 o'clock normally in the mornings, in which

1 traffic flow is low.

2 Q. Can you -- or would you ever approve a permit

3 application in which the barricade box was checked no that was

4 in some part of the city other than a residential area?

5 A. I'm sure we have. Yes.

6 Q. And what would be the circumstances in which you

7 would do that?

8 A. It would have been where the lieutenant is using a

9 lead and a tail and a couple of flankers for the event.

10 Q. Okay. And when would the lieutenant order that there

11 be a lead and a tail and a couple of flankers?

12 A. You would have to talk to him about that, ma'am.

13 Q. Do you have any input into that decision?

14 A. I have input ma'am, but my input strictly goes to

15 him. And whatever he decides for that event, it's his

16 decision, ma'am.

17 Q. Okay. Is a lead and a tail used only when there are

18 not other -- or when, when there are not traffic control

19 devices used, in other words, not barricades used?

20 A. No. We use a lead and a tail for, I think, almost

21 every event.

22 Q. And if you have an event where there is a full

23 closure of a, of a street, for example, Houston or Commerce or

24 Travis sometimes, why would you need a lead and a tail?

25 A. Because what you might have a problem with, there are

1 always some kind of circumstances where vehicular traffic can  
2 get on to the route, whether they go around the barricade,  
3 whether they go through a barricade, whether they come out of a  
4 private drive. That vehicle is there to make sure that nobody  
5 gets to the parade participants.

6 Q. But if someone came out of a driveway after the lead  
7 car had gone past, how could the lead car or tail car prevent  
8 it from interfering with the parade?

9 A. That's why we have flankers on the route.

10 Q. Has an, has an organizer ever told you that they did  
11 not want to have a lead police car?

12 A. Don't know. I don't think so.

13 Q. Can you imagine a situation in which an organizer may  
14 not want to have a police car lead the parade?

15 MS. KLEIN: Objection.

16 Q. BY MS. KASTELY: You can answer.

17 A. Why they would not want one?

18 Q. Yes.

19 A. I would think if they were to come to us and say they  
20 did not want one, I would think that it would be up to the  
21 lieutenant to sit down with that applicant and discuss what  
22 that -- to that applicant why the vehicle is there and inform  
23 them of the liability that the city has and they have for the  
24 event if they are demanding that that vehicle is not there.  
25 Like I said, I'm just, just guessing. That's, that's my

1 feeling.

2 Q. And the lieutenant, Lieutenant O'Dell testified that  
3 sometimes organizers actually want to have the parade led off  
4 by a, by a police car and maybe some motorcycle policemen. Is  
5 that true in your experience?

6 A. Yes. They have asked for it.

7 Q. And, and why would someone ask for that?

8 MS. KLEIN: Objection, form.

9 Q. BY MS. KASTELY: Go ahead.

10 A. They have -- they've asked specifically for  
11 motorcycles to lead the parade, from what I remember, just --  
12 and that's pretty much the only time I remember anything ever  
13 coming up on that.

14 Q. Would that be for sort of appearance sake?

15 MS. KLEIN: Objection, form.

16 THE WITNESS: I would think so.

17 Q. BY MS. KASTELY: Do you always ask organizers whether  
18 they want to have a police car lead the parade?

19 A. I think I answered that question already. No. We  
20 haven't brought that up.

21 Q. All right. So then we have this meeting and you fill  
22 out this form and you are doing the filling out. And then what  
23 happens?

24 A. Once this form is completed, the lieutenant will tell  
25 me to go ahead and submit the form to the applicant, that it

1 has his approval. And then the applicant would come into the  
2 office. I would have the applicant sign the permit. They  
3 would go ahead and initial the date of the event and the start  
4 time of the event and initial the route that they have asked  
5 for.

6 Q. And if I didn't E-mail you the information and just  
7 came in for my first meeting, would that, that approval and  
8 signing and initialing happen in that first meeting?

9 A. More than likely not, unless the lieutenant was in  
10 the office where I could discuss that with him, unless there's  
11 been a previous event.

12 Q. Okay. So how many days would pass between the first  
13 meeting and then -- would you call me to tell me to, to come  
14 in?

15 A. I would probably tell you that day to give me a day  
16 or two to go ahead and talk to the lieutenant, depending on  
17 when he's in the office.

18 Q. And during that first meeting have organizers ever  
19 asked you what you mean by the disbanding time?

20 A. No. I don't believe so.

21 Q. How do you explain that to them when you ask them  
22 that question?

23 A. The time that they are officially off the street.

24 Q. And what if they say, well, we're gonna have a rally  
25 at Milam Park for an hour, then what should the time be that's

1 written down there?

2 A. The time that you are off the street.

3 Q. Last time you testified that you routinely assume

4 that marches are gonna take three hours. Do you recall -- is

5 that true?

6 A. No. I figure my cost-up of three hours.

7 Q. Okay. And that would be the cost of the police

8 officers?

9 A. Yes, ma'am.

10 Q. And do you ever -- well, at what point would the

11 organizer receive an estimate of the costs that you foresee?

12 A. When they come to my office prior to the event

13 beginning.

14 Q. At the first meeting?

15 A. We would discuss with them at the meeting that we

16 have with them their estimated costs for their event.

17 Q. Okay. And in a typical application -- not that there

18 are any typical ones, I've come to learn. But I'm looking now

19 at the St. Pat's Day Parade for 2007, and I think -- yes. I'm

20 looking at page marked 00365. Is that a form that you

21 frequently use?

22 A. Yes.

23 Q. And what is that form used for?

24 A. To notify our Deputy Chief of the on duty officers to

25 be used for the event, the off duty officers to be used for the

1 event and the estimated costs for the event and the amount to  
2 be paid by the applicant for the event.

3 Q. Okay. And is that form given to the organizer?

4 A. No. It is not.

5 Q. Does the organizer receive any version of that  
6 information in writing?

7 A. No. But they, they did initial it.

8 Q. And what does that initialing indicate to you?

9 A. That they are aware that there's gonna be a cost for  
10 the event.

11 Q. Okay. So at the first meeting, is it your testimony  
12 that at the first meeting you do discuss costs with organizers  
13 for every parade that you do?

14 A. I try to as much as I can. Yes, ma'am.

15 Q. And is the estimate that you give them the same as  
16 the estimate that you used to fill out that form?

17 A. Sometimes yes, sometimes no and sometimes a little  
18 bit over.

19 Q. And why would there ever be a difference between what  
20 you tell the organizers and what you write in that form to  
21 inform your supervisors, or your superiors?

22 A. Because these are estimated costs, ma'am. They are  
23 not guaranteed costs. And a PEMS has not been completed for  
24 this event 'cause it has not taken place yet.

25 Q. Do you, do you contact the organizers to tell them

1 that there's been a change in your estimate of the cost for the  
2 march?

3 A. I have. Yes.

4 Q. Do you always do that?

5 A. No.

6 Q. When would you do that?

7 A. Well, the reason why I remember this particular event  
8 back in '06, I believe, maybe '05 -- I can't remember exactly  
9 what year it was -- I gave them an estimate. And our bill came  
10 out to something like 2000 to \$3,000 over the price of the  
11 event.

12 And the reason was is because the DI's test took  
13 place during the same time as this.

14 Q. Okay.

15 A. And the lieutenant didn't have any choice, because  
16 there was no officers available, he had to hire overtime  
17 officers for it. And the amount sky rocketed on us. And so I  
18 did contact them because that, that event just sky rocketed on  
19 up.

20 Q. Okay. And then after you have this initial meeting,  
21 or maybe a few days later the organizer comes in and, you said,  
22 signs the permit application; is that correct?

23 A. Okay. Try that -- I'm sorry.

24 Q. I'm just back to your testimony, walking me through.

25 You said that in the first meeting you do give them some

1 estimates. If the lieutenant is there, you may be able to get  
2 it approved right away, and then the applicant would sign it?

3 A. Yes.

4 Q. Is that correct?

5 A. Well, it'd take 30 minutes, 40 minutes for me to do  
6 the permit process. Yes.

7 Q. And if the lieutenant isn't there that day, then the  
8 applicant could come back another day?

9 A. They could. Yes.

10 Q. And what would they have to sign?

11 A. It would be just the permit.

12 Q. That's like this Exhibit 2 that we were talking  
13 about?

14 A. Yes.

15 Q. Are there any other forms that they're required to  
16 sign?

17 A. No. Just the information that's in the permit.

18 Q. Are they required to promise to pay for traffic  
19 control devices?

20 A. That, if you look on the permit, the very beginning  
21 of it.

22 Q. Yes.

23 A. I believe there's a statement in there, S.A.P.D.  
24 will provide traffic assistance, applicant will provide traffic  
25 control devices.

1 Q. Okay. And that's your reading from 00357. What  
2 about this document on 00369, is that a form that you normally  
3 use?

4 A. Yes, ma'am.

5 Q. And what is that?

6 A. This is the traffic control device form. And it  
7 typically says that an on duty police officer will go ahead and  
8 check the barricading to make sure that it is correct for the  
9 event.

10 Q. And is that required to be signed?

11 A. If there are barricades? Yes.

12 Q. What if the, the organizer says, they don't want to  
13 sign that?

14 A. Then I guess they don't sign it.

15 Q. And what are the consequences?

16 A. To be honest with you, I've never had that happen.  
17 So I would not know.

18 Q. Okay. And another part of this packet is what  
19 appears on 00359. And what is that document -- or is that a  
20 document that you normally use?

21 A. Yes. This is the form that we fill out to give to  
22 the barricade company so that the barricade company can go  
23 ahead and give their estimate to the applicant for the parade.

24 Q. And who writes or who completes that form?

25 A. I do.

1 Q. And when in the process do you complete that form?

2 A. It would have been either prior to the signing of  
3 this, if I have time to do it, or I will go ahead and tell them  
4 I haven't had time to go ahead and do the barricade form at  
5 this time. And I'll get it done and you'll get an estimate  
6 from the barricade company for the event.

7 Q. And so then how could the -- how would the barricade  
8 company get a copy of that document?

9 A. I fax it to them.

10 Q. And I believe it says in that form that the barricade  
11 company can make any additional -- or can set up any additional  
12 barricades as they see fit; is that correct?

13 A. The barricade company has the right to add any item  
14 to this list in order to make the barricade restrictions comply  
15 with the Texas Manual of Uniform Traffic Control Devices.

16 Q. Okay. Can you recall an instance in which the  
17 barricade company added traffic control devices to the ones you  
18 had listed in that form?

19 A. Not that they told me.

20 Q. In your understanding, does the barricade company  
21 also have the authority to omit some of the barricades that  
22 you've listed in that form?

23 A. If it still complies with the, the manual, yes, they  
24 could.

25 Q. Can you recall an instance in which a barricade

1 company has done that?

2 A. No.

3 Q. And are you involved in the negotiations or in the  
4 process in which the city takes bids from barricade companies  
5 for their own contracting process?

6 A. No, I'm not.

7 Q. Who is it who negotiates those contracts with the  
8 barricade company?

9 A. The traffic engineer more than likely, Edward Mery  
10 M-e-r-y. And the, I guess the budgeting or purchasing  
11 department, whoever lets the bid.

12 Q. Okay. Are you aware that there are two costs lists  
13 for barricades in the city contracts with the barricading  
14 company, that is one for construction projects and one for  
15 special events or parades?

16 A. Yes, ma'am.

17 Q. And you are aware that the prices differ enormously?

18 A. I'll be honest with you, I don't know what the  
19 difference in price is.

20 Q. Okay. For example, a type 3 barricade used for the  
21 construction purposes rents at 50 cents a day. And are you  
22 aware of what it rents at for parades?

23 A. No, ma'am. I am not.

24 Q. Would you be surprised that it rents for \$15.00 a  
25 day?

1 A. No. I would not.

2 Q. Do you know why there's such a huge price  
3 differential between construction work and parades?

4 A. I would guess it would have to do with the amount of  
5 days of rental.

6 Q. That is -- could you explain that?

7 A. Well, if you have a parade you are using, let's say a  
8 type 3, like you said, for a three-hour event, okay, in which  
9 it has to be picked up and taken back at the same day. And I'm  
10 guessing that on a construction project, you could have type 3  
11 barricades out there for months or years, depending on how long  
12 the project goes for.

13 Q. That's correct. You also could have them out for one  
14 day; isn't that correct?

15 A. I guess you could. Yes.

16 Q. And the barricade company also charges for the truck  
17 and labor, isn't that correct, of setting up?

18 A. I'm sure that's in there. But I don't know.

19 Q. And if in this hypothetical I come to you and I say  
20 that I'm gonna have 500 people in my march and we're gonna  
21 march down Flores. We're gonna assemble at the, the library.  
22 March to Flores on to -- what's that street over by Fox Tech?

23 A. Okay. I know what you are talking about.

24 Q. From Main Street to Flores and then march south on  
25 Flores.

1 A. Okay.

2 Q. To City Hall.

3 A. Okay.

4 Q. And it's gonna happen on Saturday from 10 to 12.

5 A. Okay.

6 Q. What kind of barricades would you think that I would  
7 have to have for that?

8 A. You have 500 people?

9 Q. 500 people.

10 A. It would be the lieutenant's call. But I probably  
11 think that you could probably do with a lead and a tail and  
12 some flankers.

13 Q. And what if I had 1,000 people?

14 A. That's gonna be his call, ma'am.

15 Q. What would you recommend?

16 MS. KLEIN: Objection, form.

17 THE WITNESS: I would probably suggest that he  
18 would go ahead and have a multi-lanes at that time.

19 Q. BY MS. KASTELY: Uh-huh.

20 A. With vehicular traffic that can still flow on one  
21 side of Main Street and then that they could go ahead and have  
22 barricades for that event.

23 Q. Okay. And, and what kind of barricades would I need  
24 for a, a multi-lane event like that?

25 A. You'd have to have a taper for the two lanes with

1 channeling devices that told the people to be on one side,  
2 vehicular traffic on the other. And then if anything from any  
3 side streets --

4 Q. Uh-huh.

5 A. -- were to impede inside of that particular  
6 closure --

7 Q. Yes.

8 A. -- like you have a mandatory right or mandatory left,  
9 you might want to close those.

10 Q. And in your experience, what would be the cost for  
11 barricades of that sort?

12 A. I would say you are looking at anywhere between 1,500  
13 to \$2,000.

14 Q. Okay. Now, I'm looking at the documents that you-all  
15 recently produced, which are a packet from 5817 through 5831.  
16 This is an unnumbered one, but I wanted to -- I think you, you  
17 could probably make sense of that. Do you recognize that  
18 document?

19 A. Yes.

20 Q. Have you calculated how many events occurred in each  
21 of these years from 2003 through 2007?

22 A. Well, the number of the, of the events would be on  
23 here.

24 Q. By the --

25 A. The parade permit.

1 Q. Okay. Of course, there, there are some that are  
2 cancelled?

3 A. Yes.

4 Q. And if you look on, on the second page, there are a  
5 whole group that are blank. Maybe you don't have that one.

6 A. No. We're looking at two different things.

7 Q. Okay. Why don't you look at mine then.

8 A. Okay.

9 Q. Do you know why all those are blank?

10 A. No. I do not.

11 Q. Okay. Now, just looking at 2003, I believe there are  
12 110 permits; is that correct?

13 A. Yes.

14 Q. And out of those 110 events, how many did the San  
15 Antonio Police Department work?

16 MS. KASTELY: Let's go off the record.

17 MS. KLEIN: Yes.

18 (Whereupon, a break was taken)

19 Q. BY MS. KASTELY: Thank you, Officer Jenkins, for your  
20 efforts. Have you been able to calculate, for example, in 2003  
21 how many events there were, or did you just begin with 2004?

22 A. I began with 2004.

23 Q. And how many events were in 2004?

24 A. A total of 99.

25 Q. Okay. And of those 99 how many were worked by the

1 San Antonio Police Department?

2 A. The ones that I'm aware of are 59.

3 Q. And of those 59, how many were the costs waived for?

4 MS. KASTELY: I guess we can go off the record.

5 (Whereupon, a break was taken)

6 Q. BY MS. KASTELY: Thank you again for your efforts.

7 And were you able to determine how many of the 59 parades  
8 worked by San Antonio Police Department in the year 2002 the  
9 costs were waived?

10 A. I didn't do 2002.

11 Q. I'm sorry. 2004?

12 A. Okay.

13 Q. In 2004?

14 A. There's 27.

15 Q. Okay. And in 2005, how many events were there?

16 A. We got 99.

17 Q. Okay. And how many of those were worked by San  
18 Antonio Police Department?

19 A. 42.

20 Q. And how many of those 42 had the costs waived?

21 A. 32.

22 Q. And for 2006?

23 A. 36.

24 Q. I'm sorry. How many were the total number of  
25 marches?

1 A. I'm sorry. 88.

2 Q. And how many were worked by San Antonio Police

3 Department?

4 A. 36.

5 Q. And how many were waived?

6 A. 17.

7 Q. And then for 2007, the total number would be?

8 A. 80.

9 Q. And how many of those were worked by the San Antonio

10 Police Department?

11 A. 46.

12 Q. And how many of those 46 had the, had the costs

13 waived?

14 A. 29.

15 Q. Okay. In some various places in there there's an

16 indication of no P-E-M-S. What does that mean?

17 A. That means that the lieutenant did not develop a PEMS

18 sheet for that event.

19 Q. And what is a PEMS sheet?

20 A. That is a list of the officers, the list of the times

21 that they were on the event, and then it gives you a total cost

22 of the event.

23 Q. In those instances where, where -- let me take a step

24 back. How would you, how would you normally get the

25 information of the, of the officers who worked a particular

1 parade?

2 A. Through the lieutenant.

3 Q. Okay. Would -- in other words, is there something  
4 that you would call a PEMS sheet?

5 A. No. A PEMS is the sheet that the lieutenant uses to  
6 list the officers, to list the times that they worked. And  
7 that will give you a cost of what the event is.

8 Q. Okay. And let me, let me get at it this way. In a  
9 normal event, a normal parade, would there be a time after the  
10 parade had happened that you would sit down and review the  
11 PEMS?

12 A. Yes.

13 Q. And when would that be?

14 A. When the event is over with.

15 Q. Okay. And for what purpose would you review the  
16 PEMS?

17 A. To go ahead and do billing from that PEMS.

18 Q. And when you sit down and are you sitting at a  
19 computer to recover the PEMS?

20 A. Yes.

21 Q. And when you sit down to recover the PEMS and you  
22 find that there is no PEMS, what does that mean to you?

23 A. That means that either the lieutenant might have  
24 forgotten to do the PEMS. In which case, I would go and remind  
25 him that I need a PEMS for the event. Or it could be that it

1 was a monitor only event, and which we didn't do any traffic  
2 control or anything like that. It's really something you'd  
3 have to ask the lieutenant.

4 Q. Okay. And, for example, on this sheet, I'm looking  
5 in the year 2007, in the column for recovered, it says, no PEMS  
6 for the Special Olympics, no PEMS for the ADA March. What does  
7 that suggest to you?

8 A. Can I look at what you are looking at, ma'am?

9 Q. Yes. This is the -- we're looking at 5830.

10 A. Okay. On the event for the March of Dimes, that  
11 would've been Lieutenant Quintanilla's event. And since there  
12 was no time that the officers accrued or anything like that,  
13 I'm speculating only that that probably was a monitor only  
14 event.

15 Q. And were police services provided by an outside  
16 agency in that case?

17 A. I'm not sure, ma'am. I'd have to see, see the  
18 permit.

19 Q. Okay.

20 A. On the -- we were talking about the -- I'm sorry.

21 What was the other one?

22 Q. The other one --

23 A. Oh, here it is. I'm sorry. The ADA March?

24 Q. Yes.

25 A. There is no PEMS on that, because Gloria Bennix'

1 boss, doctor -- I can't remember what her name was. She was  
2 going to the mayor's office to see if the mayor would pay for  
3 that event. And I don't know if it's been paid for or not.

4 Q. For events where the City of San Antonio pays for an  
5 event or absorbs the costs, would there be a PEMS?

6 A. Okay. Repeat that. I'm sorry.

7 Q. Would a PEMS list -- is that the right phrase?

8 A. Uh-huh.

9 Q. Would a PEMS list be created, for example, for the  
10 Veterans Day Parade even though the city was going to pay for  
11 the police costs?

12 A. Yes.

13 Q. So why would the ADA March not have a PEMS?

14 A. Because she was going to go ahead and go to the  
15 mayor's office. How that developed, ma'am? I do not know.  
16 I've never received a letter from the mayor -- I mean, from the  
17 mayor's office or anything in regards to that. I do know that  
18 I talked to the doctor. And like I said, I can't remember what  
19 her name is off hand. She said that the mayor was gonna pay  
20 that out of some kind of discretionary funds or something like  
21 that.

22 Q. And when you calculated just now which of the events  
23 had the costs waived, these two events that are, that are  
24 indicating no PEMS, did you count that as an instance of a  
25 waiver of costs --

1 A. Yes, I did.

2 Q. -- or not? Okay. Now, I want to ask you about some  
3 specific applications. I'm gonna begin with the St. Pat's Day  
4 Parade in 2006. I hand you that. And I think you can also  
5 reference your own, your own sheet here for 2006, and that  
6 would be page 5827.

7 MS. KLEIN: For the record, could we have him  
8 read off the, turn to the first page and read off what the  
9 number is marking that page.

10 THE WITNESS: IWDM 01221.

11 Q. BY MS. KASTELY: And IWDM -- and what I was curious  
12 about is, it appears -- I'm sorry. Is that -- did I hand you a  
13 '06 or '07?

14 A. '06.

15 Q. Okay. I have the wrong sheet. Let me just get the  
16 right one. I'll take that back. That's not a problem.

17 A. Okay.

18 Q. Sorry about that. Now, we're starting with '06. And  
19 that's the -- I'm handing packet 01147 through 01157, and  
20 that's the Cesar Chavez Parade permit; is that correct.

21 A. Uh-huh.

22 Q. And what I wanted to ask you is, in that packet does  
23 it list what the actual cost of police service was?

24 A. It has an estimate.

25 Q. Okay. Does it have a PEMS sheet?

1 A. No. It does not.

2 Q. And on, on your records, it indicates that the actual  
3 cost was 7,738. Sorry. Let me try to -- okay. I'm handing  
4 you the packet that begins 01284 and goes through 01292. And  
5 could you tell me what that is?

6 A. This is a parade permit for the 60 Plus Mardi Gras  
7 Parade.

8 Q. And what were the actual costs in that case?

9 A. I'd have to look at my spread sheet.

10 Q. Okay.

11 A. 5,112.19.

12 Q. And did you recover that money?

13 A. No, ma'am.

14 Q. And why not?

15 A. A.C. Pittman said to go ahead and do the event.

16 Q. And who is A.C. Pittman?

17 A. He's a retired assistant chief for the San Antonio  
18 Police Department.

19 Q. Was he on duty at that time?

20 A. I don't know, ma'am.

21 Q. Did you receive formal notice that the City of San  
22 Antonio had decided to waive the police cost fees for that  
23 event?

24 A. I have his signature on a form that was faxed to us  
25 saying to waive those fees.

1 Q. Okay.

2 A. With his approval.

3 Q. And as far as you know, Officer Pittman had the  
4 authority to waive the fees for the police costs?

5 A. That, I do not know, ma'am. He's my, he's my -- our  
6 boss. He tells us what to do.

7 Q. Okay. I'm gonna hand you the next permit  
8 application, 01293 to 01298. Do you recognize that?

9 A. This is the Police Officers Memorial Run.

10 Q. And how were the police services to be provided for  
11 that event?

12 A. Officer Chris Lutton was the contact for this  
13 particular event.

14 Q. And who is Officer Chris Lutton?

15 A. He's an officer with San Antonio Police Department.

16 Q. Is he in the traffic control division?

17 A. No.

18 Q. Is he trained and certified on the Texas Manual of  
19 Uniform Traffic Control Devices?

20 A. I wouldn't know, ma'am, if he is or not.

21 Q. Were there barricades required in connection with  
22 this event?

23 A. No.

24 Q. And how do you know that?

25 A. Because I have barricades required? No.

1 Q. Okay. And did you make the determination that there  
2 would be no barricades?

3 A. This is an event that we've been doing for years.  
4 There's been no barricades on this for years.

5 Q. I'm gonna hand you another one. Well, let me just  
6 ask you the question. Actually, I've got a bunch that I want  
7 to ask you about. But when a parade is handled by an outside  
8 agency, do you receive any notification from that, or outside  
9 police services, do you receive any formal notification of the  
10 costs for those services?

11 A. No.

12 Q. You did construct a document that purports to  
13 estimate what the outside costs might be; isn't that correct?

14 A. Yes.

15 Q. And when you -- I'm handing you document 00100  
16 through 00101. Is that the document that we, we just referred  
17 to?

18 A. Yes.

19 Q. And how did you come up with the numbers in that  
20 document?

21 A. The spread sheet that the accounting department has  
22 given us, I determined it by guessing how many officers we  
23 would actually use for the event and then determining a  
24 straight time or an overtime cost for that particular event --

25 Q. And --

1 A. -- based upon an estimate of the amount of hours I  
2 figured that event would take.

3 Q. Okay. But you didn't actually get information from  
4 Bexar County Sheriff's Office about how many hours were  
5 actually worked?

6 A. No.

7 Q. And when we talk about Bexar County Sheriff's Office,  
8 we're really talking about off duty Bexar County sheriff's  
9 officers; isn't that correct?

10 A. I would speculate.

11 Q. And when you are -- in that sheet, did you estimate  
12 the costs of Officer Lutton's work on the march that we just  
13 discussed, that would be --

14 A. The San Antonio Police --

15 Q. Yeah.

16 A. No. I don't think it's on here.

17 Q. Do you know anything about how Officer Lutton staffs  
18 events that he works?

19 A. No. I've never been to one of his events.

20 Q. Do you know whether he employs peace officers to do  
21 traffic control?

22 A. He says he did. Yes.

23 Q. But it's not under the San Antonio Police Department;  
24 is that correct?

25 A. Not under the direction of the traffic department,

1 no.

2 Q. Is it under the direction of any part of the San  
3 Antonio Police Department?

4 A. Well, he has to do a work permit for that. So yes, I  
5 guess it would be.

6 Q. And in the work permit, what does he -- what  
7 information does he provide to the San Antonio Police  
8 Department?

9 A. Who he is working for, how much he is getting paid.  
10 Essentially that's it.

11 Q. Are you aware that, that some San Antonio police  
12 officers actually have companies that offer traffic control  
13 services in San Antonio?

14 A. Uh-huh.

15 MS. KLEIN: You need to verbalize it for the  
16 record.

17 THE WITNESS: Oh, I'm sorry. Yes.

18 Q. BY MS. KASTELY: Now, on your sheet in many instances  
19 the assignment says, Fiesta, and the recovered column is blank.  
20 Can you tell me what that indicates?

21 A. Fiesta is handled under a separate ordinance that  
22 goes to Council every year. And that's why they're blank.

23 Q. Does that mean that you send the costs to someone  
24 outside of the traffic control division?

25 A. I do not. No.

1 Q. And in an instance in which you actually recovered  
2 some monies, for example, the Race for the Cure, okay, how does  
3 the invoicing and recovery of payment work?

4 A. Well, it's changed a couple of times in the last  
5 year. It used to be that I would just bill from the PEMS for  
6 that event, and we would send out a formal notice that they  
7 owed a certain amount of money and to, to pay that within 30  
8 days.

9 Now, it has gone from -- or there's a stage in  
10 between that where we decided to go ahead and take the PEMS.  
11 We took that to our accounting division. Our accounting  
12 division made a formal invoice for that on SAP. And then that  
13 invoice was mailed out by me. And that payment went directly  
14 to the finance department.

15 Since then, ma'am, what we're doing currently is  
16 I'm still taking the PEMS to our accounting department. Our  
17 accounting department is generating a invoice. That invoice  
18 comes back to my office. At which time, I send a form letter  
19 out saying that they owe such and such amount of monies to the  
20 police department. When I receive payment for that, I attach  
21 payment to that invoice and take it back to the accounting  
22 department for deposit.

23 Q. Okay. And prior -- well, am I understanding your  
24 testimony to say that, that the change has been to involve the  
25 accounting department in this process in a way that it wasn't

1 involved before? Is that correct?

2 A. Yes.

3 Q. And before -- when did this change -- when was that  
4 this change implemented?

5 A. It's, it's been within the last 18 months that this  
6 has taken place.

7 Q. And before that time, did you receive payments in  
8 response to your notice directly?

9 A. Yes.

10 Q. And what did you do with those payments?

11 A. Took them to the accounting department, and then they  
12 made deposits for 'em.

13 Q. Is there anyone else -- I'm sorry. The accounting  
14 department to which you refer, is that a San Antonio Police  
15 Department accounting department?

16 A. Yes.

17 Q. So prior to this change 18 months ago, would the San  
18 Antonio Police Department accounting department have records of  
19 deposits made by you?

20 A. I couldn't answer that, ma'am. I don't know.

21 Q. But they would not, as I understand it, have been  
22 involved in the invoicing at all before this change in --

23 A. That is correct.

24 Q. And was anyone else -- before this change 18 months  
25 ago, was anyone else involved in the invoicing other than

1 yourself?

2 A. I'm not sure if Brian Phelt might have done one or  
3 not, or two. He would -- he's my replacement in the office.

4 So --

5 Q. And tell me about him. Does he -- when does he  
6 replace you?

7 A. Just when I'm on vacations.

8 Q. Does he have the authority to approve or to take  
9 permit applications in the way that you do?

10 A. Yes, he could.

11 Q. Is he certified in the Texas Manual on Uniform  
12 Traffic Control Devices?

13 A. I do not know.

14 Q. On one of the applications in 2006 -- I'm just gonna  
15 ask you if you remember this. It was the Victims Awareness  
16 March put on by the National Victims Rights Coalition. And it  
17 was to be a march on Thursday April 6th from 10:15 to 11:00  
18 downtown in the center of the city.

19 A. Uh-huh.

20 Q. And on that application someone has written, does not  
21 meet ordinance requirements, re: Weekday downtown. Do you  
22 recall that event?

23 A. I'd have to see it. I mean, I recall it somewhat.

24 But I'd have to see what it's all about.

25 Q. Under your understanding of the current ordinance,

1 would there be any problem with a march downtown between the  
2 hours of 10 and 11 on a weekday?

3 A. Under the current ordinance?

4 Q. Yes.

5 MS. KLEIN: Can you clarify? Are you meaning  
6 the November '07 ordinance that's currently enjoined or the  
7 ordinance before?

8 Q. BY MS. KASTELY: Well, Officer Jenkins, let me ask  
9 you that again. I recall last time you testified that you  
10 actually hadn't gotten a chance to study the march ordinance  
11 amendments. Is that still correct?

12 A. That is correct.

13 Q. But you are familiar with the November 2007  
14 ordinance; is that correct?

15 A. I'm aware of the one -- I remember there was  
16 something you gave me that said something about United States,  
17 and I don't remember reading that part. I don't know if that  
18 was the same ordinance or not. I just got to that part and I  
19 said, I've never seen this.

20 Q. Okay.

21 A. So I'm not sure if it's the same or not.

22 Q. Okay. So in your current understanding of the --  
23 well, let me just ask you directly. Prior to November 2007,  
24 the ordinance that you worked with for most of the time you've  
25 been on the job, was there any problem with having a parade

1 downtown from 10 to 11 on a weekday?

2 A. Not off hand that I can remember.

3 Q. Okay.

4 A. I mean, you are asking me a real --

5 Q. No, yes, I am. I am, I am. But I wanted to see

6 whether a red flag would go up. And your answer is perfectly

7 fine. I don't see a red flag.

8 A. Okay.

9 Q. Okay. And the, the rodeo trail events, how are those  
10 handled?

11 A. How are the rodeo trail -- they are handled by the

12 sheriff's department now.

13 Q. Okay. Does the San Antonio Police Department get  
14 involved at all?

15 A. All we do is monitor the event now.

16 Q. Do they have to apply for a permit?

17 A. Yes.

18 Q. Was there some time in the past when the San Antonio  
19 Police Department was more involved in those trail events?

20 A. Yes.

21 Q. And when was that?

22 A. When Chief Gibson was chief.

23 Q. When would that have been?

24 A. I don't know. I don't know.

25 Q. A long time ago?

1 A. It was a long time ago.

2 Q. Were you on, on this job in charge of the parade  
3 applications?

4 A. I do not think so.

5 Q. And when did -- do you know historically -- I think  
6 this would be before your time. But do you know when San  
7 Antonio Police Department began charging for their services on  
8 parades?

9 A. Well, I guess ever since the '88 ordinance.

10 Q. Okay.

11 A. I mean, that's as far back as I can remember.

12 Q. Now, I just wanted to get back to the -- to your  
13 estimates on the outside workers.

14 A. Uh-huh.

15 Q. Are you aware that some of the services provided by  
16 non-S.A.P.D. peace officers is provided for free?

17 A. That's their decision, ma'am.

18 Q. I'm just asking, are you aware that it happens?

19 A. No, I'm not.

20 Q. Are there some events that are, for which the police  
21 services are provided by PAL?

22 A. Yes.

23 Q. Is that the Police Athletic League?

24 A. Yes, it is.

25 Q. And do those events include the annual Courthouse to

1 the Jailhouse Run?

2 A. Yes.

3 Q. Are there any others that, that you are aware of that  
4 PAL provides services?

5 A. Not off hand, I can't remember. There may be one or  
6 two.

7 Q. And when PAL provides services for the Courthouse to  
8 Jailhouse Run, do they charge for those services?

9 A. No. Those are volunteers. So yes, that is an event  
10 where it is free.

11 Q. And what about when SAFFE provides services, they  
12 routinely provide services for the courthouse run too in some  
13 years; isn't that correct?

14 A. Yes.

15 Q. And do they charge for their services?

16 A. I wouldn't think so.

17 Q. And in your understanding, when PAL officers or SAFFE  
18 officers provide those services, are they on duty?

19 A. To my knowledge, they are all off duty officers and  
20 they are volunteering their times, is what I was told.

21 Q. And I see that the SAFFE officers also provide, or at  
22 least provided services for the National Night Out Parade?

23 A. That was -- they were actually paid. That's wrong --

24 Q. Okay.

25 A. -- on there. She hired -- she went to the SAFFE

1 department over there and she hired two or three officers, I  
2 think, for that event.

3 Q. Okay.

4 THE WITNESS: Do you mind if I take a quick  
5 break?

6 MS. KASTELY: Absolutely.

7 (Whereupon, a break was taken)

8 Q. BY MS. KASTELY: I'm gonna continue asking you about  
9 specific events. And I'm handing you a packet that begins  
10 01439 to 01459. I'll ask you if you recognize that?

11 A. This is the H-E-B 5K.

12 Q. Okay. And in those documents there's an indication  
13 that the C.E. Group corresponded with you about the costs of  
14 the event.

15 A. Okay.

16 Q. You were reading the E-mails. Could you read the  
17 page number there?

18 A. 01448.

19 Q. And does that refresh your recollection about this  
20 event?

21 A. Somewhat.

22 Q. Is there an indication in there what your estimate  
23 for the cost of the event would be?

24 A. There is two of them.

25 Q. Okay. What were the -- what was your estimate for

1 the costs?

2 A. 3,530.98 was the first estimate. And then she got  
3 back with me and said that she thought that that those costs  
4 were too high. And then I made recommendations to her to use  
5 -- I think it's to have the route pace over itself three times  
6 so we could lower the amount of officers that were on there, so  
7 you use the same officers for all three times of the event.

8 And then that rough estimate came up to be \$2400.00

9 Q. Is there a sheet in there where you'd done that first  
10 estimate of the number of officers?

11 A. Yes. And I'm guessing I would have used the map,  
12 01447.

13 Q. Okay. And do you know the number of officers that  
14 you were estimating when you estimated 3,530?

15 A. 32 officers.

16 Q. And do you know how many officers were actually used  
17 for the event eventually?

18 A. I have to look at my other sheet. Let me see what's  
19 in here. 32.

20 Q. 32 officers. So you didn't actually reduce the  
21 number of officers; is that correct?

22 A. No.

23 Q. But yet the cost was reduced?

24 A. Yes.

25 Q. And how did you achieve a cost reduction?

1 A. Because there was only two hours that the officers  
2 were on duty for this particular event, with the exception of a  
3 couple of 'em. And that reduced the cost to 2,414.58. My  
4 estimates were based upon three hours for the event with -- I  
5 think it was 16 officers on overtime, and we only used 10  
6 officers on overtime.

7 Q. But you've already testified that you assumed that  
8 there will be three hours of work for all events. Why did you  
9 determine that only two hours would be necessary for this  
10 event?

11 A. I didn't. The lieutenant did on the PEMS.

12 Q. And why do you think that the lieutenant reduced the  
13 number of hours that the officers would have to work for this  
14 event?

15 MS. KLEIN: Objection, form.

16 THE WITNESS: The straight time officers worked  
17 two hours only on the event, is what I'm seeing here on the  
18 PEMS.

19 Q. BY MS. KASTELY: Yes.

20 A. The overtime officers got paid three hours by  
21 contract for coming in to work.

22 Q. I understand.

23 A. And that's how he got these numbers.

24 Q. Well, and he was -- well, who did that shift after  
25 she complained -- as you've indicated, the number of hours were

1 reduced to 2 hours and the number of off duty officers was  
2 reduced from 16 to 10, and correspondingly more on duty  
3 officers were used; is that correct?

4 A. Yes.

5 Q. And who would have made those adjustments? Would it  
6 be yourself or would it be lieutenant -- who was the lieutenant  
7 on this?

8 A. Lieutenant O'Dell.

9 Q. Who would have made that adjustment?

10 A. Well, it would have been based upon the amount of  
11 officers who were actually in attendance that day. My  
12 estimates are based upon simply an estimate of 16 officers here  
13 on a Sunday or a Saturday. That fluctuates. So he used his on  
14 duty staffing that he had.

15 Q. Uh-huh.

16 A. And then he brought in the extra number of officers  
17 that he needed for the event on overtime.

18 Q. So he was able to use 22 on duty officers, in other  
19 words?

20 A. Correct.

21 Q. And would you normally assume that 22 on duty  
22 officers would be available on a Saturday?

23 A. It varies, ma'am.

24 Q. I'm sorry. On a Sunday?

25 A. It varies.

1 Q. Okay. Do you think that Lieutenant O'Dell was  
2 influenced by Ms. Skanal's request when he made the change from  
3 three hours to two hours and from 16 to 22 on duty officers?

4 MS. KLEIN: Objection, form.

5 THE WITNESS: I do not.

6 Q. BY MS. KASTELY: Were you influenced by Ms. Skanal's  
7 request to try to reduce the cost for the event?

8 A. No, ma'am.

9 Q. Didn't you indicate in the E-mails that you would see  
10 what you could do about reducing the cost?

11 A. No. What I put in the E-mail was is that the only  
12 way that she could reduce her cost was by running over the  
13 current route that she had and then using the same amount of  
14 officers on that route, which did not take place.

15 Q. And did you think of using more on duty and less off  
16 duty officers as a way of reducing the price?

17 A. I'm sorry?

18 Q. Didn't you consider the possibility of reducing the  
19 number of off duty officers in order to reduce the overall  
20 price?

21 A. I don't do that, ma'am.

22 Q. What do you mean, you don't do that?

23 A. It's not my determination. It's the lieutenant's  
24 determination based upon the amount of on duty staff that he  
25 has and the amount that he has to hire for for this particular

1 event.

2 Q. Okay. So are you involved at all in determining the  
3 number of officers that are required for an event?

4 A. No.

5 Q. Are you involved at all in determining the number of  
6 on duty or off duty officers that will be used to fulfill that  
7 total requirement?

8 A. No. That's determined by how many officers are off  
9 that day.

10 Q. Okay. And is it Lieutenant O'Dell or Quintanilla  
11 that makes that determination?

12 A. Of how many officers are off?

13 Q. Of how many officers -- first of all, of how many  
14 total officers to use, who makes that decision?

15 A. That would be the lieutenant.

16 Q. Okay. And who makes the decision of whether they  
17 should be on duty officers or off duty officers?

18 A. That's the lieutenant.

19 Q. Okay. Now, I want to give you the packet marked  
20 00616 through 00626, and this is the H-E-B event in 2007. Do  
21 you recognize that?

22 A. Okay. These are two separate events.

23 Q. Okay. What is that event that I just handed you?

24 A. This is the one put on by John Purnell, which H-E-B  
25 was simply a sponsor in this event. Okay. This was actually

1 H-E-B's event. They were actually paying the C.E. Group to do  
2 this event. This is done by John Purnell.

3 Q. So the one in 2006 is called the H-E-B 5K and the one  
4 in 2007 is called the H-E-B --

5 A. Slash PAL 5K.

6 Q. We both know what it is. It's the H-E-B slash PAL  
7 5K?

8 A. Correct.

9 Q. Okay. But you are pointing out that the person  
10 applying for the permit and the sponsoring organization is  
11 different in the two years?

12 A. Correct.

13 Q. And in 2007, what police services were provided?

14 A. There was 26 officers.

15 Q. And was that provided by the San Antonio Police  
16 Department?

17 A. Yes. This is what I gave to the lieutenant,  
18 Lieutenant Quintanilla of what my opinion was on the event.

19 Q. And your opinion about how many officers would be  
20 required?

21 A. That's correct.

22 Q. And do you know how many officers actually did work  
23 the event?

24 A. I have to see that spread sheet for 2007.

25 MS. KLEIN: This one?

1 MS. KASTELY: That one, there.

2 THE WITNESS: According to this, PAL got  
3 officers to volunteer their time.

4 Q. BY MS. KASTELY: Okay. So that would be one of the  
5 events in which the police services were free?

6 A. Well --

7 Q. Is that correct?

8 MS. KLEIN: Objection, form.

9 Q. BY MS. KASTELY: Well, did the organizers pay for  
10 those police services?

11 A. I don't know. I did not get with PAL to find out if  
12 there was payment made or anything. I just don't get involved  
13 in that.

14 Q. Okay, I see. Thank you. Now, I want to ask you  
15 about this packet, the permits for the Juneteenth March. The  
16 first one goes 01475 to 01490, the next packet goes from 02427  
17 to 02436, and the next packet goes from 03390 to 03407, and the  
18 final packet goes 04139 through 04154. And are you familiar  
19 with that event?

20 A. Yes, I am.

21 Q. And according to your records -- and I guess I'll  
22 direct your attention over here to your spread sheets again --  
23 how were the police services provided for those marches?

24 A. Through the San Antonio traffic division.

25 Q. And were they paid for by the organizer?

- 1 A. Which ones are you talking about?
- 2 Q. Well, in 2003?
- 3 A. In 2003? According to -- in '03? Yes, they were.
- 4 Q. Okay. And how much were the fees?
- 5 A. \$2,842.08.
- 6 Q. And what about 2004?
- 7 A. 2004? I have recovered costs of \$3,259.96.
- 8 Q. Okay. And what about 2005?
- 9 A. No, ma'am.
- 10 Q. What were the costs in this year?
- 11 A. \$4,070.32.
- 12 Q. And you are, you are indicating those were not
- 13 recovered?
- 14 A. That is correct.
- 15 Q. Okay. What about 2006?
- 16 A. Total cost was 4,805.30.
- 17 Q. And was that recovered?
- 18 A. No, ma'am.
- 19 Q. And what about 2007?
- 20 A. As far as I know for 2007, they have not been
- 21 recovered.
- 22 Q. And what was the fees for 2007?
- 23 A. You don't by any chance have that permit number? It
- 24 would be quicker. Oh, I found it. \$5,357.15.
- 25 Q. Okay. And do you recall that one of the Council

1 members became involved with this parade?

2 A. Yes.

3 Q. Who was that?

4 A. Councilwoman McNeal.

5 Q. And how did she become involved?

6 A. My understanding is that she was going to pick up the  
7 cost for the event in '07.

8 Q. Okay. And would that include the cost for barricade  
9 rental?

10 A. That, I do not know.

11 Q. What about the fact that no payments have been made  
12 for 2004 and -- I mean, sorry, 2005 and 2006, was Councilwoman  
13 McNeal going to pay for that?

14 A. No.

15 Q. And was she gonna pay out of her own pocket for the  
16 2007 event?

17 A. A portion of it, and I can't remember what that was.

18 Q. Okay. And where would the other portion come from?

19 A. From the organizers.

20 Q. And in your understanding, was Councilwoman McNeal  
21 gonna use city funds to cover the costs, that portion that she  
22 was gonna contribute?

23 A. I can't answer that question.

24 Q. Is there any problem with an organizer applying for a  
25 permit even though they haven't paid for a past event where

1 police services were provided?

2 A. That's why the new ordinance is written.

3 Q. And what is your understanding under the new  
4 ordinance?

5 A. That if you fail to pay for a permit that you will  
6 need to get a surety bond for that event.

7 Q. Okay. Was it ever -- or in your understanding, could  
8 a permit be rejected if the applicant had not paid for a prior  
9 event?

10 A. Yes.

11 Q. Was the permit for the Juneteenth Parade ever  
12 rejected on that basis?

13 A. No. It was not.

14 Q. Were you ever a part of a conversation in which that  
15 possibility was discussed?

16 A. Yes.

17 Q. When was that?

18 A. I can't remember the exact time. It's been discussed  
19 now for the last three years.

20 Q. With whom did you have discussions?

21 A. I've had discussions with my captain. I've had  
22 discussions with the lieutenant.

23 Q. That would be Captain Polonis?

24 A. Polonis.

25 Q. Polonis?

1 A. Uh-huh.

2 Q. And the lieutenant, which lieutenant?

3 A. O'Dell.

4 Q. Okay. Is there any difference in authority between  
5 the Lieutenant O'Dell and Lieutenant Quintanilla?

6 A. Authority?

7 Q. Yes. Or seniority?

8 A. Oh, seniority, there is.

9 Q. Who is senior?

10 A. Lieutenant Quintanilla.

11 Q. I just noticed that Lieutenant O'Dell was the one who  
12 wrote the standard operation procedures, and, and often in your  
13 conversations. In your mind, does he have any authority  
14 superior to Lieutenant Quintanilla?

15 A. No. Not authority.

16 Q. Okay. Is he more involved in special events and  
17 parades than Lieutenant Quintanilla is?

18 A. No.

19 Q. And in those conversations that you had regarding the  
20 possibility of rejecting the Juneteenth application with  
21 Captain Polonis and Lieutenant O'Dell, what was said?

22 A. Essentially, every year what happened was on the --  
23 not this year or last year -- but the, the two years prior to  
24 the -- it went up to our chain of command. And it was told by  
25 us -- I believe it was Lieutenant Pittman -- I mean, I'm sorry,

1 Assistant Chief Pittman to go ahead and do the event.

2 Q. Do you know why he made that determination?

3 A. You'd have to ask him, ma'am. I don't know.

4 Q. Do you know whether the Juneteenth event will  
5 continue to be subsidized by the city in the future?

6 A. From what I've been told, ma'am, that if we go to the  
7 new permit that they will follow the guidelines of the new  
8 permit.

9 Q. What is your understanding of the guidelines of the  
10 new permit ordinance?

11 A. That they will pay for their event. And if they do  
12 not pay for their event, then they fall underneath the clause  
13 of having to get a bond, a surety bond to pay the city for that  
14 event for future events.

15 Q. Is there anything in the new ordinance that would  
16 prevent a Council person from paying for the police services  
17 for an event?

18 A. For paying for it?

19 Q. Yes.

20 A. From my understanding, it would have to go through an  
21 ordinance, a different permit.

22 Q. And do you -- why do you believe that? Or who told  
23 you that?

24 A. There's only three -- I think it's three or four  
25 specific events that are actually listed in the permit. Other

1 than that, I'd have to get a ruling from the attorney's office.

2 But those are the only events that I would allow.

3 Q. And do you know anything in the ordinance that would  
4 prevent your current Captain Burns from waiving costs on an  
5 event?

6 A. No. I do not.

7 Q. And if he told you to waive costs on an event, would  
8 you waive the costs?

9 A. I'd ask for something in writing.

10 Q. Okay. And then if he gave it to you in writing,  
11 would you waive the costs?

12 A. That's his justification, ma'am. He'd have to answer  
13 that. I can't do it.

14 Q. I'm just looking in 2008, the Juneteenth event.  
15 Obviously, it was covered by the, by the injunction; is that  
16 correct?

17 A. 2008?

18 Q. Yes.

19 A. Yes, it was.

20 Q. Okay. I'm gonna hand you all of these. But I want  
21 to ask you about the San Antonio Marathon. From your sheet in  
22 front of you, can you tell whether or not the San Antonio  
23 Marathon received police services from the San Antonio Police  
24 Department in the years 2003 through 2007?

25 A. Yes, they have.

1 Q. Have they received them in each of those years?

2 A. Yes.

3 Q. And have they paid for those services?

4 A. No.

5 Q. And why did the City of San Antonio waive those,  
6 those fees?

7 A. We were told that those fees are to be waived.

8 Q. And who told you that?

9 A. I got that from my superiors. So who in particular  
10 told me that? I have no idea. But it was -- I mean, it was  
11 common notice in our office.

12 Q. Is that a common way that you would be informed of  
13 waivers that one of your superiors would simply tell you to  
14 waive the costs?

15 A. Yes.

16 Q. Do you know whether there was an ordinance waiving  
17 the costs, or the police service costs for the San Antonio  
18 Marathon?

19 A. Prior -- I do not know for sure. But I do know up  
20 until the last two years, all those used to go to ordinance.  
21 And, you know, what happened when they went to ordinance? I  
22 don't know.

23 Q. And what do you mean, all those used to go to  
24 ordinance?

25 A. Up until the 2007.

1 Q. Uh-huh.

2 A. I'm sorry, 2006, 5, 4 and 3, that you have there, all  
3 went to ordinance and were passed.

4 Q. Does it -- do you mean that every permit application  
5 went to an ordinance or was submitted for approval by the City  
6 Council?

7 A. That was my understanding. Yes.

8 Q. And what changed in 2007 so that you didn't have to  
9 have City Council approval?

10 A. I'm not exactly sure what the process was. I was  
11 told through Roland Lozano's office prior to his leaving that  
12 everything would be handled by a memo.

13 Q. And who is Roland Lozano?

14 A. He was the assistant city manager.

15 Q. I'm looking at one of the applications or the packet  
16 of applications for the, the San Antonio Marathon in 2003. The  
17 packet goes from 04893 to 04928. And I'm directing your  
18 attention at the document that begins on page 04901 and  
19 particularly 04909. And I'm gonna ask you, what is that  
20 document?

21 A. The barricade list that is needed for the marathon.

22 Q. And that's the one that you've already testified to  
23 that you created; is that correct?

24 A. Yes.

25 Q. And to whom was the invoice to be sent for the

1 barricade cost for the San Antonio Marathon?

2 A. It would have been to my office.

3 Q. And why would it be sent to your office?

4 A. We were collecting the bill for that event, and then  
5 there was payment made, and then those monies were sent to  
6 American Signal.

7 Q. Do you have any records of payments made to you for  
8 the barricade costs?

9 A. Not with me. They, they might be in accounting.  
10 American Signal would have it.

11 Q. Okay. Wouldn't American Signal have a check from  
12 you?

13 A. From me? No.

14 Q. Not you personally. But from the City of San  
15 Antonio?

16 A. I'll be honest with you, ma'am, I don't know who the  
17 check would have been made payable to, or from.

18 Q. I thought you just --

19 A. I know we got a check from Sam Hidalgo for that  
20 amount. That check was given to our accounting department to  
21 send to American Signal.

22 Q. Okay. Is there any reason why you didn't ask for the  
23 invoice to just get sent directly to the organizer?

24 A. This is the way I was taught on this one, ma'am, to  
25 go ahead and go through the city and to send it off. I guess

1 they want to make sure it got paid. I don't know.

2 Q. Okay. Okay. When events are handled by non-San  
3 Antonio Police Department peace officers, the records sometimes  
4 include a barricade plan from you and sometimes they don't  
5 include a barricade plan from you. Are you, are you surprised  
6 by that?

7 A. No.

8 Q. And in what circumstances would you create a  
9 barricade plan for an event that was going to -- for which the  
10 police services were gonna be provided by some other  
11 organization or person?

12 A. When they've asked me to go ahead and do one for  
13 them.

14 Q. And if they don't ask for one from you, then  
15 typically you wouldn't provide it; is that correct?

16 A. That is correct.

17 Q. And does that mean that no traffic control barricade  
18 plan would be made?

19 A. Well, it would be discussed. It wouldn't be in  
20 writing.

21 Q. Okay. And with whom would it be discussed?

22 A. With myself and there could be a meeting with the  
23 lieutenant, or even the sergeant.

24 Q. Does it sometimes happen that an event for which the  
25 police services are provided by some outside group does not

1 have a conversation with you or with a lieutenant about what  
2 barricades to use? In other words, could they determine that  
3 on their own?

4 A. Yes.

5 Q. Okay. I'm still looking here. I'm sorry. On your,  
6 on your sheet for the event that is, for which the permit  
7 number is 2006-62.

8 A. Okay.

9 Q. That is the Drug Awareness event.

10 A. 2006-62?

11 Q. Yeah. The Victory Gospel Church.

12 A. Uh-huh.

13 Q. Okay. There's an indication there that the officers  
14 can leap frog the event, in the, in the packet. Do you recall  
15 that?

16 A. No. I'd have to see it.

17 MS. KASTELY: Do you have the 2006? I'll see if  
18 I can get it later.

19 Q. BY MS. KASTELY: I can't pull it out right now. I'll  
20 ask you about that later.

21 A. Okay.

22 Q. In the next one I want to ask you about is -- I'm  
23 handing you 01839 through 01852. And what is that permit for?

24 A. 4th Annual Our Lady of the Lake 5K Run.

25 Q. Okay. Are you familiar with that event?

1 A. Yes.

2 Q. And there's an indication in the records and on your  
3 spread sheet that police services were offered -- or were  
4 provided by Bexar County Sheriff's Office; is that correct?

5 A. Yes.

6 Q. And in 2006, there was a discussion that resulted in  
7 a letter from the organizer, Patricia Castillo, to you  
8 regarding the number of officers -- or to San Antonio, the city  
9 regarding the number of officers that would be required; is  
10 that correct?

11 A. I think it was to Ms. Patty Radle, not to me.

12 Q. Do you remember having discussions regarding that  
13 question?

14 A. Yes. We actually had a meeting with the organizers.  
15 I think it was at their office.

16 Q. And what happened in that meeting?

17 A. Lieutenant O'Dell was with me. He talked to a -- Ms.  
18 Radle, I don't think was there. He talked to a representative.  
19 I think about three or four of 'em were present.

20 Q. Okay.

21 A. And they discussed cutting the amount of officers for  
22 the event, because we had actually given them our PEW sheets,  
23 which is our directions to our officers of what they are gonna  
24 do for the event.

25 Q. Do you normally give the PEW sheets to organizers for

1 which the police services are gonna be provided from someone

2 other than the San Antonio Police Department?

3 A. We have before. Yes.

4 Q. Do you do it in every case?

5 A. No.

6 Q. Would you say that in the majority of the cases you

7 don't do it?

8 A. I don't think there's that many of them.

9 Q. You don't think there are that many cases that are

10 handled by other than San Antonio Police Department?

11 A. Not that we actually used to do and it went to

12 somebody else. That's why this happened.

13 Q. So, so the PEW was given because the San Antonio

14 Police Department at one time provided police services for this

15 event?

16 A. That is correct.

17 Q. And in -- on events for which the San Antonio Police

18 Department has never provided police services you would not

19 provide a PEW?

20 A. No.

21 Q. Okay. And so in this case you did provide the PEW.

22 And then what happened?

23 A. She was gonna present that to the sheriff's officers

24 who were in charge of the event. And then they were gonna

25 staff the event. And what Lieutenant O'Dell did, he went ahead

1 and made marks on that sheet of the places where they actually  
2 had to have officers and cut the amount of officers down by  
3 about eight, seven or eight officers, I guess.

4 Q. Okay. And then what happened?

5 A. Then that PEW was given to them to supplement the  
6 event.

7 Q. And, and what happened then?

8 A. The event took place.

9 Q. Well, didn't they complain about the number of  
10 officers that were being required of them?

11 A. That's what this meeting was about.

12 Q. Yes. And in the letter, the organizer represents  
13 that the, that the event was successfully held with 24, 25  
14 officers and that her request was that that happen again; is  
15 that correct?

16 A. I want to say they cut it down to about 25 officers.  
17 I don't remember for sure.

18 Q. Okay. And what was your response to their cutting it  
19 down? I'm sorry. Let me take a step back. That was -- in, in  
20 working with the Bexar County sheriff's officers who were going  
21 to provide the police services, the Bexar County sheriff's  
22 officers determined that only 24 or 25 officers would be  
23 required?

24 A. Okay.

25 Q. Isn't that correct?

1 A. I'm guessing.

2 Q. In your memory of the discussions that you had with  
3 the organizer, wasn't that told to you?

4 A. I did not hear that from the sheriff's officers  
5 themselves. I only heard that from the organizers.

6 Q. And what was your response when you heard that from  
7 the organizers?

8 A. I didn't think it could possibly be done with that  
9 amount of officers.

10 Q. And what was the organizers response to that?

11 A. They wanted to have this meeting.

12 Q. And what happened at the meeting?

13 A. I think Lieutenant O'Dell cut it down, I think the 34  
14 officers down by like 7 or 8. I don't know what it was cut  
15 down to.

16 Q. And why is it that you were more involved in the,  
17 determining the number of officers to be used for this event  
18 than for other events that are staffed by non-San Antonio  
19 Police Department? Is it merely because you had done it in the  
20 past?

21 A. No. Because I gave them the PEMS --

22 Q. Yes.

23 A. -- to work off of. That's why.

24 Q. I guess my question is: Even though in the past you  
25 had worked the event and you had a PEMS --

1 A. Oh, okay.

2 Q. -- why is it that you were particularly interested to  
3 make sure that this event continued to have the same number of  
4 officers?

5 A. Because in the past, on this event they used to get  
6 straight time officers for free, based upon the old ordinance.  
7 They only paid for the overtime for their event. When the  
8 ordinance changed, they had to start paying for both on duty  
9 and off duty cost, no matter if it was a run or a parade.

10 Q. When, when was that change?

11 A. I want to say it was '05, something like that.

12 Q. Okay. And in your understanding, prior to '05 parade  
13 ordinance organizers only had to pay for overtime police  
14 officers; is that correct?

15 A. For a run, they only had to pay for overtime police  
16 cost.

17 Q. Okay. And for a parade, what would they have to pay  
18 for?

19 A. Both on duty and overtime costs.

20 Q. Okay. Were there any parades prior to 2005 which  
21 were only charged for overtime costs?

22 A. Besides the ones that were waived, I don't think so.

23 Q. And what happened in 2005 that changed that?

24 A. There was a new ordinance change -- or a change to  
25 the ordinance which raised the permit fees and changed the

1 practices of paying for straight time and overtime in the

2 run/walk, cycling event ordinance.

3 Q. Okay. And so then what impact did that change in the

4 law have on this particular event?

5 A. Well, I would probably venture to say from their

6 costs going from, let's say, 4 or \$500.00, it probably went up

7 to 25 to \$3,000.00.

8 Q. Okay. And can -- in most cases can organizers

9 purchase the same police services from off duty Bexar County

10 sheriff's officers for less than what they would have to pay

11 the San Antonio Police Department to provide those services?

12 A. I don't know what their pay scale is, ma'am.

13 Q. Is it your impression that it's generally less

14 expensive?

15 A. Generally.

16 Q. Okay. And again, is there any reason why you were

17 particularly concerned to make sure that they had the same

18 number of officers, that would be 36 or 35, as they had had

19 with the San Antonio Police Department?

20 A. That was cut by the lieutenant, ma'am.

21 Q. I'm sorry. What was cut by the lieutenant?

22 A. The amount of officers that they needed for that

23 event.

24 Q. Okay. So can you think of any other event for which

25 the police services were provided by an outside agency in which

1 either you or one of the lieutenants became involved with how  
2 many officers would be provided?

3 A. I had a conversation with the constable's office on,  
4 I think it was the La Posada event. I can't remember exactly  
5 which one.

6 Q. Okay.

7 A. Off hand, that's the only thing I can think of.

8 Q. Would that have been the indigenous event from the  
9 Little Flower?

10 A. Yes.

11 Q. And do you recall the content of that conversation?

12 A. I remember we discussed officers for the event. We  
13 discussed barricading for the event. And they came back to me  
14 and said they would not need any barricading for the event that  
15 they would add additional officers.

16 Q. And what was your response when they told you that?

17 A. I asked them for sure if they didn't need barricades  
18 for their event. They said, no, they had plenty of officers to  
19 go ahead and support the event.

20 Q. And I think there's a map here of that, of that  
21 march. This is -- let me just say, it's on page 00969. And  
22 was the constable with whom you were speaking about this event,  
23 is he a certified traffic control officer?

24 A. Well, he would have gone through some kind of formal  
25 traffic control in some form of an academy or he wouldn't have

1 got his TCLOESE license.

2 Q. So as a peace officer, he would have had some sort of  
3 training?

4 A. Yes.

5 Q. Would he be certified to make determinations under  
6 the Texas Manual on Uniform Traffic Control Devices?

7 A. I wouldn't know if he is certified or not.

8 Q. Did you ever ask him?

9 A. No.

10 Q. Do you, do you today believe that it was appropriate  
11 to not have barricades for that march as you look at it on the  
12 map?

13 A. Well, there's two ways to handle things, ma'am,  
14 whenever you are talking about events. One, you can throw  
15 large amounts of manpower at it --

16 Q. Okay.

17 A. -- or you can use less amount of manpower and use  
18 barricades on the event.

19 Q. Okay.

20 A. From what he told me, he was gonna throw large  
21 amounts of manpower at this event. And that's what he did.

22 Q. How many officers was he gonna have?

23 A. I don't recall, ma'am, and I don't know if it's in  
24 here or not.

25 Q. How would you evaluate something like that under the

1 Texas Manual on Uniform Traffic Control Devices? How would you

2 -- where would you go -- I guess I need to -- here is -- this

3 is part 6 of the 2006 Texas Manual on Uniform Traffic Control

4 Devices. Is that the right part?

5 A. It appears to be. Yes.

6 Q. And that part deals with temporary traffic control

7 situations; is that correct?

8 A. That is correct.

9 Q. And how would you analyze a march like this under

10 that manual?

11 A. Well, first of all, you need to understand this

12 manual does not direct anything towards putting pedestrians in

13 the street.

14 Q. Okay.

15 A. This is all construction. We use this as simply a

16 guideline to use when we do barricading for an event. But it

17 does not have any guidelines in here, okay, set forth with the

18 exception that you'll use channeling devices, suggests to use

19 audible devices for the, for the blind and all that for

20 particular events. But as for it coming up and saying, this is

21 what you're gonna do and we're putting pedestrians in the

22 street, there's nothing in here like that.

23 Q. Okay. It does purport to cover special events

24 though; isn't that correct?

25 A. It purports to go ahead and -- for construction

1 reasons, okay, why you would have to detour pedestrians in  
2 another fashion.

3 Q. Okay. But, but under it's definition of incident, an  
4 incident includes an emergency situation on a road or a planned  
5 special event; isn't that correct?

6 A. No. An emergency incident --

7 Q. Uh-huh.

8 A. -- would be handled under something completely  
9 different. That incident when it's an emergency, it is  
10 considered to be an emergency. There is a time frame where  
11 that goes by where this book would then take effect. But that  
12 is determined by the incident itself and how fast that this can  
13 actually get to the location to start implementing this book.

14 Q. Okay. So you are put in a difficult position; isn't  
15 that correct? The, the ordinances of San Antonio tell you to  
16 create traffic control plans for parades and other processions  
17 according to the Texas Manual on Uniform Traffic Control  
18 Devices; isn't that correct?

19 A. Yes.

20 Q. And as you've testified, when you go to that manual,  
21 it doesn't talk specifically about processions; is that  
22 correct?

23 A. That is correct.

24 Q. And so how do you determine what, what a traffic  
25 control plan should be in light of the manual?

1 A. I use one term in here, ma'am, whether I'm, whether  
2 I'm using neglect, or not.

3 Q. Okay. For, for work situations and incidents, part 6  
4 of the Texas Manual on Uniform Traffic Control Devices divides  
5 the types of situations into different categories depending on  
6 how long the interference with normal traffic vehicular and  
7 pedestrian traffic will be; isn't that correct?

8 A. That's correct.

9 Q. And so the categories they have is that one is mobile  
10 interference, one is a interference of short duration; isn't  
11 that correct?

12 A. Mobile, I'm not 100 percent sure about. Short  
13 duration, I've heard.

14 Q. Okay. What are those categories that the manual uses  
15 to evaluate different situations?

16 A. It's by hours.

17 Q. Okay. And what are those differences?

18 A. I'm not sure about what you are talking about mobile.  
19 But I think short duration is less than three hours.

20 Q. Okay. And what does the manual say about  
21 interferences of less than three hours? Or let me say, what  
22 does the manual say about interferences of short duration?

23 A. That you do not have to meet all of the  
24 specifications within this, that you can go ahead and use your  
25 early warning devices and a short taper for that event.

1 Q. Okay. Can I see this?

2 A. I think that's what it says.

3 Q. I didn't mean to have a pop quiz on you.

4 A. Well --

5 Q. Under section 6G.01, typical applications and then --  
6 I'm sorry, 6G.02, work duration, that's really what we've been  
7 talking about, isn't that correct, at, at the bottom on that  
8 page? I think it's this page over here.

9 A. Okay.

10 Q. You see in bold --

11 A. Okay.

12 Q. -- there are some different categories.

13 A. Okay.

14 Q. So there's a short duration?

15 A. Short duration is one hour.

16 Q. Or less than one hour?

17 A. Uh-huh.

18 Q. Okay. And then on the next page, what does it say --  
19 you'll see a highlighted portion marked with an "X". What does  
20 it say about traffic control devices for short duration  
21 interferences with traffic, normal traffic flow?

22 A. Normally takes longer to set up and remove the TTC  
23 zone than to perform the work. Workers face hazards in setting  
24 up and taking down the TTC zone. Also, since the work time is  
25 short, delays affecting road users are significantly increased

1 when additional devices are installed and removed.

2 Q. Do you think that that advice has any bearing on  
3 parades or processions?

4 A. I think you are looking under the wrong section here.

5 Q. Okay. Why am I looking under the wrong section?

6 A. Because I think it's 6D which actually deals with  
7 pedestrians. You're still dealing with construction issues.  
8 6D, pedestrian and worker safety.

9 Q. Okay. And what does, what does it say about  
10 pedestrian and worker safety?

11 A. Umm --

12 Q. In terms of -- I'm sorry. That's too broad a  
13 question. What does that section, Section D, what advice does  
14 it give that you find useful in determining a traffic control  
15 plan for parades?

16 A. Okay. Pedestrians should not be led into conflicts  
17 with vehicles moving through or around the work site.  
18 Pedestrians should be provided with a reasonable safe  
19 convenient and accessible path that replicates as nearly as  
20 practical the most desirable characteristics of the existing  
21 sidewalk or foot paths. Where pedestrians who have visual  
22 disabilities encounter such sites and require them to cross a  
23 roadway to find the accessible route, instructions should be  
24 provided using an audible information device, accessible  
25 pedestrian signals with accessible pedestrian detectors, and so

1 forth.

2 Q. Okay. So are you suggesting that, that because  
3 parades involve walkers then you would not analyze it under the  
4 categories of duration in part 6 of the manual?

5 A. No. Because the ordinance -- what I have to do is I  
6 have to show that I am not neglecting -- or am negligent in  
7 what I'm doing. If we were to have an event and some car would  
8 run through and hurt some people, we're gonna go through  
9 litigation.

10 Q. Uh-huh.

11 A. And I have to prove some how, some way, ma'am, that I  
12 was not negligent in what I was doing.

13 Q. Okay. And, and you find in the manual the  
14 requirement that you do extensive barricading for parades and  
15 marches even though the duration of those events is very short?

16 MS. KLEIN: Objection, form.

17 THE WITNESS: I do barricading, ma'am, to go  
18 ahead and protect myself and protect the City of San Antonio  
19 for the event. I do not use excessive barricades for any  
20 event.

21 Q. BY MS. KASTELY: Do you believe that, that, for  
22 example, there's something in the manual that requires -- that  
23 would require the march we just talked about, Our Lady of the  
24 Lake event, to have 36 officers rather than 25 officers?

25 A. That was not my decision. That was the lieutenant's

1 decision. You'll have to talk to him.

2 Q. I still wanted to know your answer. Do you think  
3 there's something in the manual that requires that?

4 A. That requires the number of officers?

5 Q. Yes.

6 A. No.

7 Q. Do you think there's something in the manual that  
8 would require you to have barricades on the event that we were  
9 just talking about, the indigenous procession from the Little  
10 Flower Basilica?

11 A. As I've already said, ma'am, there's two ways to  
12 handle things. One you throw manpower at it, the other one you  
13 put manpower and barricades towards it.

14 Q. Okay. And there's nothing in the manual that you  
15 know of that requires you to make one choice or another?

16 A. You just need to be able to show, ma'am, that you  
17 were not neglecting, or were not negligent in what you were  
18 doing.

19 Q. Okay. Do you have a sense between those two choices  
20 -- and I hear you. Absolutely. As I look through this  
21 material, it seems like there can be a trade-off of manpower  
22 and barricades. Do you have a sense of which would tend to be  
23 less expensive?

24 A. It depends on the size of the event.

25 Q. Okay. Could you explain that a little bit more?

1 A. Barricades can supplement with less costs than police  
2 officers. If you have an event that you could not use your  
3 officers some place else, as in saying the leap frogging, which  
4 you've already brought up, which we use officers to go ahead  
5 and supplement another post --

6 Q. Uh-huh.

7 A. Okay -- if you could not do that with a particular  
8 event, then a barricade can be used. Because you're gonna have  
9 to use another officer there.

10 Q. Okay.

11 A. So that would be one form. If you were to go ahead  
12 and completely sterilize a roadway in which you were gonna go  
13 down and you had a great number of people for a long period of  
14 time, you could use barricades and cut the amount of officers  
15 that you have on the event.

16 Q. Uh-huh.

17 A. So you could lower your cost. Yes.

18 Q. And so in your mind, does the -- is the choice in  
19 part influenced by how many participants there are in the  
20 march?

21 A. It's more duration than anything else.

22 Q. The duration of presence in the road interfering with  
23 vehicular traffic?

24 A. Yes.

25 Q. And if the duration of the time in a particular area

1 of the road is like 15 minutes or less, what would that

2 indicate to you?

3 A. To me, it'd probably be just a lead and a tail and a

4 few officers.

5 Q. Okay. And do you have any sense of how many

6 participants in a march would clear a particular intersection

7 in less than 15 minutes?

8 A. It depends on how they wanted to conduct themselves

9 during that march.

10 Q. Okay. And how do you learn that information?

11 A. Just by watching and observing events.

12 Q. So are there -- if, if, if you get an application and

13 it says there are gonna be 500 marchers and they're gonna march

14 for a mile, how long do you think they would interfere with any

15 given intersection?

16 A. Any given intersection?

17 Q. Any of the intersections along the way?

18 A. That would all depend, ma'am.

19 Q. Okay. How would you know whether the person applying

20 was gonna have a faster march or a slower march?

21 A. It'd just depending if I knew the person who was

22 actually gonna perform the march.

23 Q. Okay. Do you know of some people who, who routinely

24 have slow marches?

25 A. Yes, ma'am.

1 Q. Who is that?

2 A. The Cesar Chavez March is a slow march.

3 Q. And who are the organizers of the Cesar Chavez March?

4 A. The Cesar Chavez Committee.

5 Q. Do you know any of the, the individuals involved with

6 that?

7 A. Jaime Martinez and Gabriel, I think it's Velasquez.

8 Q. So when Jaime or Gabriel apply for a permit for the  
9 Cesar Chavez March, do you anticipate that they will interfere

10 with vehicular and pedestrian traffic for a longer period of

11 time across that one mile stretch?

12 A. Yes.

13 Q. And would that make any difference in how you thought  
14 about the traffic control needs of the march?

15 A. We would have to put in different control devices to  
16 warn people of the event so they can detour around it.

17 Q. And how would that be different from an application  
18 from someone who you know normally marches at a fairly fast  
19 pace?

20 A. It would be just knowledge of that person conducting  
21 an event and getting done with it.

22 Q. I understand that, and that makes sense to me. So  
23 there's some -- based on your experience, you kind of know  
24 which are gonna be faster marches and which are slower marches.  
25 How would you -- what traffic control devices would you

1 recommend for a faster march?

2 A. For a faster march?

3 Q. Yeah. That's gonna interfere for less period of  
4 time?

5 A. Well, I would have to know what the lieutenant is  
6 gonna do first, and then that would base upon whether we're  
7 even gonna have barricades, or not.

8 Q. I see. What would you anticipate that the lieutenant  
9 might do in that situation?

10 MS. KLEIN: Objection, form.

11 THE WITNESS: The lieutenant is gonna have to  
12 answer that. And I can go ahead and put something in after  
13 that.

14 Q. BY MS. KASTELY: Okay. Have you seen instances in  
15 which people who are known to conduct more fast moving marches  
16 are permitted to march with less barricades, for example?

17 A. Well, they are able to go ahead and use whatever form  
18 necessary that the lieutenant decides he's gonna do for the  
19 event.

20 Q. Okay.

21 A. Like I said, you are asking me a question that's  
22 apples to oranges. I need some kind of guidance on what you  
23 are gonna do.

24 Q. I understand. Do you know of any events in the  
25 downtown area where the lieutenant has approved just a lead car

1 and a tail car with flankers?

2 A. Yes.

3 Q. Can you tell me what those events would be?

4 A. The Special Olympics Torch Run would be one.

5 Q. Okay. Is the Fox Tech Chili --

6 A. The Fox Tech Chili Bowl?

7 Q. Yeah. Is that another one?

8 A. Yes.

9 Q. Okay.

10 A. Lets see. Mr. Diaz did a Immigration March where we

11 just had a lead and a tail and few flankers.

12 Q. When was that, or just what year?

13 A. It was October, I think is when he has that. We had

14 one October '07 and October '06, I believe.

15 Q. Any others that you noticed?

16 A. Like I said, I'm just going through here. So --

17 Q. Well, let me ask you another question along these

18 lines and that is about determining staffing. I'm gonna give

19 you two applications from '06. One begins at 01915 through

20 01925, and the second is 01926 through 01934, and ask you if

21 you recognize those?

22 A. Yes.

23 Q. What are they?

24 A. This is an Immigration March back in October 12th of

25 '06, and the same one for October 12th of '06, signed by

1 Gabriel Velasquez.

2 Q. The first one, I think, it's 2006-80. That was  
3 submitted by Jaime Martinez; is that correct?

4 A. That is correct.

5 Q. And can you tell from the documents whether that  
6 application was approved?

7 A. This one was rejected.

8 Q. And why was it rejected?

9 A. Because I had to send this up through the chain of  
10 command to the city manager's office, because Jaime had gone  
11 ahead and done an event back in '05, and I was not certain if  
12 that event had been paid for, or not.

13 Q. Actually, would that have been the Immigration March  
14 that happened in April of '06?

15 A. I'm not -- I just know there was something to do with  
16 it, not knowing myself whether that was paid, or not.

17 Q. Okay. And, and what, what response did you get from  
18 the city manager's office.

19 A. To go ahead and do the event.

20 Q. Okay.

21 A. And go ahead and file another permit.

22 Q. Well, this permit, 80, was actually rejected; is that  
23 correct?

24 A. That is correct.

25 Q. And so was it the city manager's office who made the

1 decision to reject that application?

2 A. No. It was me, totally.

3 Q. Okay. And what was the basis for -- oh, I'm sorry.

4 You've already said. So you felt and you, you feel that you

5 have the authority to reject an application if it doesn't

6 conform with your understanding of the requirements; is that

7 correct?

8 A. I just had to get some form of authorization to have

9 this event take place. And I went ahead and did it this way

10 instead of just go ahead and waiting to see if they were going

11 to approve this, or not.

12 Q. Oh, I see. So, so you were not instructed by the

13 city manager's office to reject the first application and take

14 a second application?

15 A. That's correct.

16 Q. Okay. But yet, you did seek advice from the city

17 manager's office?

18 A. Whether we were gonna do the event, or not. What I

19 did was -- this was all drawn up.

20 Q. Yes.

21 A. I submitted this to my supervisor, which was then

22 Captain Polonis. He took this up the ranks. Where it went? I

23 have no idea. He came back to me, told me, go ahead and do the

24 event.

25 Q. I see.

1 A. So, you see this letter on here? It was never sent  
2 out. It was a drafted letter. And all it was was just a form  
3 to send up saying this is rejected due to these reasons. You  
4 need to let me know whether we're gonna do this event, or not.

5 Q. I see. So you -- did you inform Jaime Martinez that  
6 his application was rejected?

7 A. No.

8 Q. So why did Gabriel submit another application?

9 A. Because he went ahead and came in and did it. If you  
10 look, there's no signature by Jaime on this permit at all.  
11 Jaime never saw this permit.

12 Q. Okay. And how did that permit get created?

13 A. I made it.

14 Q. And why did you make it?

15 A. Because I was asked by them to go ahead and have an  
16 event based upon this route, and I think they did the same  
17 thing in '05. I might be mistaken. But this is the route that  
18 they wanted.

19 Q. And who asked you to do that?

20 A. It would have been either Jaime or Gabriel. I don't  
21 know which one called me.

22 Q. So in other words, you had a telephone conversation  
23 with Jaime or Gabriel and from that conversation you created  
24 the form that is now 2006-80, that permit?

25 A. That is correct.

1 Q. But Jaime never signed it?

2 A. No.

3 Q. Okay. And so, so again, why did, why did Gabriel go  
4 to your office?

5 A. Gabriel eventually came to the office to sign for the  
6 permit.

7 Q. I see. And did you, did you create the permit  
8 2006-83?

9 A. Yes.

10 Q. And in your evaluation of the first permit  
11 application, did you make an estimate of the traffic control  
12 and police services that would be required?

13 A. I made an estimate of the police cost.

14 Q. Okay. And how many police officers did you estimate  
15 would be required?

16 A. 30 patrolmen and one sergeant and then an additional  
17 20 patrolmen and two sergeants and a lieutenant.

18 Q. So that would be 31 -- is the distinction between on  
19 duty and off duty?

20 A. Yes.

21 Q. What did you determine in terms of on duty and off  
22 duty?

23 A. 20 -- or a total of 23 officers on duty.

24 Q. Okay. And how many officers off duty?

25 A. 31.

1 Q. Okay. And how did you make that determination?

2 A. This was based upon the '05 Immigration March that  
3 came in. And then we sat down and we discussed the information  
4 on here, which we went ahead and took our PEMS. And because  
5 there was security costs that were added into that, which we  
6 had to take out. And this was based upon that '05. What we  
7 did was on the '06, there was no security involved in it. It  
8 was only traffic control posts.

9 Q. Okay. Were there actually security officers assigned  
10 to the march?

11 A. The '06?

12 Q. Yes.

13 A. No.

14 Q. Okay. And was, was the route that was taken in the  
15 first Immigration March the same as the route that is indicated  
16 for the march in application 2006-80, this one here? Is the  
17 route the same as the prior one?

18 A. East on Guadalupe to Laredo. It looks like they took  
19 two different routes. Well, the original one that Jaime had  
20 back in 80 --

21 Q. Yes.

22 A. -- looks like it is different than the one that they  
23 actually took on 2006-083.

24 Q. Okay. Could you just check that and make sure?

25 A. Well, I'm looking at the details on here. On the

1 route, they're different.

2 Q. Okay. I'm gonna further complicate your life.

3 A. Okay.

4 Q. I'm gonna hand you 01383 through 01394 and 00444  
5 through 00448. And this is -- purports to be an application  
6 for an Immigration March in April '06. Does that refresh your  
7 recollection about the prior march that you are thinking about?

8 A. No. This went from Milam Park to Hemisfair Park, and  
9 I remember this one. Probably the reason why I don't remember  
10 this one is because I don't think I physically worked this one.  
11 I'm showing the same map on both, but I'm showing different  
12 routes for some reason. And since I really wasn't there, I  
13 don't know which one is correct.

14 Q. Okay. But let me ask you, on the 80 application, on  
15 the first application, you determined there would be 54  
16 officers required?

17 A. Uh-huh.

18 Q. And you said that you looked at the traffic control  
19 plan for the prior Immigration March in order to do that. And  
20 would that be this first Immigration March that occurred?

21 A. It appears to be pretty close. Yes.

22 Q. And in the packet that's labeled 2006-083, did you  
23 make an estimate or did, did officer, or Lieutenant O'Dell  
24 estimate the number of officers that would be required to man  
25 the Immigration March?

1 A. This would have come from Lieutenant O'Dell, I  
2 believe.

3 Q. And how many officers did Lieutenant O'Dell determine  
4 would be required?

5 A. 24.

6 Q. Okay. Can you explain to me why you would have  
7 estimated 54 and he would have estimated 24 for what is  
8 virtually the same route at the same time of day with the same  
9 number of people?

10 A. That's his job, ma'am. He's the one who comes up  
11 with the numbers.

12 Q. Did you have a conversation with him about the  
13 staffing for this event?

14 A. I'm sure we did. And that's why the numbers are  
15 different.

16 Q. Okay. Do you recall why it was that he determined  
17 that, that less than half of the number that you estimated  
18 would be required?

19 A. It's his decision, ma'am.

20 Q. Okay. Is it Officer O'Dell who, who approved that or  
21 is it Lieutenant Quintanilla?

22 A. This would have been Lieutenant Quintanilla.

23 Q. Okay.

24 A. So it would have been Lieutenant Quintanilla who I  
25 would have had the conversation with.

1 Q. Okay. And it's Lieutenant Quintanilla who would have  
2 determined the need for only 24 officers?

3 A. Yes, it is.

4 Q. Okay.

5 MS. KASTELY: Do you want to take a break.

6 MS. KLEIN: Okay.

7 (Whereupon, a break was taken)

8 Q. Okay. Officer Jenkins, I just want to ask you a few  
9 questions first on your sheets, just so that I understand it.  
10 On Page 5826, for example, under assigned. Some of the  
11 assigned says COSA and some of them say TCD or TCA. Tell me  
12 what the distinction is between those?

13 A. TCD is a shift, which would be lieutenant -- well,  
14 they just changed 'em. TCD, I think would have been Lieutenant  
15 Quintanilla's shift. And TCE would have been Lieutenant's  
16 O'Dell's shift. And COSA under assigned, it just means that  
17 that's a COSA sponsored event.

18 Q. Okay. And if it says it's a COSA, would it also be  
19 assigned to one of those two traffic control shifts as a  
20 general rule?

21 A. Yes.

22 Q. Okay. And on Page 5827, there are -- I'm focusing  
23 your attention on the last column. There are two entries that  
24 say, Mr. Lozano. Is that Assistant City Manager Roland Lozano?

25 A. If I can take a look? Yes, ma'am.

1 Q. Okay. And does that indicate -- what does that  
2 indicate to you?

3 A. That indicates to me that he gotten through our chain  
4 of command that those items were to be waived.

5 Q. And those -- what are the items that were waived on  
6 that page?

7 A. The Good Friday Procession and the Immigration March.

8 Q. And then going further down that column, there are  
9 blank spaces that I've highlighted. To your knowledge, do  
10 those blank spaces indicate that no payment has been received?

11 A. A payment could have been received. This is when we  
12 were going through our billing cycle, the changes.

13 Q. Okay.

14 A. So a payment could have been received. It just went  
15 to the accounting department instead of to me.

16 Q. Okay. Let me ask you then --

17 A. Okay.

18 Q. -- with respect to the Harlandale March in 2006, to  
19 your knowledge, did the city receive any payment for that  
20 march?

21 A. That one was billed. I don't know if they received  
22 payment.

23 Q. And to your knowledge, for the Circus March, was  
24 there any payment received?

25 A. Circus March? I think that was an off duty, wasn't

1 it?

2 Q. It was assigned off duty.

3 A. Okay.

4 Q. Okay. And what about the Northwest Crossing 4th of  
5 July?

6 A. Probably went through accounting.

7 Q. Okay. But you don't know for sure?

8 A. No.

9 Q. Do you know about the Heart Walk?

10 A. Through accounting.

11 Q. So is your testimony that every -- all of the events  
12 in 2006 after the summer time would have gone through  
13 accounting?

14 A. I'd have to take a look at that list and let you  
15 know.

16 Q. So that's not your testimony? I'll ask you about  
17 each one then.

18 A. Can I look at it also?

19 Q. Yeah. I guess the two others is Juvenile Diabetes?

20 A. You need to look through accounting. And then the  
21 Veterans Day Parade, that was something that went to Council or  
22 the mayor's office.

23 Q. And what happened at Council or the mayor's office?

24 A. There was a draft made to the city, to the San  
25 Antonio P.D., a journal entry made on this, I believe, the '06.

1 Q. What do you mean by that?

2 A. There was supposed to be a journal entry that was  
3 transferred from some funds to the P.D. funds on that one.

4 Q. So to your understanding, it was paid for by the City  
5 of San Antonio?

6 A. That's my understanding. But like I said, I don't  
7 know for sure.

8 Q. Would that record be in accounting?

9 A. It should be.

10 Q. And entries 75 and 76 on page 5828 indicate that the  
11 light, the night march was assigned to the park police and the  
12 00LU Run was assigned to the Bexar County. But there are some  
13 charges for the S.A.P.D.? And could you explain why there  
14 would be charges for the S.A.P.D.?

15 A. No, I can't.

16 Q. Am I correctly interpreting that?

17 A. Yes, you are. And without seeing the permit, I don't  
18 know what that is.

19 Q. Okay. And the same question with respect to the All  
20 American Armed Forces March in 2007. To your knowledge, has  
21 the city received payment on that?

22 A. They are making payments on that event.

23 Q. Okay. How do you know that?

24 A. Because they have given me a check for, I know  
25 \$100.00 and I think another check for around 2000 and something

1 dollars, that I have given to accounting.

2 Q. So when you a little while ago told me which -- or  
3 the number of events for which the fees have been waived, did  
4 you include that event?

5 A. Yes, I did.

6 Q. And why did you include that in your count?

7 A. Because we still haven't been paid for it, or not  
8 paid in full.

9 Q. And what about number 32 on the next page, that would  
10 be the Museo Alameda March in 2007?

11 A. That one was billed. I guess it's in accounting or  
12 some place. I just haven't received notice that it has been  
13 paid in full.

14 MS. KASTELY: Debbie, I think I need records  
15 from the accounting.

16 MS. KLEIN: I've called down and asked about  
17 them. That was all included in the P.D. information. We  
18 should have that shortly.

19 Q. BY MS. KASTELY: To your knowledge, has the  
20 Harlandale Parade paid for the parade in 2007?

21 A. That'd be in accounting.

22 Q. Have you ever had a discussion about why -- or about  
23 the amount that the city has charged the Harlandale Parade for  
24 that march?

25 A. I think we have. And that's why they went ahead and

1 made their event shorter in the last two years.

2 Q. All right. And with whom did you have that  
3 conversation?

4 A. I do not remember a name. It was a PIO guy who's in  
5 charge of the event now.

6 Q. And has there been any effort to have the Harlandale  
7 Independent School District staff that march?

8 A. They have decided that they have enough manpower to  
9 staff the forming area and disbanding area, and all we're doing  
10 is the traffic control on the street itself.

11 Q. Okay. Now, in terms of -- I think that's all I need  
12 on that, although I have a few more individual questions. We  
13 had some conversation about the Texas Manual of Uniform Traffic  
14 Control Devices. And you directed my attention to part D.  
15 Is there any other part of the manual that you  
16 consider to be providing guidance or, or requirements with  
17 respect to your decisions regarding the barricades to be used  
18 in parades?

19 A. As I said, ma'am, I'm just trying to go ahead and  
20 prove that I'm not negligent in my duties.

21 Q. Okay.

22 A. And showing that -- I'm showing that I am doing  
23 something to protect myself and the City of San Antonio.

24 Q. Okay. Have you had conversations with your  
25 colleagues, people in comparable positions in other cities in

1 Texas about how they handle traffic control for their special  
2 events and parades?

3 A. I don't think so.

4 Q. Are you aware of how they handle it in Houston or  
5 Dallas or Austin?

6 A. No. I've never visited and watched them.

7 Q. And you've never had a conversation about how they do  
8 it?

9 A. The only thing we've had conversations about is like  
10 the celebrations. I think Dallas called me in regards to how  
11 we do our Spurs celebrations. But we didn't get into traffic  
12 control or anything like that.

13 Q. On the Spurs celebrations, I have some information  
14 from your notebooks on those. Do the payments -- or do you  
15 also invoice the Spurs for those events?

16 A. No.

17 Q. Does anybody invoice the Spurs for those events?

18 A. I would not know.

19 Q. To your knowledge, then they are not invoiced for  
20 those events; is that correct?

21 A. I do not know.

22 Q. What about for the AT&T Convention -- we talked about  
23 that in your earlier deposition -- did you receive payment for  
24 those services?

25 A. I believe I did.

1 Q. Would you have a record of that?

2 A. No. But accounting would have that record.

3 Q. Okay. I'm gonna show you pages 05299 through 05300

4 and ask you if you recognize that?

5 A. The Woman's Day March, 2008.

6 Q. And I'm gonna show you another document and have it

7 marked as Exhibit 3.

8 (Exhibit 3 Marked)

9 Q. BY MS. KASTELY: Do you recognize that as a map of

10 part of the downtown San Antonio?

11 A. Yes.

12 Q. And in the packet that I've handed you for the

13 International Woman's Day March, where is the route that that

14 march took place?

15 A. Starts at Travis Park, south on Jefferson to Houston,

16 Houston Street to Milam Park.

17 Q. Okay. And by looking at the document in that packet

18 that shows -- or that you prepared to indicate what barricades

19 would be erected, can you show me where on the map those

20 barricades would be? And I can give you that.

21 A. Jefferson and Pecan. So there's one here at this red

22 mark.

23 Q. Is that a full blocking of the street?

24 A. Yes, it is.

25 Q. Okay. So no cars could travel south?

1 A. South on Jefferson.

2 Q. Okay.

3 A. The next one would have been at Houston and Lasoya,  
4 which would have been back over here, the next street back  
5 over.

6 Q. If you see there's --

7 A. Oh, I'm sorry. Okay. So Houston and Lasoya is right  
8 here.

9 Q. Okay. And is that a full blockage of the road?

10 A. Yes, it was. Then at Presa and College, which was  
11 right here.

12 Q. Okay. Is that red line an accurate portrayal of  
13 where that would have been?

14 A. Yes, it is.

15 Q. And did that fully block the northbound Presa?

16 A. It should have. Yes.

17 Q. Okay.

18 A. There was a center lane closure on Navarro prior to  
19 College and center lane closure southbound St. Mary's --

20 Q. Okay. What --

21 A. -- Navarro.

22 Q. What is a center lane closure?

23 A. That means we would have closed down this center lane  
24 here, 'cause there's three lanes going north, and closed down  
25 this center lane here.

1 Q. Does that mean that cars could pass on --

2 A. On either side.

3 Q. On either side?

4 A. Yes. Then we would have done the same thing on St.  
5 Mary's Street, a center lane closure.

6 Q. And what would be the purpose of a center lane  
7 closure?

8 A. We went ahead and did that to relieve some of the  
9 pressure on the one officer who was at this location. Instead  
10 of having three lanes come at him, two lanes are easier to  
11 control than three.

12 Q. Okay. Go ahead.

13 A. Did the same thing at Main, a center lane closure.

14 Q. Okay. And is Main one way going --

15 A. South.

16 Q. -- south?

17 A. Uh-huh. Then we went ahead and closed the driveways  
18 on Main, because those are parking lots, right here.

19 Q. Okay.

20 A. That way they could exit out Travis Street.

21 Northbound Flores, northbound Flores at Commerce Street, we  
22 closed it there.

23 Q. Okay. I think you skipped Soledad. Was there any  
24 traffic control device on Soledad?

25 A. I'm sorry. There was. Two of them at Commerce and

1 Soledad to prevent northbound traffic there.

2 Q. Okay.

3 A. And then on Flores Street, closed it at Commerce.

4 And then at Laredo and Houston.

5 Q. On Flores, that's a two way street, isn't it?

6 A. Yes, it is.

7 Q. So would there still have been southbound traffic

8 going across Houston intersection?

9 A. I guess there would have been. Yes. Then at Santa

10 Rosa prior to Travis, we were to go ahead and close down the

11 right-hand lane on that. And then we went ahead and closed --

12 put up a -- well, we just closed it down to one lane at Santa

13 Rosa and Travis. And then we closed it down to one lane at

14 Commerce and Santa Rosa. And then at the ER to right here at

15 Santa Rosa, we shut it down, so that they would still have

16 access to the ER.

17 Q. Okay?

18 A. And then on eastbound Houston and San Saba, we closed

19 it there.

20 Q. Okay. And now if you look at the end of that packet,

21 there is what Lieutenant O'Dell described as posting

22 assignments.

23 A. Okay.

24 Q. And I wanted to ask you -- let's see, maybe it's a

25 little bit further -- if you could find that.

1 A. This is the amount of officers. Is that what you are  
2 looking at?

3 Q. No. I think there's actually assignments as to what  
4 they are supposed to do.

5 A. Okay.

6 Q. Do you find -- what's the number of that page?

7 A. 05307.

8 Q. Could you indicate on the map where those officers  
9 are to be assigned and what they are to do?

10 A. Jefferson and Pecan, cut all southbound traffic on  
11 command.

12 Q. Okay. And so there's already a barricade there?

13 A. Uh-huh.

14 Q. Why would you need an officer also there?

15 A. To go ahead and keep traffic moving on -- because you  
16 still have traffic coming at you on Jefferson south, and to  
17 keep Pecan moving. So he'd still be working traffic. Just  
18 because there's a barricade there, it's not gonna prevent  
19 people from going around a barricade.

20 Q. As a routine matter, do you always put an officer at  
21 the barricade where a road has been closed?

22 A. It can be, yes.

23 Q. Do you always do that?

24 A. No.

25 Q. When would you do that?

1 A. When we have supporting individuals who can go ahead  
2 and make sure that they can check those places.

3 Q. So when you have enough officers available; is that  
4 correct?

5 A. Well, either the flankers or somebody is gonna have  
6 to go check to make sure that's taken care of.

7 Q. Okay. Where's the other officer?

8 A. Jefferson and Travis, which was right here.

9 Q. Okay. What is the function of that officer?

10 A. Do not allow southbound traffic on Jefferson, assist  
11 traffic exiting the St. Anthony Hotel.

12 Q. Where is the next officer?

13 A. Jefferson and Houston.

14 Q. What is that officer supposed to do?

15 A. Cut all westbound traffic on Houston Street on  
16 command.

17 Q. Is there gonna be any westbound traffic on Houston  
18 Street?

19 A. There could have been. Yes.

20 Q. From where?

21 A. From Houston over in this direction.

22 Q. Isn't there a barricade on that street?

23 A. Yes, there is.

24 Q. So would it again be just cars that went around the  
25 barricade?

1 A. It could be, yes.

2 Q. Okay. Is that a standard procedure to have an  
3 officer there?

4 A. Sometimes yes, sometimes no, ma'am.

5 Q. Okay. And can you tell me when yes and when no?

6 A. Whenever we have enough officers to go ahead and make  
7 sure that they can still check everything that's on the route.

8 Q. Where is the next officer?

9 A. Houston and Broadway at Lasoya, which was right here.  
10 It says, cut all westbound traffic on command.

11 Q. Isn't that the same thing that the last officer was  
12 supposed to do?

13 A. Yes, ma'am. But what you are dealing here, the  
14 reason why you have to post out Houston and Jefferson and  
15 Houston and Presa, is when this event gets on to Houston  
16 Street, those officers are gonna work cross traffic. That  
17 particular street are off-set. So you cannot go straight  
18 through.

19 Q. What cross traffic is there gonna be if --

20 A. When your event leaves here and it is on Houston  
21 Street, and the tail has gone ahead and gotten on to Houston  
22 Street, then these officers have to make sure that this traffic  
23 does not come in on Houston Street, whether it says on this or  
24 not.

25 Q. Are these officers gonna drag these barricades that

1 are the closing of the road?

2 A. No. The barricade crew.

3 Q. A road, a road closing, what are the -- what devices  
4 have to be put up to have that road closed?

5 A. You have to have type 3's preferably or type 1's with  
6 a road closed sign.

7 Q. And that road closed has to be of a certain height;  
8 is that correct?

9 A. Yes.

10 Q. And typically are those -- do those barricades cross  
11 all of the street?

12 A. They may, they may not.

13 Q. Okay. So how is traffic going to travel down there?

14 You just testified that once the parade leaves Jefferson and  
15 goes on to Houston Street, that -- would Jefferson be open for  
16 cars?

17 A. At some point the supervisor will go ahead and open  
18 up these points. When that is? I don't know. They also need  
19 to be able to cover any kind of parking lots or anything like  
20 that that can be inside this area. So that's why all these are  
21 posted out.

22 Q. In order to open that up, would the supervisor have  
23 to move the barricades?

24 A. No. The barricade company takes care of the  
25 barricades.

1 Q. So there would be barricade company personnel there  
2 standing by waiting to get the order to open up the road?

3 A. That is correct.

4 Q. Okay. And could you estimate -- this march, the  
5 estimated number of participants was a thousand. About how  
6 long would it take them to -- so that all of the participants  
7 were off of Jefferson in the march if they started at Travis  
8 Park?

9 A. I don't know. I think I seem to remember the entire  
10 event took around 35 to 40 minutes from the time it left the  
11 park and entered inside -- I don't know. 15.

12 Q. So you mean the time they left Travis Park and they  
13 entered Milam Park was about 35 minutes?

14 A. I think it was 35 or 40 minutes. 'Cause I think it  
15 started about 20 minutes late.

16 Q. Okay. So they would be off of Jefferson within, as  
17 you said, maybe 15 minutes or less?

18 A. Uh-huh.

19 Q. Isn't that correct? So the only time that that road  
20 would be fully closed would be for a period of about 15 minutes  
21 or less; is that correct?

22 A. Fully closed? Yes.

23 Q. And where is the next officer stationed?

24 A. I kind of lost track. Houston and Travis, which will  
25 be right here.

1 Q. Okay. And what was that officer's duty?

2 A. Cut all traffic off the route on command, work cross  
3 traffic during breaks.

4 Q. Now, isn't -- I mean, isn't that very close to the  
5 two other officers that had a similar duty?

6 A. Like I said, ma'am, these are off setting streets.  
7 This traffic cannot even see until they get into here. You  
8 have off setting streets, which are probably about a 50-foot  
9 offset. So you have limited sight distance in this area.

10 Q. But again, Presa was fully closed?

11 A. Fully closed here. Yes.

12 Q. So it's only after those barricades are removed that  
13 you would have any traffic?

14 A. That's correct.

15 Q. Okay. And where is the next assignment?

16 A. Houston and Navarro, which was right here.

17 Q. Okay. And what is the function of that officer?

18 A. Cut all traffic off the route, work cross traffic  
19 during the breaks.

20 Q. Okay. So looking at this arrangement, when would  
21 there be traffic coming?

22 A. This one would've had coming through the entire time,  
23 unless you were crossing the intersection here.

24 Q. Okay. And when the parade was -- and that's because  
25 the only barricade was a center --

1 A. -- lane closure.

2 Q. Yeah. And when the parade was going past that  
3 particular intersection, what would happen with the vehicular  
4 traffic?

5 A. It would be stopped.

6 Q. And how would it be stopped?

7 A. This officer would stop the traffic.

8 Q. Okay. And for how long would it be stopped?

9 A. For the duration of the time that the event got  
10 through.

11 Q. Okay. And then the next officer's assignment?

12 A. The next officer will be on a St. Mary's Street.

13 Q. And what's his job?

14 A. Cut all traffic off the route on command, work cross  
15 traffic during breaks.

16 Q. So that would be similar to what we just talked about  
17 on Navarro?

18 A. Uh-huh.

19 Q. What about the next assignment?

20 A. Soledad has the same instructions.

21 Q. Now, Soledad is also gonna be fully closed; is that  
22 correct?

23 A. Uh-huh.

24 Q. So that officer, according to your testimony, would  
25 not be directing traffic while the parade was going by at all;

1 isn't that correct?

2 A. There are parking lots here.

3 Q. I see. So he would be watching for anybody to come  
4 out of the parking lots?

5 A. Right. Uh-huh.

6 Q. Why is it that -- or let me ask you, would it be  
7 possible on Soledad to have -- to not close that road, but to  
8 have that officer stop traffic similar to the way the officers  
9 were stopping traffic on north St. Mary's and Navarro?

10 A. All I can tell you is is what the lieutenant and I  
11 have discussed in regards to barricading for this event.

12 Q. Yes.

13 A. He said that next year there would be less  
14 barricading on this event, if any barricading is on this event.  
15 Because the way that the traffic flow worked, then we were able  
16 to go ahead and work cross traffic throughout the event. And  
17 that's what he told me after the event was over with. Now,  
18 whether those discussions are gonna go further or not? I don't  
19 know. But I did have that conversation with him when this  
20 event was over with.

21 Q. Okay. Is Lieutenant O'Dell certified as a traffic  
22 control and certified officer?

23 A. Yes.

24 Q. Is he certified on the Texas Manual of Uniform  
25 Traffic Control Devices?

1 A. I don't think so.

2 Q. Would he, in your understanding, have the authority  
3 to determine what barricades are gonna be there?

4 A. He can tell me whether we are going to have  
5 barricades for the event or whether he has the manpower to  
6 effectively control the event without barricades.

7 Q. I see. Okay. And what's the next assignment?

8 A. Houston and -- I'm sorry, I think we did that one.  
9 Houston and Main.

10 Q. Okay.

11 A. Same thing.

12 Q. All right. And that's a street that --

13 A. Cut traffic.

14 Q. Yeah. That's a street that has a center lane device;  
15 is that correct?

16 A. I think it did. I think that is correct.

17 Q. Okay. And then --

18 A. Flores was shut on the Commerce side.

19 Q. Okay. And is there an officer assigned to that  
20 intersection?

21 A. There is one. Flores and Houston.

22 Q. And what's the officer's duty?

23 A. Cut traffic off the route, cross traffic during the  
24 breaks.

25 Q. Okay. And that -- go ahead.

1 A. Houston and Cameron. Cut traffic off the route on  
2 command, is all it's got.

3 Q. All right. And again, there's a barricade on  
4 Cameron; is that correct?

5 A. No. I don't think so.

6 Q. Okay. And what about the next officer?

7 A. Houston and Laredo. Cut traffic on command, work  
8 cross traffic during breaks.

9 Q. Okay. And did you consider for this event the  
10 possibility of having a lead car and a tail car and flankers?

11 A. That's not for me to decide, ma'am. That's for the  
12 lieutenant to decide.

13 Q. Did you -- you've testified that on a new event --  
14 which this was, right?

15 A. Uh-huh.

16 Q. -- you would typically talk with the lieutenant in  
17 charge about how to best handle the traffic control, correct?

18 A. That is correct.

19 Q. Did you all talk about the possibility of having a  
20 lead car and a tail car and flankers?

21 A. I do not remember that conversation.

22 Q. Would you typically bring that up as a possibility?

23 A. No.

24 Q. Why not?

25 A. It's not really in my job description, ma'am. It's

1 something that the lieutenant can do, okay, if he wants to do  
2 it.

3 Q. Okay. In your conversations with -- I'm gonna have  
4 to take my pen back because I can't think without my pen in my  
5 hand. Would you typically discuss that possibility with  
6 respect to new events?

7 A. No.

8 Q. When in your mind would you recommend or want to  
9 consider in your conversations with the lieutenant the  
10 possibility of a front car and tail car and flankers?

11 A. I think it's something that we do all the time. It's  
12 not something that, you know, we don't do.

13 Q. So why --

14 A. It wouldn't even be discussed.

15 Q. Why didn't you discuss that possibility for this  
16 march?

17 A. Because it's a foregone conclusion, ma'am, that we  
18 would have used a lead car and a tail car.

19 Q. Oh, I'm sorry. I understood you to say that having a  
20 lead car and tail car with flankers is one way to handle  
21 traffic control without the need for road closures; is that  
22 correct?

23 A. That is correct.

24 Q. Okay. Did you consider the possibility of having  
25 that configuration for this march?

1 A. I do not believe so.

2 Q. And why not?

3 A. Could not even answer that question. It never came  
4 up.

5 Q. Okay. Would you normally bring it up as a  
6 possibility?

7 A. Just having a lead car and a tail car --

8 Q. And flankers?

9 A. Not on this particular route.

10 Q. And why not?

11 A. I just think you've got too much congestion in the  
12 downtown area that you have to take care of.

13 Q. Okay. Did you consider -- can I conclude from that  
14 that you would consider the possibility of having a front, tail  
15 and flankers instead of road closures only when there was low  
16 volume traffic?

17 A. I would consider on this event to do that, because  
18 that's what the lieutenant had told me he was thinking about  
19 doing for next year.

20 Q. Okay. And what is it about this event that would  
21 make it appropriate for a front, tail and flanker  
22 configuration?

23 A. I guess he felt really comfortable with it. You need  
24 to ask him.

25 Q. Did it have to do with the amount of traffic on the

1 streets?

2 A. I'm sure it did.

3 Q. Would you characterize Houston Street on a Saturday  
4 morning as a high volume area?

5 A. Not really.

6 Q. Okay. So I guess I'm just -- forgive me for being so  
7 dense. But I'm not understanding why it isn't a very normal  
8 procedure to assume that there's gonna be a front, tail and  
9 flankers for marches on Houston on Saturday mornings?

10 A. There will be a lead and a tail on Houston Street for  
11 any event that I would think that the San Antonio Police  
12 officers would do. There are certain things that that lead car  
13 and that tail car do. And I can't see the lieutenant ever  
14 saying that we will not have a lead car and a tail car on a  
15 permission.

16 Q. Okay. I understand it. Thank you. What about  
17 having no road closures and just using flankers?

18 A. You need to understand, this was a new event. We  
19 went ahead and we did what we thought we needed to do, based  
20 upon what we saw here. When the lieutenant saw the event, the  
21 lieutenant can go ahead and make changes after that, to  
22 whatever he feels comfortable that he can do that event with.

23 Q. And I'm just trying to understand -- because I'm  
24 ignorant on this --

25 A. Okay.

1 Q. -- what is it that he could have seen that would  
2 affect that decision?

3 A. You'll need to ask him that, ma'am.

4 Q. Okay. And what about leap frogging, did you consider  
5 the possibility of leap frogging for this event?

6 A. I don't consider leap frogging. That's something  
7 lieutenant does.

8 Q. Okay. Do you have any understanding of when frogging  
9 is appropriate for an event?

10 A. Whenever an event that you want -- that is in length  
11 long enough where you can use people at the end -- or at the  
12 beginning of an event to supplement at the end of the event.

13 Q. Okay. And so, so it would be marches that were long  
14 enough, you mean, so that it was for a mile or a mile and a  
15 half or two miles?

16 A. Yes.

17 Q. As opposed to a half a mile?

18 A. Yes.

19 Q. Okay. And would the number of marchers affect that?

20 A. Well, yes, it would.

21 Q. Okay. So about what range of marchers would you feel  
22 comfortable doing a leap frog?

23 A. It more has to do with the distance, ma'am, not with  
24 what is happening. You have to have enough time to clear this  
25 roadway where this officer can leave, and that supervisor needs

1 to know that that officer can leave that site and get to the  
2 next site in plenty of time.

3 Q. Do you think just on this event, the officers that  
4 were assigned to Jefferson could have moved over to Santa Rosa?

5 A. Not in taking 35 minutes.

6 Q. And the reason why not is because the march was  
7 moving quickly enough?

8 A. Well, it covered about anywhere between a half a mile  
9 and six tenths of a mile in about 35 minutes. So that was  
10 pretty reasonable.

11 Q. Okay. And so is it true, in your mind, that, that  
12 the alternatives available to you and the lieutenants for a  
13 march of this sort would be to have a front, tail and flankers  
14 with no road closures? That's one alternative?

15 A. For this particular event?

16 Q. For this kind of an event?

17 A. No. You would need to go ahead and be running cross  
18 traffic ahead of that event.

19 Q. Okay. But is it possible that you could run this  
20 event with no road closures?

21 A. According to the lieutenant, if he were to supply it  
22 with enough officers, yes, I think you could do it.

23 Q. Okay. And do you have any -- can you point me to any  
24 place that would help me understand when you could have a  
25 parade without road closures and when you couldn't?

1 A. No, ma'am. It's something you just have to work at.

2 It's OJT-type stuff.

3 Q. What's OJT?

4 A. On-the-job-training.

5 Q. Okay. And as I understand it -- or as I understand  
6 your testimony, you and Lieutenant O'Dell may not have the same  
7 wisdom that you carry about those issues; is that correct?

8 A. He has his own opinions, ma'am. I have my own  
9 opinions. And his opinions are the one that count.

10 Q. And does he have the last word on whether or not --  
11 well, you've already testified to that. And the same is true  
12 with Lieutenant Quintanilla, is that correct, that you and he  
13 may have differing opinions about what -- whether or not road  
14 closures would be necessary?

15 A. Just like everybody has different opinions, ma'am.

16 Q. Okay. Have you ever told anybody that, that you  
17 would -- that they could not conduct a march unless they  
18 complied with the San Antonio Police Department's  
19 recommendations with regard to police services or for  
20 barricading?

21 A. Can you go into a little more detail?

22 Q. Yeah. Well, is it your understanding that if an  
23 event has, has police services provided by an outside  
24 organization and, and you make a recommendation, you Officer  
25 Jenkins make a recommendation with respect to barricades --

1 which you sometimes do, not all the time, but sometimes --

2 correct?

3 A. Uh-huh.

4 Q. -- what would happen if the organization did not

5 adopt your recommendations with respect to barricades?

6 A. We would probably call that applicant in and discuss

7 the situation with that applicant of why they did what they

8 did. And then let them know whether they were violating any

9 laws or anything like that.

10 Q. In your understanding, would they be violating any

11 laws?

12 A. They could, yes.

13 Q. What laws would they be violating?

14 A. Well, if, if you had people taking into account doing

15 their own traffic control, things like that, when they

16 shouldn't be doing that, when they are actually stopping

17 traffic and they are not a certified peace officer to do so.

18 Q. Uh-huh.

19 A. When they are maybe placing things out in the street

20 that should not be there. Things like that.

21 Q. What if it's under the supervision of a certified

22 police officer?

23 A. Can't even do it then.

24 Q. And why not?

25 A. Because an individual cannot do traffic control work.

1 Only a certified police officer in the State of Texas can do  
2 that.

3 Q. I guess what I'm trying to get at is, if we're  
4 talking about Bexar County Sheriff's Office --

5 A. Okay.

6 Q. -- police officers, if they make one judgment about  
7 the barricades and officers that are required and the San  
8 Antonio Police Department makes another judgment about what's  
9 required --

10 A. Uh-huh.

11 Q. -- whose judgment controls?

12 A. I would think we'd just sit down and talk, which we  
13 have done in the past. And we felt comfortable with it, then  
14 those individuals would be able to do their traffic control  
15 plan like they wanted to. I cannot even think of a time where  
16 the lieutenant has not sat down with somebody and discussed a  
17 traffic control plan and come to an amicable agreement on what  
18 was being done.

19 Q. Okay. Just, just incidental questions. I'm handing  
20 you the packet for the 01746 through 01761. I'll ask you to  
21 take a look at that. That is the application for the 9/11  
22 March in 2006; is that correct?

23 A. That is correct.

24 Q. And do you recall that march?

25 A. Somewhat.

1 Q. Okay. And did the San Antonio Police Department  
2 provide police services for that event?

3 A. Yes, they did.

4 Q. And can you see in that packet what your estimate of  
5 the requirements would be?

6 A. 28.

7 Q. 28 officers?

8 A. Uh-huh.

9 Q. And, in fact, did 28 officers work that event?

10 A. No. According to this, 32 did.

11 Q. Okay. And what was the cost for 32 officers?

12 A. \$852.02.

13 Q. Isn't that kind of low for 32 officers?

14 A. According to this, the lieutenant had everybody out  
15 there for one hour.

16 Q. And you've testified that normally the staffing is  
17 for three hours, correct?

18 A. For overtime, not for straight time.

19 Q. Okay. When you do your estimates, I believe you  
20 testified that you assume that both on duty and off duty  
21 officers are gonna spend three hours; is that correct?

22 A. On my estimates? Yes.

23 Q. Okay. And, and in most cases, at least from the  
24 records that have been provided to us, it suggests that most  
25 events do, in fact, have officers -- have costs that include at

1 least three hours of each officer's time; isn't that correct?

2 A. No, ma'am.

3 Q. Okay. Is it common in your experience for officers

4 to work an event for less than three hours?

5 A. Yes. It has happened.

6 Q. It has happened. Is it, is it in 50 percent of the

7 cases?

8 A. I couldn't -- I wouldn't even know a percentage for

9 you. No.

10 Q. Okay. Do you know why it was only an hour for this

11 event?

12 A. If I'm not mistaken, this was a motorized walking

13 event and it was conducted at a march pace and there was no

14 stopping or anything. They just started and just went straight

15 on through.

16 Q. And how long was the march?

17 A. According to this, it took an hour.

18 Q. But I mean, how many miles was it?

19 A. One mile, is what's on here.

20 Q. Okay. So are you assuming that they were on the

21 street for less than an hour?

22 A. That's what I'm assuming.

23 Q. Okay. And is there any reason why the International

24 Woman's Day March that we just talked about where you testified

25 that they were, the march was on the street for 35 minutes, why

1 officers there would be billed for three hours, whereas in this  
2 event they were billed for only one hour?

3 A. Were they overtime?

4 Q. I'll look.

5 A. You had two officers on overtime for that event. You  
6 had Lieutenant O'Dell and you had myself, and then you had  
7 everybody else for two hours on the event.

8 Q. And that was on duty personnel?

9 A. Yes.

10 Q. And why were they on duty for two hours and in the  
11 other event they were on duty for one hour?

12 A. Could I see your -- I got it right here. The time  
13 that you all were in the park was for an event that started at  
14 10. So the officers would have been there by 9:30. And then  
15 the elapsed time for that would have been 11:00 o'clock for  
16 that. And so you are giving or taking time for officers to be  
17 on post. So two hours. He had officers there at 9:00 o'clock  
18 in the morning, is what he is saying, up until 11.

19 Q. Okay.

20 A. And then he had me earlier than that due to the  
21 barricading issues to make sure that the barricaders were  
22 there.

23 Q. And for the 9/11 event?

24 A. For the 9/11 event, there was one hour for this  
25 event. He had everybody on post for one hour.

1 Q. And you don't know -- I mean, is there a reason that  
2 you -- that appears to you in the documents for why only one  
3 hour was required for the 9/11 event?

4 A. 'Cause I can assure you that this was an honor guard  
5 procession. They were all firefighters. They were marching.  
6 When this event took off, they did not stop. On the Woman's  
7 Day March, there was delays in the march. Whenever you reached  
8 minor intersections, you did not continue on. Whenever I was  
9 in the back, the event actually stopped.

10 Q. Uh-huh. So while you testified that the Woman's Day  
11 March spent 35 minutes on the street, how long do you think  
12 that the 9/11 March spent in the street?

13 A. According to the lieutenant, an hour.

14 Q. Okay. And were you present at the 9/11 event?

15 A. I was in and out of this one. We had two events  
16 going on that I was getting ready for. We had another event  
17 right after this one, and I was preparing for that one. So I  
18 never saw the actual event take place.

19 Q. This is the document that you just gave me today.  
20 It's marked as 05832. And I wanted to ask you -- this is for  
21 the 2008. And I wanted to ask you, why is it that some of the  
22 marches continue to pay -- or to hire Bexar County police  
23 officers during the time of the injunction? Do you know why?

24 MS. KLEIN: Objection, form. You can answer.

25 THE WITNESS: During this time --

1 Q. BY MS. KASTELY: Yes.

2 A. -- the, the Rodeo Longhorn Drive that would have been  
3 still under the old event.

4 Q. And why is that?

5 A. Because the judge hasn't come back with his ruling or  
6 anything like that.

7 Q. Okay.

8 A. Bexar County for the S.A.L.E. Trail Rides, they were  
9 doing the escort for that. As far as I know, we did not bill  
10 for the permit or anything like that. And Bexar County went  
11 ahead and did their normal escort that they are doing now for  
12 the event.

13 Q. Are they paid for that?

14 A. I don't have a clue.

15 Q. Were the organizers informed that they would not be  
16 charged for San Antonio Police Department services?

17 A. Yes. As a matter of fact, I informed the  
18 Independence Day Parade people, Mr. Phillip Barcena, that they  
19 would not be charged.

20 Q. Uh-huh.

21 A. And they said they would use Bexar County and they  
22 would use Flasher Equipment Company for their event.

23 Q. Did he explain to you, to you why they made that  
24 choice?

25 A. No. He did not.

1 Q. Okay.

2 A. Nor did I ask.

3 Q. Are there any others there that are --

4 A. The Great Northwest July the 4th, they had constables  
5 do their event. We did not have anybody available because we  
6 were busy at Woodlawn Lake. So they got constables to do that.  
7 Edgewood I.S.D., the Cindo de Mayo Parade. That is their  
8 official event for Cinco de Mayo, and they have done that event  
9 forever.

10 Q. Okay. So is your testimony that during this period  
11 that the injunction has been in effect, if anyone has contacted  
12 you expressing an interest in having a march or a parade, you  
13 have told them about the injunction?

14 A. Yes, I have.

15 Q. And I want to ask you about this document, 01426  
16 through 01434. This is the Independence Weekend Parade in  
17 2006, the one that you just talked about.

18 A. Uh-huh.

19 Q. And in there -- in that packet is a barricade list  
20 similar to those that you've prepared in other situations.

21 A. Yes, ma'am.

22 Q. I want to ask you again on that one, did you consider  
23 having a lead and a tail with flankers and no road closures in  
24 that case?

25 A. I don't remember what was said on this, ma'am, or

1 what we talked about to the Bexar County sheriffs.

2 Q. Do you recall where that event takes place?

3 A. It's over there behind SAC somewhere. Lexington and  
4 Main.

5 Q. Okay. Would that be an area that would be  
6 appropriate for a march without road closures, in your view?

7 A. I don't know, due to the, the influx of San Antonio  
8 College over there, ma'am. I have no idea. I've never seen  
9 the event. So I really can't make a judgment on it.

10 Q. And you don't, and you don't know whether you  
11 suggested that possibility to the Bexar County officers that  
12 were handling the event?

13 A. I've never had them come and complain to me about it.

14 Q. But you did give the organizers this letter that said  
15 that they would be required to have these barricades; is that  
16 correct?

17 A. This went to the barricade company to get an estimate  
18 from the barricade company. If he got a copy of this, I do not  
19 know.

20 Q. Okay.

21 A. But he does know that there's barricades involved for  
22 his event.

23 Q. Right. And so after receiving that, the barricade  
24 company would give him information that the barricades are  
25 gonna cost \$3,000.00 or whatever it is, right?

1 A. Whatever it is.

2 Q. Okay. And you really can't tell me why you would  
3 recommend road closures -- or why you did recommend road  
4 closures in that case instead of an alternative without road  
5 closures?

6 A. My understanding is there's floats in this, there's  
7 bands in this, people dancing in the streets and things like  
8 that. That's all I can tell you. And --

9 Q. Do you know how many people participate?

10 A. I have no clue. I mean, there's 30 entries. I think  
11 it's probably larger than that, though.

12 Q. So how did you determine in that case that road  
13 closures would be required?

14 A. I took the map. I went ahead and did our closure  
15 list that we would have normally done from the map to safe  
16 guard this event to make sure that it takes place safely. Then  
17 I sat down with Bexar County whenever they came to us a few  
18 years back, and I showed them a map of where I was putting up  
19 the road closures for this particular event and where they  
20 would station officers to compliment these road closures.

21 Q. Okay. And you knew that everyone along the way, the  
22 barricade company and Bexar County would understand your  
23 instructions to be requirements; isn't that correct?

24 A. Bexar County has -- I don't know what Bexar County is  
25 gonna think. I can't tell you that. I don't know who's in

1 their command, ma'am. But what I can tell you is, I've never  
2 had anyone come to me from Bexar County or these individuals  
3 who were putting on this event ever come to me and say, we have  
4 a problem.

5 Q. Okay. Has anyone ever come to you and told you that  
6 the events -- or the requirements that you were imposing on  
7 events were too expensive for them to be able to afford?

8 A. They said that the San Antonio Police officers were  
9 too expensive to afford, and that's why they went the Bexar  
10 County sheriffs.

11 Q. And some events have told you that even with the  
12 alternative of hiring off duty officers the events would be too  
13 expensive with the barricades that you were requiring; isn't  
14 that correct?

15 A. I don't recall that.

16 Q. Okay. Are you aware of events that have, have ended,  
17 that no longer take place because of the costs impose by the  
18 barricades and the police services that are required by the San  
19 Antonio Police Department?

20 A. I think it's more of what the cost is for the San  
21 Antonio police rather than the barricade cost for the event.

22 Q. You mean, from an organizer's point of view, the  
23 police services is going to be more expensive than the  
24 barricade costs?

25 A. More than likely.

1 Q. But you know that the barricade costs for an event  
2 like we've just been talking about run into several thousand  
3 dollars; isn't that correct?

4 A. I do not know what the price is for these barricades.

5 Q. Do you know what the price was for the barricades on  
6 the International Woman's Day March?

7 A. No. I do not.

8 Q. Would you be surprised to hear that it was about  
9 \$3500.00?

10 A. Yes, I would.

11 Q. Wasn't the invoice sent to you?

12 A. No, ma'am. It was not.

13 Q. Do you have --

14 A. This?

15 Q. Yeah. Wasn't it -- okay. I see. Where was it  
16 supposed to be sent?

17 A. To downtown operations, Tanya Drake.

18 Q. Why would it be sent to downtown operations?

19 A. Because they have an account to pay for barricades,  
20 which the San Antonio Police Department does not.

21 Q. And do they pay for barricades, for example, for the  
22 Cesar Chavez March?

23 A. Yes.

24 Q. Okay. All right. So that doesn't go to you  
25 directly?

1 A. No.

2 Q. I'm handing you a packet that's 00357 through 00381.

3 This is the St. Pat's March in 2007. And I just need you to

4 clear up this explanation of the cost charged on page 00380.

5 Can you tell from that what police costs were incurred in this

6 event?

7 A. Police cost incurred was \$7,144.96.

8 Q. And do you know whether the organizers of that event

9 were invoiced for that amount?

10 A. No. They were not.

11 Q. And why not?

12 A. Due to the detectives exam --

13 Q. Okay.

14 A. -- during this time.

15 Q. I'm sorry. Go head, the detectives exam --

16 A. Due to the detectives exam, I had given them an

17 estimate for this event for \$5,208.80.

18 Q. Okay.

19 A. Based upon what they have always done in the past.

20 Due to the detectives exam, there was a number of police

21 officers that were studying for that test.

22 Q. Uh-huh.

23 A. When the cost estimates came out, because we had to

24 go ahead and have this event, the lieutenant had to hire

25 officers who were not studying who were on overtime. And their

1 cost increase by \$2,000.00.

2 Q. Okay. So how much was charged to the organizers?

3 A. 4,533.07.

4 Q. And yet you said that your initial estimate had been

5 5200. Why did you charge them only \$4,537.00

6 A. To the parade cost from '05 and added 10 percent to

7 it. And that would have taken into account our raises on the

8 contract and our longevity pays and things like that.

9 Q. In your understanding, are you -- would there be any

10 reason why you could not have charged the organizers the full

11 \$7,144.00?

12 A. Well, I don't think it'd be fair.

13 Q. Okay. Is there anything that requires you to take

14 into account circumstances such as the exam going on?

15 A. Well, when they came to us the exam was not put out.

16 So the date was never set.

17 Q. Okay.

18 A. The date was set or, I think it's 90 days prior to

19 the event.

20 Q. Okay.

21 A. So when this came up, I did not foresee this being a

22 problem. I took it into account with what we've done always in

23 the past. And I don't think this was even realized until

24 probably two or three weeks prior to the event starting that we

25 were gonna have issues getting officers for this event.

1 Q. When did you tell the organizers that there was a  
2 problem with that?

3 A. I never did.

4 Q. Did you ever tell them what the true cost of the  
5 event was?

6 A. I think I may have thrown this out when they came to  
7 the permit fee the year before.

8 Q. The next year?

9 A. The next year.

10 Q. And is there any reason why you went with the prior  
11 year plus 10 percent rather than the estimate that you had  
12 given them?

13 A. Because even the estimate was high, ma'am. So all I  
14 did was -- if I took '05's event and if I would have added 10  
15 percent on it and it would have come out to \$5200.00, that's  
16 what I would've billed them at.

17 Q. Okay.

18 A. But this was gone ahead and discussed. We figured 10  
19 percent covers what we made on contract and whatever longevity  
20 kicked in, and that would have covered our expenses for this  
21 event and it would have been fair to the organizers of this  
22 event.

23 Q. Okay. Do you follow that approach -- that sounds  
24 very fair to me. Do you follow that approach with other  
25 marches? That is, we have in San Antonio several events that

1 take place every year; isn't that correct?

2 A. Uh-huh.

3 Q. And do you generally want to make sure that there is  
4 no more than a 10 percent increase in the cost from year to  
5 year?

6 A. I can't say that, because I don't have anything to do  
7 with contract negotiations with the San Antonio Police  
8 Department.

9 Q. Okay. But you know that over this period of time  
10 that we're talking about, from 2005 to 2006, for example -- you  
11 explained to me that there was a 10 percent increase in terms  
12 of your salaries; is that correct?

13 A. That's what we're estimating. Yes.

14 Q. So do you try to make sure that there's no larger  
15 increase in the cost to organizers than 10 percent?

16 A. No. What we try to do is give them a realistic  
17 estimate when they come in.

18 Q. Okay. Well, why would it be important that this  
19 event not have an increase above 10 percent, in your view,  
20 while other parades could experience an increase in more than  
21 10 percent and you would not feel obligated to do anything  
22 about it?

23 A. This was caused by a situation within internal  
24 workings of the San Antonio Police Department. I don't think  
25 it's fair for me to go and charge somebody \$7,000.00 because

1 the City of San Antonio has planned an event that's gonna go  
2 ahead and hurt you financially in me having to go ahead and  
3 hire additional overtime people to work your event.

4 Q. Okay. But as I've heard the explanation from both  
5 yourself and Lieutenant O'Dell, you can't predict with much  
6 accuracy how many officers are going to be available on an on  
7 duty basis from week to week, let's say on a Saturday?

8 A. That's why, that's why whenever I do my estimates,  
9 they are based upon three hours and they're based upon what the  
10 intersection count is in that event.

11 Q. Okay. And so your estimates are based on staffing  
12 each intersection with one officer?

13 A. Well, they are based upon me giving that information  
14 to the lieutenant and the lieutenant devising a traffic plan  
15 and giving me an idea of how many officers he's gonna have on  
16 straight time and how many he's gonna use on overtime.

17 Q. Okay. But generally, you are telling me now that the  
18 number of officers is determined by the number of  
19 intersections?

20 A. No. What I'm telling you is, I give that information  
21 to the lieutenant. The lieutenant determines a traffic control  
22 plan. On that traffic control plan that lieutenant tells me  
23 how many he has available on straight time and how many he has  
24 an overtime. And then I come up with the estimate based upon  
25 at least three hours per officer.

1 Q. Okay. But isn't it, isn't it true that you can't --

2 neither you nor the lieutenant can know in advance how many on

3 duty officers are gonna be available?

4 A. We can have a pretty good idea. But to tell you the

5 exact number that's gonna be here on November the 11th, 2008?

6 No.

7 Q. Okay. This is just because everybody in the, in the

8 International Woman's Day March and the San Antonio Free Speech

9 Coalition want to know how you did traffic control for this

10 cattle drive down Houston.

11 A. Okay.

12 Q. And so there was an application in 2008 for this

13 cattle drive. And I'm looking at the documents on 05210 and

14 05235. And I noticed that the -- let's see if there's a

15 printout here -- the number of officers were 19 officers and

16 this is a march that was down Houston. And were there road

17 closures so that you could barricade Houston in that case?

18 A. Yes.

19 Q. How many road closures? Do you know?

20 A. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.

21 Q. So those are all road closures?

22 A. Yes.

23 Q. Do they indicate road closures?

24 A. Yes, they do. 178 feet of barricades, 46 of 'em; 54

25 feet of barricades, there's 7 of 'em.

1 Q. Okay. I just -- I couldn't read that. Let me see if

2 --

3 A. Okay.

4 Q. So what was your strategy on that? Did you just put  
5 barricades all the way down the road?

6 A. No. Risk management got involved in that. Risk  
7 management just told them before they could do anything, they  
8 had to put fencing up all along the route.

9 Q. Okay.

10 A. That was done, I think, at 2 or 3:00 o'clock in the  
11 morning down Houston Street. At which time we were going to  
12 have Flasher Equipment Company come out with a very, very large  
13 contingency of barricade crews. I want to say they had six  
14 guys up front and four guys in the back.

15 And their job was to pull out all those  
16 barricades. And then we were going to go ahead and release the  
17 cows. At that time the guys in the back were gonna pull the  
18 barricades as soon they got passed, and that way we could move  
19 traffic, cross traffic throughout the event. The only problem  
20 is it didn't work.

21 Q. Okay. Why didn't it work?

22 A. The timing was wrong, and you cannot put out that  
23 many barricades no matter how many crews you have to do, to do  
24 that.

25 Q. So what happened, in fact?

1 A. We will not do it this way next year.

2 Q. So are you telling me that the barricades were not  
3 erected in time?

4 A. No. We had to put the barricades up and make sure  
5 they were up before the bulls went through. And the traffic  
6 backed up on Commerce Street and on Travis Street, and it  
7 caused us a huge, huge problem.

8 Q. Okay. And again, how can I -- normally, in other  
9 plans I've seen, it indicates, like it does under Houston at  
10 Pecos, that there would be a road closure. How do you --

11 A. This was the only total closure that was gonna happen  
12 prior to the event beginning. They had told me they were gonna  
13 cross each intersection within five minutes.

14 Q. Okay.

15 A. And all we were gonna do was pull this out, put it  
16 down, and pull it up right behind the, the steers.

17 Q. I see.

18 A. And it did not work that way.

19 Q. I see. So your plan, at least was not to have, not  
20 to have total road closures all the way along Houston?

21 A. We were hoping that we would have no more than a five  
22 minute delay in each intersection, is what we were trying to  
23 time out. And it just did not work.

24 Q. Right. Okay. I understand.

25 MS. KASTELY: Let me take a five minute break

1 and we should be done.

2 MS. KLEIN: Okay.

3 (Whereupon, a break was taken)

4 Q. BY MS. KASTELY: I'm looking at page 05832, which is  
5 what you provided today for the 2008. And I just want to ask  
6 you about the International Workers March that took place on  
7 March 1st -- I'm sorry, May 1st. Did you work on that event?

8 A. Let me see. Which one is it, number --

9 Q. Let me see.

10 A. Number 29.

11 Q. Okay.

12 A. No. I did not.

13 Q. Okay. Who would have, who would have worked on that?

14 A. I think Brian Phelt actually went to that event and  
15 worked that.

16 Q. And it indicates on there that there were 30 -- how  
17 many officers were assigned?

18 A. It doesn't say how many officers assigned.

19 Q. How many hours?

20 A. Hours, there was 33 hours assigned to that event.

21 Q. 33 hours?

22 A. Uh-huh.

23 Q. So if that was -- do you know what the route was on  
24 that event?

25 A. I'd have to see a permit, ma'am.

1 Q. Okay. If I were to tell you that it was a march from  
2 Milam Park to Alamo, south to Commerce and then back to Main.

3 A. I'm sorry. Try that again.

4 Q. Beginning at Milam Park.

5 A. Okay.

6 Q. Eastbound on Houston to Alamo.

7 A. Okay.

8 Q. South on Alamo to Commerce.

9 A. Okay.

10 Q. And then westbound on Commerce to Main Plaza.

11 A. That could be. I'm not 100 percent sure.

12 Q. Okay. The 33 hours of officers, according to your  
13 testimony, that could be 11 officers for 3 hours or 33 officers  
14 for 1 hour; is that correct?

15 A. That could be. Yes.

16 Q. The, the -- for a march of approximately 2 miles  
17 passing approximately 30 intersections, would you be surprised  
18 that the number of police hours was so low?

19 A. Now, they could have -- they probably leap frogged on  
20 this event, is what they did to keep those so low.

21 Q. You said that Brian Phelt attended the event. Would  
22 he also have made the determinations in your place with respect  
23 to the traffic control plan?

24 A. No.

25 Q. Who -- for example, if, if they did leap frog, who

1 would have decided to go ahead and leap frog?

2 A. The lieutenant in charge of the event.

3 Q. Okay. And who would have decided whether there would  
4 be any road closures for the event?

5 A. The lieutenant and I would have discussed that.

6 Q. Did you have such a conversation with the lieutenant?

7 A. I don't remember what the, what the exact  
8 conversation was. I'd have to look at the permit.

9 Q. Okay. So you don't recall your decision about road  
10 closures in this case?

11 A. I didn't work it. I don't even remember where they  
12 were.

13 Q. Okay. But as far as you know, there's nobody else  
14 that is certified in your office to, to interpret the Texas  
15 Manual on Uniform Traffic Control Devices?

16 A. I don't believe so.

17 Q. Okay.

18 MS. KASTELY: Okay. I think that's it. Thank  
19 you for your time.

20 MS. KLEIN: We'll reserve our questions.

21

22

23

24

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1 CHANGES AND SIGNATURE

2 WITNESS NAME: WILLIAM JENKINS

3 DATE OF DEPOSITION: JULY 15, 2008 & AUGUST 4, 2008

4 PAGE LINE CHANGE REASON

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1 I, WILLIAM JENKINS, 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 \_\_\_\_\_  
WILLIAM JENKINS

7

8 THE STATE OF \_\_\_\_\_)

9 COUNTY OF \_\_\_\_\_)

10

11 Before me, \_\_\_\_\_, on this day  
12 personally appeared WILLIAM JENKINS, known to me (or proved to  
13 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 WILLIAM JENKINS  
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, WILLIAM JENKINS, was duly sworn by the  
7 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 14,  
10 2008 to Deborah Lynne Klein, for the witness' examination,  
11 signature and to be returned by September 14, 2008 to our  
12 office;

13 That the amount of time used by each party at the  
14 deposition is as follows:

15 CATHEY SHEEHAN & DEBORAH LYNNE KLEIN 00 HOUR(S):00 MINUTE(S)  
16 AMY KASTELY 05 HOUR(S):50 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 CATHY SHEEHAN & DEBORAH LYNNE KLEIN, FOR THE DEFENDANT,  
21 AMY KASTELY, FOR THE PLAINTIFFS;

22 That \$811.00 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

8

\_\_\_\_\_  
George N. Taylor  
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