VIRGINIA:
IN THE CIRCUIT COURT OF THE City of ALEXANDRIA

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IN THE MATTER OF:	
COMMONWEALTH OF VIRGINIA	CF-15000258
VS.	
VALERIE ANN GAGNON	
DEFENDANT.	

Friday,

March 18, 2016

Alexandria, Virginia

The trial commenced at 10:00 a.m.

BEFORE:

THE HONORABLE NOLAN B. DAWKINS, JUDGE

APPEARANCES:

ON BEHALF OF THE COMMONWEALTH OF VIRGINIA:

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ON BEHALF OF DEFENDANT VALERIE ANN GAGNON:

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Commonwealth				
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Robert Rowe	27	52	70	
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1 P R O C E E D I N G S

2 10:20 a.m.

3 (THE COURT REPORTER WAS SWORN.)

4 THE COURT: On the record. Good

5 morning.

6 MR. RHOADES: Good morning, Your Honor.

7 THE COURT: What's the status of this

8 matter?

9 MR. RHOADES: It's ready to trial,

10 Your Honor.

11 THE COURT: All right. Let the record

12 reflect this is the matter of Commonwealth vs.

13 Valerie Gagnon.

14 MR. RHOADES: Gagnon, Your Honor.

15 THE COURT: Gagnon. Ms. Gagnon is

16 present with her attorney as well. The

17 Commonwealth attorney is present. The matter is

18 on for trial.

19 Ms. Gagnon, do you want to enter your

20 plea at this time?

21 MR. RHOADES: Not guilty, Your Honor.

22 THE COURT: Please stand, sir.

1 THE CLERK: The grand jury charges
2 that Count 1, on or about the 18th day of July
3 2015 in the City of Alexandria, Virginia Valerie
4 Ann Gagnon made a felonious assault at a police
5 office with NCB at Alexandria Police Department,
6 knowing or having reason to know that she was a
7 law enforcement officer performance of her public
8 duties as a law enforcement officer. Virginia
9 Code Section 18.2-57(c). How do you plea?
10 THE DEFENDANT GAGNON: Not guilty.
11 THE CLERK: Count 2, on or about the
12 18th day of July 2015 in the City of Alexandria,
13 Virginia Valerie Ann Gagnon did unlawfully
14 knowing attempt to intimidate and impede a law
15 enforcement officer lawfully engaged in his
16 duties as such by threats and force. Virginia
17 Code Section 18.2-460(b). How do you plea?
18 THE DEFENDANT GAGNON: Not guilty.
19 THE CLERK: Count 3, on or about the
20 18th day of July 2015 in the City of Alexandria,
21 Virginia, Valerie Ann Gagnon did unlawfully and
22 intentionally prevent or attempt to prevent a law

1 enforcement officer from lawfully arresting her.
2 Virginia Code Section 18.2-479.1. How do you
3 plead?
4 THE DEFENDANT GAGNON: Not guilty.
5 THE CLERK: Count 4, on or about the
6 18th day of July 2015 in the City of Alexandria,
7 Virginia, Valerie Ann Gagnon did unlawfully and
8 with the intent to cause public inconvenience,
9 annoyance of lobby and to recklessly create a
10 risk thereof while in a public place engaged in
11 conduct having a direct tendency to cause an act
12 of violence by the persons at whom the conduct
13 was directed. Virginia Code Section 18.2-415.
14 How do you plea?
15 THE DEFENDANT GAGNON: Not guilty.
16 THE CLERK: Raise your right hand.
17 (THE DEFENDANT WAS SWORN.)
18 THE COURT: Ms. Gagnon, before
19 accepting your plea I am required to ask you
20 certain questions. If you don't understand my
21 question or if you wish that I repeat the
22 question, please let me know. What is your full

1 name and what is your date of birth?
2 THE DEFENDANT GAGNON: Valerie Ann
3 Gagnon. 1963, the 9th of October.
4 THE COURT: Your age? How old are you?
5 THE DEFENDANT GAGNON: Fifty-three.
6 I'm blanking.
7 THE COURT: Okay. What is the extent
8 of your education?
9 THE DEFENDANT GAGNON: I have two
10 masters in fine arts and international relations.
11 Undergraduate and certificate in economics. I
12 speak German, French and English.
13 THE COURT: Are you currently under the
14 influence of any drugs or alcohol?
15 THE DEFENDANT GAGNON: No.
16 THE COURT: Can you read and write?
17 THE DEFENDANT GAGNON: Yes.
18 THE COURT: Are you the person charged
19 in the indictment that was just read to you?
20 THE DEFENDANT GAGNON: Yes, I am.
21 THE COURT: Do you fully understand
22 those charges?

1 THE DEFENDANT GAGNON: Yes, I do.
2 THE COURT: Have you conferred with
3 your attorney about the elements of those
4 charges?
5 THE DEFENDANT GAGNON: Yes.
6 THE COURT: Have you discussed with
7 your attorney any possible defense that you may
8 have to the charges?
9 THE DEFENDANT GAGNON: Yes.
10 THE COURT: Have you had enough time
11 to talk with your attorney?
12 THE DEFENDANT GAGNON: Yes.
13 THE COURT: Have you given the
14 attorney the names of any witnesses that may be
15 called to prepare your case?
16 THE DEFENDANT GAGNON: Yes.
17 THE COURT: Are the witnesses present
18 today?
19 THE DEFENDANT GAGNON: Yes.
20 THE COURT: Are you entering your plea
21 of not guilty freely and voluntarily?
22 THE DEFENDANT GAGNON: Yes.

1 THE COURT: Are you ready for trial
2 today?
3 THE DEFENDANT GAGNON: Yes.
4 THE COURT: Do you understand, ma'am,
5 that you have a constitutional right to trial by
6 jury? I am told that you have waived that right.
7 Is that correct?
8 THE DEFENDANT GAGNON: Correct.
9 THE COURT: And you wish that the
10 Court try this case without a jury.
11 THE DEFENDANT GAGNON: Right.
12 THE COURT: Are you entirely satisfied
13 with the services of your attorney?
14 THE DEFENDANT GAGNON: Absolutely.
15 THE COURT: Do you understand all the
16 questions I've asked you?
17 THE DEFENDANT GAGNON: Yes, I have.
18 THE COURT: Do you have any questions
19 you wish to ask me?
20 THE DEFENDANT GAGNON: No.
21 THE COURT: You may be seated.
22 Any opening statement?

1 MR. RHOADES: Your Honor, before
2 opening statements, I'd like to ask for a rule
3 please.
4 THE COURT: All those who are going to
5 testify please exit the courtroom. We will call
6 you as you are needed.
7 (WITNESSES EXIT COURTROOM.)
8 MS. BEST: Your Honor, Commonwealth
9 doesn't have an opening statement.
10 THE COURT: I understand you've got
11 some problems with your speech today, ma'am.
12 MS. BEST: Yes, Your Honor. The
13 deputies have been kind enough to hook up a
14 microphone.
15 THE COURT: All right. Do you think
16 you'll be able to proceed with the trial today.
17 MS. BEST: If it's alright, I'll just
18 hold it. It may be easier.
19 THE COURT: You do whatever is
20 comfortable for you.
21 MS. BEST: All right. It might be a
22 bit easier for her to hear.

1 THE COURT: I'm just wondering if
2 there are any of the other assistants up there
3 who can come to assist you in case you lose your
4 voice.
5 MS. BEST: I can inquire.
6 THE COURT: Okay. You may want to
7 inquire during the day to see whether you can get
8 some help.
9 MS. BEST: Mr. Martin said he would
10 come up after he finished his criminal docket.
11 THE COURT: Yes, ma'am.
12 MS. BEST: For my case in chief, the
13 witnesses will be doing most of the talking. So
14 I think it will be okay.
15 THE COURT: All right.
16 MS. BEST: As long as the Court can
17 hear me.
18 THE COURT: I can hear you just fine.
19 MS. BEST: Okay. I don't have an
20 opening statement. I trust the Court to listen
21 to the facts in this case.
22 THE COURT: All right. Mr. Rhoades.

1 MR. RHOADES: Your Honor, there are
2 four charges here. The focus from my point of
3 view will be on the felony. The misdemeanors,
4 there's a lot of disputes of fact here. We'll
5 argue those individually after the evidence is
6 in. So in effect we're not making an opening
7 statement in regard to the misdemeanors either.
8 The felony is the charge of assaulting
9 a police officer and the evidence will show that
10 on July 18th at around 6:30 to 7:00 p.m. one of
11 Ms. Gagnon's neighbors called the police
12 complaining about her harassing him. The
13 officers responded, talked to the neighbor who is
14 Mr. Rowe who I assume will be testifying here
15 today in regard to the disorderly conduct charge
16 and then talked briefly but in our opinion not
17 fully with Ms. Gagnon.
18 They then left. Mr. Rowe then
19 indicated a desire to go to magistrate and get a
20 warrant or something. I don't know that he knew
21 what he wanted a warrant for. But he went to the
22 magistrate. That warrant is for disorderly

1 conduct which is before the Court today.
2 The warrant was then and the facts of
3 the disorderly conduct are that Ms. Gagnon and
4 Mr. Rowe had been having an ongoing dispute for
5 some time, at least, urgently since May about
6 dead squirrels in the development. He is the
7 president of the homeowners association.
8 She had alleged that two members, some
9 people, who lived next door to her were poisoning
10 animals including the squirrels. And they put
11 poison around the fish pond. Mr. Rowe concluded
12 that she was incorrect and that the neighbors
13 were incorrect and advised her that she had to
14 stop that.
15 Now I don't know what authority the
16 homeowners association has in such matters. I
17 rather doubt that they had any. But he did take
18 part. He did intercede. And he stuck himself in
19 the middle of this controversy which maybe he
20 today wishes he hadn't done. But nonetheless he
21 did.
22 And one of the issues was whether or

1 not there were squirrels dead and whether or not
2 they had been poisoned. Both Ms. Gagnon and her
3 mother had seen several poisoned squirrels and a
4 white powder around the area of their fish pond
5 which would led to the conclusion that they were
6 being poisoned.
7 Regardless of whether it was two or
8 not, there's no question. And the evidence will
9 be clear that Mr. Rowe decided to intercede in
10 that matter to some extent on behalf of the
11 people who my client accused of poisoning the
12 squirrels.
13 On the day in question which is when
14 the conduct arose against this background. Ms.
15 Gagnon found another dead squirrel, took it and
16 put it on Mr. Rowe's doorstep with a note saying
17 "Number nine." There had been some questions as
18 to he and the people she accused of pointing a
19 question whether there were any dead squirrels.
20 So she did that to prove there were and also to
21 try and urge Mr. Rowe to have the homeowners
22 association have the animal examined for poison

1 and see if it was being poisoned.
2 That apparently would cost around $300
3 to have that examination and she thought the
4 homeowners association should take that up. She
5 left a note regarding that, but there was nothing
6 pejorative or threatening or anything in the note
7 she left.
8 Later in the day probably around 6:00
9 or 6:30 p.m. -- some of the times are kind of big
10 -- Ms. Gagnon is in the garden of her parents'
11 house which is right next door to Mr. Rowe's
12 house, almost. It is next door. And he accosted
13 her while she was in the garden of her parents'
14 home. And he started getting -- using abusive
15 language and saying repeatedly and repeatedly
16 that he was going to call the police.
17 He accused her during this
18 conversation of at least being delusional. He
19 knew from past context which there will be more
20 detail that she very deeply resented being
21 calling delusional. It is our view that the
22 evidence will show that he did that as an attempt

1 to provoke her.

2 She did use some bad language to Mr.

3 Rowe. Whatever precisely, there is some dispute

4 about what it was. And the Court will determine

5 what it was. But there were no threats, no

6 violence, no threat of violence. And during the

7 majority of this conversation she was regarding

8 her parents' home. So where he had went to

9 accost her I believe the evidence will show with

10 the intent of inciting her.

11 They over this squirrel controversy

12 had grown so nasty that Mr. Rowe had gone to take

13 the steps -- and this was unknowing to her at the

14 time and unknowing to us until we got the

15 documents -- of trying to convince her father to

16 inherit her because of how he perceived the

17 squirrel controversy. Mr. Rowe went so far as to

18 draw up a legal document that he was urging Mr.

19 Gagnon to enter into as an amendment to the trust

20 agreement. To the best of my knowledge, Mr. Rowe

21 is not a lawyer.

22 And then after she was arrested in

1 this case, he exulted in emails to his neighbors
2 at one point that this may assist in getting rid
3 of her out of the neighborhood. Whatever the
4 virtues of the original quarrel, he had gone far
5 beyond that and taking things he obviously had no
6 right to do as a president of the homeowners
7 association and as part of his ongoing quest to
8 get Valerie out of the neighborhood.
9 The assault of the police officer
10 derived from the serving of that warrant that he
11 got when he was taken by Officer Meehan in this
12 case to the magistrate to get the warrant.
13 According to Mr. Rowe, they spent about three
14 hours over there getting a warrant and they
15 included the officer to get a warrant for
16 disorderly conduct.
17 They then, Officer Meehan then at
18 around 9:00 p.m. went back to Ms. Rowe's house,
19 not to Ms. Rowe's house, to her parents' house
20 where Ms. Gagnon was to serve the warrant. The
21 evidence at the preliminary hearing and in the
22 officer's statement was that she intended to

1 arrest her and take her to the police station.
2 It's my understanding that she since
3 has said that she intended to issue a summons
4 which would have make sense under the
5 circumstances. The reason that she was confused
6 about something at the preliminary hearing and I
7 have gotten no explanation as to why she in her
8 incident report to the police department also
9 said the same thing that they intended to arrest
10 her.
11 Regardless of what she intended to do
12 when they went there, they did attempt to arrest
13 her. They went to the door of her house at 9:00
14 p.m. and attempted to arrest her and did arrest
15 her. Officer Meehan grabbed her. They all agree
16 that the first contact was Officer Meehan taking
17 her left arm and twisting it behind her back.
18 When that happened, Ms. Gagnon reflexively with
19 no attempt to strike Officer Meehan, her other
20 arm went out.
21 At that point, Officer Meehan struck
22 Ms. Gagnon in the face, in her eye, with an open

1 fist and then was attempting to do it again when
2 the other officer twisted Ms. Gagnon's other arm
3 behind her back and they got her in handcuffs.
4 It is unquestioned that the hand that Ms. Gagnon
5 put out touched the officer's bulletproof vest.
6 There is no question there was no injuries.
7 We've been given no photographs that there was
8 even a red mark.
9 And she was then handcuffed and taken
10 to the car. There is an issue. There are
11 several facts around arrest that are debated and
12 there is evidence that is conflicting most of
13 which we believe goes to the credibility of the
14 officer and her partner's story about the blow
15 and how it happened or at least detracts from the
16 total credibility.
17 And we believe the Court will then
18 decide there's a reasonable doubt and should
19 acquit Ms. Gagnon of the charge of assault of a
20 police officer. Thank you.
21 THE COURT: Call your first witness.
22 MS. BEST: Officer Kenneth Howes.

1 (WITNESS SWORN)

2 DIRECT EXAMINATION

3 BY MS. BEST:

4 Q Can you please introduce yourself to

5 the Judge?

6 A Yes. I'm Officer Kenneth Howes with

7 Alexandria Animal Control.

8 Q Officer Howes, on July 18, 2015 did

9 you have occasion to respond to a call on

10 Princess Street?

11 A Yes. Twice actually.

12 Q Okay. The first time, can you

13 describe that encounter for the Court?

14 A Yes. At about approximately 11:00

15 a.m. I responded to a call from Ms. Gagnon whom

16 I've met with before concerning squirrels in the

17 area. She had located a deceased squirrel and

18 she asked if we would test it for levels of

19 poisoning. Generally, it's not something that

20 Animal Control does. I offered to remove the

21 squirrel for her. She declined and stated that

22 she would have it tested herself.

1 Q Okay. You said you had dealt with her
2 before about the squirrels in the past. What had
3 you advised her about the squirrels?
4 A She had concerns about her neighbors
5 poisoning the squirrels on their property.
6 Through my investigations it was unsubstantiated.
7 MR. RHOADES: Your Honor, I object to
8 that. It's a conclusion as a result of his
9 investigation.
10 THE COURT: I sustain the objection.
11 MS. BEST: After you investigated,
12 what did you advise her?
13 THE WITNESS: I advised her to come to
14 me with any concerns. I gave her my card with my
15 information. Call me if she had any concerns
16 involving any squirrels or any other wild life to
17 contact me instead of speaking with her neighbors
18 about it.
19 BY MS. BEST:
20 Q And that was prior to July 18th.
21 A Yes.
22 Q On July 18th, did you have further

1 conversations with her about her plea about the
2 squirrels?
3 A She believed that they were being
4 poisoned still. She asked the question if they
5 had been tested. It's not -- Squirrels are
6 tricky. They're rodents viewed by the state.
7 MR. RHOADES: Your Honor, I don't
8 believe he's allowed to give an opinion on
9 Alexandria regulations regarding animals. And I
10 don't believe he's qualified to do that.
11 MS. BEST: Your Honor, he's an Animal
12 Control officer.
13 MR. RHOADES: Yes, but that doesn't
14 make him a legal expert.
15 THE COURT: I'm not sure I understand
16 what the answer was. Let me hear the answer
17 again, sir.
18 THE WITNESS: Well, squirrels are
19 technically rodents. So people use poison,
20 traps, on rodents.
21 THE COURT: I'll overrule. Overrule
22 the objection.

1 DIRECT EXAMINATION (Cont'd)
2 MS. BEST: Had you advised her the
3 previous occasion that it was legal to poison
4 squirrels?
5 THE WITNESS: Yes.
6 BY MS. BEST:
7 Q All right. You said you responded
8 back out there a second time. What was that for?
9 A That was to remove her dog, Cecil,
10 from the premises. That's just something that we
11 do if a subject is being arrested and there's no
12 one to care for the dog.
13 Q So that was after the incident with
14 the police.
15 A Yes.
16 MS. BEST: I have no further
17 questions, Your Honor.
18 THE COURT: Mr. Rhoades, cross
19 examine.
20 MR. RHOADES: Yes.
21 CROSS EXAMINATION
22 BY MR. RHOADES:

1 Q Is it legal for a person to put poison
2 on their own property if it's for rodents and
3 stuff? And in your view, squirrels are rodents.
4 Is that right?
5 A Right.
6 Q But is it legal for people to poison
7 things on common property or on other people's
8 property?
9 A I don't believe so.
10 Q Thank you.
11 THE COURT: Redirect.
12 REDIRECT EXAMINATION
13 BY MS. BEST:
14 Q When you previously investigated, did
15 you find any evidence of poison in common areas?
16 A No.
17 MS. BEST: I have no further
18 questions. I'd ask that he be released.
19 THE COURT: Sir.
20 MR. RHOADES: Just to follow up on
21 that, Your Honor.
22 RECROSS EXAMINATION

1 BY MR. RHOADES:
2 Q Did you have this squirrel tested for
3 poisoning?
4 MS. BEST: Your Honor, I object to
5 outside scope. This is recross. I asked him
6 questions about common area.
7 THE COURT: Overruled. You may ask
8 the question.
9 BY MR. RHOADES:
10 Q Did you have this squirrel that she
11 offered to you on that day tested for poison?
12 A No.
13 MR. RHOADES: Okay.
14 THE COURT: Thank you. Any further
15 questions, Ms. Best?
16 REDIRECT EXAMINATION (Cont'd)
17 BY MS. BEST:
18 Q Why didn't you test the squirrel that
19 day?
20 A Which date are we talking? The 18th?
21 Q On July 18th.
22 A Even if the squirrel had been tested

1 for poison, there would be no way to locate where
2 it was coming from or anything like that. I
3 don't even remember the last time we had an
4 animal tested for poison especially considering
5 it's a rodent.
6 Q Did Ms. Gagnon asked to keep the
7 squirrel?
8 A Yes.
9 MS. BEST: Nothing further.
10 THE COURT: You may step down, sir.
11 Mr. Rhoades.
12 RECROSS EXAMINATION (Cont'd)
13 BY MR. RHOADES:
14 Q What effort did you make --
15 THE COURT: Mr. Rhoades, no further
16 questions. You may step down, sir.
17 MS. BEST: I would ask that he be
18 excused.
19 THE COURT: You're free to leave, sir.
20 THE WITNESS: Thank you.
21 (WITNESS EXCUSED)
22 MS. BEST: I call Robert Rowe.

1 (WITNESS SWORN.)

2 DIRECT EXAMINATION

3 BY MS. BEST:

4 Q Can you please state your name for the

5 Judge?

6 A Robert Rowe.

7 Q Mr. Rowe, where do you live?

8 A 507 Princess Street.

9 Q Is that here in the City of Alexandria?

10 A Yes, it is.

11 Q Do you know somebody named Valerie

12 Gagnon.

13 A I do.

14 Q Do you see her in the courtroom today?

15 A Yes, I do.

16 Q Would you point her out for the Judge?

17 A Yes, the lady at the far end of the

18 table.

19 MS. BEST: Let the record reflect he's

20 identified the Defendant.

21 THE COURT: So identified.

22 MS. BEST: Mr. Rowe, how do you know Ms.

1 Gagnon?

2 THE WITNESS: The daughter of a long-

3 time neighbor two doors down from my house.

4 BY MS. BEST:

5 Q All right. In the fall of 2014 going

6 into the spring of 2015, did you have occasion to

7 speak with Ms. Gagnon about her beliefs regarding

8 squirrels in the area?

9 A Yes.

10 THE COURT: What date was that?

11 MS. BEST: From the fall of 2014 to the

12 spring of 2015.

13 THE COURT: All right.

14 THE WITNESS: Yes, I did. She came to

15 my door. I believe it was February of 2015, a

16 cold day, and she asked to talk to me. And she

17 basically asked, "Do you see any dead squirrels

18 around the area?" She said, "I'm seeing some

19 dead squirrels."

20 I said, "No." Then it occurred to me I

21 did see a single dead squirrel in my parking

22 area. But that's all I'd seen.

1 And she said, "Well, I'm seeing a lot of
2 dead squirrels and it's very alarming. And I'm
3 wondering if someone might be poisoning the
4 squirrels."
5 And I said, Well gee. That's the first
6 I've heard of that." But I said, "You know, I
7 don't know what I would do. But I would suggest
8 you call the Animal Control Department at the
9 city or the police and get them involved because
10 they're the people who should handle that sort of
11 thing.
12 Q After that time, did you become aware of
13 any further actions that Ms. Gagnon took with
14 regard to the squirrels?
15 A I didn't hear anything further from it
16 right after that meeting encounter in February.
17 She apparently had emailed a couple of neighbors
18 and I got an email from a neighbor asking about
19 it. But that was within a week or so of that
20 initial meeting at my door. And I heard nothing
21 of it at all and I assumed that either she had
22 talked to the city or something else was

1 happening.
2 MR. RHOADES: Your Honor, he assumed is
3 not responsive to the question nor is it
4 admissible?
5 THE COURT: Sustained. Next question.
6 THE WITNESS: So ask the question again.
7 DIRECT EXAMINATION (Cont'd)
8 BY MS. BEST:
9 Q What was your next contact regarding the
10 squirrels?
11 A I got an email from my new next-door
12 neighbors at 509, one house away from me and in
13 between my house and the Gagnons' house. And
14 they emailed me saying "We have gotten these
15 alarming written notes on our door. And we now
16 realized it's the daughter of the Gagnons who is
17 leaving these notes on our door. And we have no
18 idea what's happening. She is accusing us of
19 poisoning squirrels."
20 Q After learning this, what did you do?
21 A I emailed them back and I realized that
22 this is heating up in a very strange and alarming

1 way. I'm the president of the homeowners
2 association. And I thought about what can I do
3 in my position to try to smooth over what looks
4 like a really contentious situation. So I
5 emailed my neighbors, Kat and Pat, and asked
6 them, "Can I come and meet with you just to learn
7 more what's going on?"
8 Q Without saying what they told you, did
9 you meet with them?
10 A I did.
11 Q What did you do next?
12 A I then got with -- I think the Friday of
13 May 2nd or 3rd I thought I should try to meet
14 with Valerie and her mother and her father and
15 just told them what I'm learning and just see if
16 I could learn more of what's going on from their
17 point of view and also to see if we could just
18 get them to calm down and avoid having this
19 already very hot, contentious situation getting
20 out of control.
21 Q Did you speak with the Defendant?
22 A I did. I went to the house of the

1 Gagnons noon-ish. I can't remember the exact
2 date, early the first week of May. And I saw
3 Valerie's car was there and I realized she would
4 be there visiting her mom.
5 And I asked if I could meet with them in
6 their kitchen. They invited me in and I told him
7 quickly what was going on that the neighbors had
8 told me that (a) these notes had been left on
9 their door and they were feeling very threatened.
10 They were feeling very uneasy. They had learned
11 that there had been -- They just didn't feel that
12 this was a safe situation. And furthermore, the
13 police had already been called to their house
14 another weekend because of an encounter between
15 them and Valerie.
16 Q And that was regarding the squirrels as
17 well.
18 A Well, she apparently was talking over
19 the party wall in the back patio.
20 MR. RHOADES: Your Honor, is this
21 something he heard or saw or talked to Ms. Gagnon
22 about?

1 MS. BEST: I can just ask him that.
2 Answer the question of was it regarding
3 the squirrels, not the entire story about what
4 was --
5 THE WITNESS: Yes, it was about the
6 squirrels.
7 MR. RHOADES: Your Honor, I don't
8 understand this question. I don't understand
9 what the question is.
10 THE COURT: I'm not sure. What was the
11 question again? Restate the question.
12 MS. BEST: Your Honor, he had seen it.
13 He was aware that the police had been --
14 THE COURT: No, restate the question so
15 I can know what the answer is likely to be.
16 MS. BEST: The question was was it
17 regarding the squirrels.
18 THE COURT: You can answer yes or no,
19 but nothing else.
20 THE WITNESS: Was what regarding the
21 squirrels?
22 MS. BEST: That's what I was attempting

1 to -- He was discussing a police encounter that
2 he was aware of.
3 MR. RHOADES: Well, he's discussing a
4 police encounter that he's aware of. That's
5 hearsay. As far as I know, he did not
6 participate in this police encounter. Is that
7 correct?
8 THE COURT: I think this is something
9 that he has heard from someone else is not
10 permissible.
11 MS. BEST: I think that's correct, Your
12 Honor. I can clarify. What I'm attempting to
13 illicit is what he said to Ms. Gagnon during this
14 meeting or just really to what the Commonwealth
15 has to show that her actions were intended to
16 incite violence. So this conversation in May
17 proceeds what happened in July. So what he told
18 --
19 THE COURT: Is the conversation with Ms.
20 Gagnon?
21 MS. BEST: Yes, right now it is. I can
22 clarify whether he said this to her during the

1 conversation.

2 THE COURT: You may do that. Overrule

3 the objection.

4 MS. BEST: During the conversation in

5 May, did you --

6 THE COURT: You're talking about the

7 conversation with the Defendant.

8 DIRECT EXAMINATION (Cont'd)

9 BY MS. BEST:

10 Q Yes, during the conversation with Ms.

11 Gagnon in May, did you discuss with her a police

12 encounter that had occurred between her and your

13 neighbors?

14 A You know, I'm not sure if I had

15 discussed that with her. I can't recall exactly.

16 I was discussing primarily the notes that Ms.

17 Gagnon left on the door of my neighbor's house

18 and the fact that they felt very threatened by

19 it. I believe I mentioned that they had also

20 told me about the police encounter because of

21 conversations with her and the neighbors.

22 But I was mainly there to ask her to

1 please refrain from talking to the neighbors and
2 threatening them with notes or any other verbal
3 threats or very alarming suggestions that they
4 were poisoning the squirrels. And I told her I
5 also talked to those neighbors. The neighbors
6 had two pets and they were --
7 MR. RHOADES: Your Honor.
8 THE COURT: I'm going to sustain the
9 objection.
10 MS. BEST: Your Honor, what he told her
11 is important because her intent on July 18th is
12 relevant. When on July 18th she left a dead
13 squirrel on his doorstep. If he has informed her
14 in the past that this inflicts fear in people and
15 that people find this threatening, that's
16 extremely relevant to her intent in July when she
17 did this.
18 MR. RHOADES: I don't believe that. The
19 thought with respect to the argument, it seems to
20 me that there's a difference in the conduct that
21 happened here. They say that she's leaving notes
22 threatening them with poisoning squirrels and

1 then that's the neighbors. And then to transpose
2 that to leaving a dead squirrel on his doorstep
3 is threatening in some way, I don't see where
4 there is any proof of that at all.
5 THE COURT: As I understand the injury,
6 the injury is the neighbors have relayed to the
7 witness here that they were threatened. That's
8 hearsay.
9 MR. RHOADES: Yes.
10 MS. BEST: Your Honor, it's not being
11 offered for the truth. It's being offered for
12 what Ms. Gagnon knew, what she had been informed
13 of, at the time that she chose to leave a dead
14 squirrel on his doorstep.
15 THE COURT: Is that the best evidence of
16 the neighbor who was allegedly threatened?
17 MS. BEST: And I'm not offering it for
18 the truth of the matter. I'm offering it to show
19 that Ms. Gagnon had been informed that this type
20 of behavior scared people. Mr. Rowe himself is
21 the one who told her this behavior is
22 frightening.

1 THE COURT: In order for him to know
2 that it scared people, that witness would have to
3 say that I was afraid. He can't give an opinion
4 as to whether a neighbor was afraid or not.
5 Sustain the objection. Next question.
6 DIRECT EXAMINATION (Cont'd)
7 BY MS. BEST:
8 Q All right. After you spoke with Ms.
9 Gagnon about her past behavior, did you discuss
10 with her what she should do in the future if she
11 found a dead squirrel?
12 A Yes, I said she should call the police
13 and I am not a policeman and you're not a
14 policeman. She should call the police.
15 Q Did you specifically discuss with her
16 not contacting you?
17 A Yes. I said, "There's nothing I can do
18 about this."
19 And she said, "Well, you don't care."
20 And I said, "That doesn't matter. I
21 can't do anything about it. You have to call the
22 police."

1 Q And did you have any discussions with
2 her your fear or your feelings about her
3 behavior?
4 A Not really, except that it was
5 unacceptable.
6 MR. RHOADES: Not really is the answer.
7 I don't know what else we need to put in.
8 MS. BEST: Your Honor, it's direct
9 examination. He can ask the question.
10 THE COURT: Overruled.
11 THE WITNESS: I said it was unacceptable
12 to be talking in a heated way to our neighbors
13 and she should call the police if she had any
14 suspicions and not leave notes on people's doors.
15 BY MS. BEST:
16 Q All right. After that encounter in May,
17 between May and July 18th, did you have any
18 interactions with Ms. Gagnon about the squirrels?
19 A With Ms. Gagnon directly, not her
20 family?
21 Q Just her.
22 A Yes. Well, I came back from a trip late

1 in the afternoon on July 18th. As I drove up to
2 my house, I saw my neighbors animated and
3 gesturing at me as I pulled up outside my front
4 door. And I realized something was clearly
5 wrong. They seemed very upset.
6 MR. RHOADES: Your Honor, same
7 objection.
8 MS. BEST: Your Honor, he can describe
9 his observations. Again, we're talking about an
10 act.
11 THE COURT: He can describe it. I'll
12 allow the question. Go ahead.
13 MS. BEST: What did you observe?
14 THE WITNESS: My neighbors pointed to my
15 doorstep and they said that there's a dead
16 squirrel outside your door. And by the way, it's
17 also next to their doorstep.
18 BY MS. BEST:
19 Q When you arrived, were they standing in
20 the street or around your doorstep or what?
21 A My two neighbors were on my doorstep and
22 they came out to greet me at my car and explained

1 what had been happening that day.
2 Q Okay. What did you see?
3 A I saw a dead squirrel lying on a note at
4 my front doorstep.
5 MS. BEST: May I approach?
6 THE COURT: You may.
7 MS. BEST: Mr. Rowe, do you recognize
8 what's been marked for identification purposes as
9 Commonwealth's Exhibit 1?
10 THE WITNESS: I do.
11 BY MS. BEST:
12 Q What is it?
13 A It's a dead squirrel lying on my
14 doorstep with a note.
15 Q Is this how it appeared on July 18th
16 when you were at home?
17 A Yes.
18 Q And what does the note say?
19 A It says, "Dead squirrel. Animal Control
20 contacted." It says "9" underneath "Dead
21 squirrel."
22 MS. BEST: The Commonwealth will offer

1 the exhibit for admission as Commonwealth Exhibit
2 1.
3 THE COURT: Any objection?
4 MR. RHOADES: No.
5 THE COURT: Exhibit 1 is admitted
6 without objection.
7 (WHEREUPON, THE DOCUMENTS REFERRED
8 TO, PREVIOUSLY MARKED
9 COMMONWEALTH'S EXHIBIT NO. 1 FOR
10 IDENTIFICATION, WAS RECEIVED IN
11 EVIDENCE.)
12 MS. BEST: Mr. Rowe, what did you feel
13 upon seeing that?
14 THE WITNESS: I knew immediately it had
15 to be Valerie who left it. That didn't take --
16 It would clear to me. My neighbors didn't know
17 and I explained to them there was a brief history
18 about dead squirrels with Valerie. So we knew
19 clearly who had done it.
20 And then I was already tired. I was a
21 little disoriented and alarmed. I was feeling --
22 At first I had no idea why she would do that.

1 "What did she expect me to do?" I thought to
2 myself. And I thought it was threatening to me
3 because I've already told her "Don't leave notes
4 on other neighbors' doors."
5 I couldn't believe she had left a dead
6 animal like a squirrel at my door. So I was
7 frankly shocked. And as I went back to my car to
8 retrieve some of my luggage I was mulling over
9 what had just happened.
10 My neighbors were also upset. They told
11 me they had tried to reach me all day.
12 MR. RHOADES: Objection.
13 THE COURT: Sustained.
14 MS. BEST: Your Honor, it's not being
15 offered for the truth of the matter.
16 THE COURT: Well, what's the purpose of
17 it?
18 MS. BEST: He's just giving context of
19 the situation, his reaction and what this act
20 caused him. How it caused him to react is
21 relevant.
22 MR. RHOADES: What does what the

1 neighbors have to say contribute to that even
2 assuming that's a --
3 THE COURT: Sustain the objection.
4 THE WITNESS: So I went to my car to
5 retrieve the luggage. And then Valerie came out
6 of the house and she started talking to me in a
7 heated way.
8 DIRECT EXAMINATION (Cont'd)
9 BY MS. BEST:
10 Q What do you mean?
11 A She said -- I said, "Well, Valerie, you
12 left us this squirrel at my doorstep."
13 And she said, "I called Animal Control
14 and they didn't do anything." So she didn't deny
15 it.
16 And I said, "Well, why did you do that?"
17 And then she started calling me. She
18 said, "You don't care."
19 And I said, "What do you expect me to
20 do?"
21 And then she started calling me really
22 hateful names.

1 Q I know it might be uncomfortable, but
2 could you explain for the Court exactly what she
3 was saying to you?
4 A She said, "You're a faggot. You're an
5 asshole." And she was really angry.
6 And I said, "Why are you doing this?"
7 And then I said, "I can't believe you did this."
8 She said -- She was very, very agitated,
9 very, very angry.
10 And I said, "Look. Unless you can talk
11 to me like an adult, I'm not going to have a
12 conversation with you."
13 She calmed down. She tried to compose
14 herself. And we did have a discussion. And I
15 said, "What do you expect me to do? I'm
16 president of the homeowners association. I'm not
17 the police."
18 And she said, "You don't care about the
19 squirrels."
20 I said, "It's not about -- There's
21 nothing I can do about it. Yeah, I really don't
22 care much about dead squirrels. But that's not

1 the point. You should call up the Animal Control
2 Department."
3 She said, "Well, I did. They came.
4 They didn't do anything."
5 And then I said, "Why did you leave the
6 squirrel at my doorstep?"
7 I guess she said, "Because I wanted you
8 to see that this had happened again and something
9 should be done."
10 And I said, "Look. If the police can't
11 do anything about it, there's nothing I can do.
12 And I don't want to be involved." A couple of
13 things were said, but I can't remember exactly
14 what.
15 But I then said as the conversation was
16 winding up after a few minutes "Look. Don't ever
17 leave a dead animal at my door again."
18 And she said, "Oh, I will."
19 As I walked back to my house, I had to
20 then think about those are very threatening
21 statements. She didn't seem the least bit
22 contrite. There was nothing I was saying was

1 getting through to her.
2 MS. BEST: Can I ask the Court to
3 instruct Ms. Gagnon to stop laughing?
4 THE COURT: Say again.
5 MS. BEST: If the Court could just
6 instruct Ms. Gagnon to stop laughing.
7 THE COURT: I hadn't noticed whether she
8 was. If you're laughing, ma'am, please refrain
9 from any emotions.
10 MS. BEST: After she said that to you
11 and you said you took the statement to be
12 threatening, what did you do?
13 MR. RHOADES: Wait a minute. He hasn't
14 said that at all. He hasn't said that he took
15 anything to be threatening. That's a leading
16 question. And first of all it's an improper
17 summary of previous testimony. He has not said
18 anything about being threatened. He probably
19 will now. But he had not.
20 THE COURT: Actually, he did. He said
21 a heated conversation and he felt threatened.
22 That's what my note says. After Exhibit 1 was

1 admitted, he says that he felt threatened. His
2 testimony provides that. Overruled the
3 objection.
4 MS. BEST: What did you do?
5 THE WITNESS: I went back in my house.
6 I was very agitated. I was tired from the long
7 drive. But mostly I was just appalled at the
8 conversation. And I was trying to think about
9 what I would do. And I realized that I had to
10 call the police because I felt that my zoning of
11 privacy had been completely violated.
12 I did feel alarmed. I did feel
13 threatened by the most recent statement
14 particularly that "I will leave another dead
15 animal at your doorstep." And I realized there
16 was no sense of learning from this any
17 discussions we had had from her.
18 I called the police. Within a few
19 minutes, they came to my door. Do you want me to
20 discuss that?
21 BY MS. BEST:
22 Q When the police arrived, without saying

1 what you said, did you discuss with them what had
2 occurred?
3 A Yes.
4 Q And then was there a time when the
5 police spoke with Ms. Gagnon as well?
6 A Yes. As I was speaking to them, she
7 came back out and talked to the police heatedly
8 about what she thought had happened. And the
9 police said, "You should leave. I'll talk to you
10 later. You should not talk to your neighbor
11 right now."
12 Q And did they talk to her after they
13 talked to you?
14 A Yes, I did see them talk to her later.
15 Q After that, what happened?
16 A The police talked to me about what my
17 options were and they said, "Look. We weren't
18 here to observe anything that occurred between
19 you and Ms. Gagnon." They could see the dead
20 squirrel. And they said basically, "It's up to
21 you whether or not you want to file a formal
22 complaint. If you do" --

1 And I said, "Well, can you at least take
2 down -- If I don't do that, can you take down a
3 note and at least put this on the record so that
4 neighbors in the future -- Well, so that there
5 will be a record of this event on the police
6 record?"
7 And they said, "No, it would really
8 never show up in the police record unless you
9 file a complaint." And they said, "You have to
10 come with us to the magistrate if that's
11 something you choose to do. But that's the only
12 way there will be any formal record of what has
13 transpired today."
14 So I decided very reluctantly because I
15 was tired. This was the last thing in the world
16 I wanted to have to do. I decided the only way
17 to put this on the record was to go and file a
18 complaint with the magistrate.
19 Q All right. How did you get there?
20 A The lady police officer drove me.
21 Q How long were you there?
22 A Quite a while. About two or more hours.

1 Q Okay. At the end of that encounter,
2 what happened? Was a warrant issued?
3 A They drove me back to my house. As I
4 got out of the police cruiser, it was late at
5 night, about 9:30 p.m. I believe. And I saw two
6 of my neighbors, Kathleen and Bruno, Kathleen
7 Curtin and Bruno. And we talked briefly about
8 what had happened.
9 And the police said "We're about to
10 present a warrant to Ms. Gagnon. It would be
11 wise if you both were in your house." And that's
12 what we did.
13 Q When you went inside, could you see or
14 hear anything that happened after that?
15 A Yes, I was in my bedroom trying to go to
16 sleep. And there were some police cars that
17 pulled up in front of the Gagnon's house and I
18 saw the lights flashing of two or three police
19 cruisers. And at one point I did hear a cry from
20 the other house. And I assumed it was Valerie.
21 MS. BEST: I have no further questions,
22 Your Honor.

1 THE COURT: Cross.

2 CROSS EXAMINATION

3 BY MR. RHOADES:

4 Q Did you tell the police officers in your

5 conversation with them about the events of May

6 that you testified to here today?

7 A I am pretty I told them about the notes

8 being placed on the neighbors' doors. And I was

9 feeling that there was a pattern of behavior.

10 And that's why I felt I needed to go to the

11 magistrate to file a complaint.

12 Q And did you tell them that you had

13 talked to Ms. Gagnon about that and she had not

14 changed? Did you tell them about that?

15 A I just don't recall exactly if I told

16 them about my previous conversations with Ms.

17 Gagnon.

18 Q You actually spent three hours with the

19 police and the magistrate until about 10:00 p.m.,

20 didn't you?

21 A I think I was home by 10:00 p.m. I

22 thought it was before 10:00 p.m. that I got home.

1 It could have been three.
2 Q And it could have been 10:00 p.m.
3 A It could have been 10:00 p.m.
4 Q Right. And you were there with the
5 police and the magistrate. Isn't that right?
6 A I was left alone for most of the time,
7 but intermittently the magistrate would come and
8 go and it took quite a long time for him to
9 figure out and write up the report. I had to
10 write it out myself, but it took quite a while.
11 Q Then when they -- You had to write up
12 what?
13 A It took quite a while for me to manually
14 write the report and then nothing was happening
15 for quite a while. I was just sitting by myself.
16 Q Manually write the report, do you mean
17 the complaint?
18 A I wrote my complaint.
19 Q Yes.
20 A My record of complaint, yes.
21 Q You wrote that yourself.
22 A I did.

1 Q Did you ask the officer for advice of
2 what you should put in there?
3 A No.
4 Q So you were there with him for three
5 hours. You filed a complaint and didn't ask them
6 for any advice about what you should put in the
7 complaint. Is that what you're telling the
8 Court?
9 A I was just told to record in writing
10 what my complaint was and what had transpired.
11 And that's what I did.
12 Q And there were three police officers
13 there at the time you first heard a cry from next
14 door. Is that right? I mean three or four
15 cruisers there when you first heard a cry from
16 next door. Is that right?
17 A I think I said two or three. I don't
18 remember how many. It could have been three
19 cruisers.
20 Q You said I heard her wail when -- You
21 recall in this email when you said "I heard her
22 wail when they showed up."

1 MS. BEST: Your Honor, I object to
2 questions about the email.
3 THE COURT: Say again.
4 MS. BEST: He's asking about an email
5 and not about his testimony.
6 MR. RHOADES: I'm asking about an email
7 that he sent that contradicts his testimony here.
8 THE COURT: Overruled.
9 MR. RHOADES: You said, "I heard her
10 wail when they showed up and three or four police
11 cruisers were there at 1:00 a.m." Is that your
12 recollection?
13 THE WITNESS: If that's what I wrote,
14 that's probably what I recollect.
15 CROSS EXAMINATION (Cont'd)
16 BY MR. RHOADES:
17 Q You at one point -- Well, you've got --
18 after the events in May you decided that the best
19 thing for the homeowners association was to get
20 Ms. Gagnon off of that property. Is that right?
21 A I had had a couple of meeting with her
22 father about the events. In early May, he came

1 to my house to find out more what had happened
2 when I had the heated meeting in the kitchen just
3 the day before. And we talked at length about
4 what had happened. And I told him just how very
5 upsetting it was, how difficult it was for
6 everyone, certainly difficult for me, but also
7 difficult for the new neighbors and that there
8 was a pattern of activity that had been going on.
9 And Mr. Gagnon or Dr. Gagnon was
10 extremely contrite. But that was the initial
11 discussion. And I said to him, "This is really
12 something that we have to examine. What can we
13 do to control Valerie to keep her from doing
14 this?"
15 And he said, "I can't control her." And
16 furthermore he talked about the only history
17 within her own family where he couldn't control
18 her. And it was very alarming. And this was the
19 first I realized that there was a real problem,
20 apparent violence, apparent -- Well, not just
21 apparent, a record of violence and uncontrolling
22 behavior and not taking medicine and drunkenness.

1 And all of those things was a real
2 revelation to me. I didn't realize it was that
3 serious. When I thought about it and when I
4 talked to a neighbor or two about it, it occurred
5 to me that if the Gagnons were to pass away
6 Valerie stood probably to inherit the house. And
7 I thought that would be an alarming situation.
8 Q Actually, she had sent you a letter
9 which denied many of things that you just said
10 but also said when she inherited the property she
11 would participate fully in the affairs once she
12 inherited the property. Did she not send you
13 that letter?
14 A I didn't read her letter. I was upset
15 and I didn't want to read her ranting letter.
16 Q When did you get that letter?
17 A It was the day I saw her in their
18 kitchen later that day. It would have been May
19 3rd I believe or something like that. And I
20 honestly was so agitated and upset about it that
21 I didn't want to read her letter. I saw it. I
22 took a glimpse of it. I saw a long rant and I

1 knew it was just going to make me upset. So I
2 chose not to read it.
3 Q Have you read it since?
4 A No.
5 Q Okay. So you still to this day even
6 though you produced it pursuant to a subpoena
7 have not read that letter.
8 A That's correct.
9 Q And you're not aware of that paragraph.
10 A That's correct.
11 Q Okay. However on May 26th you did send
12 an email to Pierre Gagnon subject: Irrevocable
13 Trust Suggestions for House at 511 Princess
14 Street, didn't you?
15 THE COURT: I'm sorry. I didn't hear
16 the question.
17 MR. RHOADES: You did send a letter to
18 Pierre Gagnon -- I mean an email to Pierre
19 Gagnon.
20 THE WITNESS: No, I handed that to him
21 when he came to my house.
22 BY MR. RHOADES:

1 Q You handed it. There you go.
2 A He came knowing that that was a --
3 Q I'm asking the questions and you're not
4 answering my questions. Did you indeed hand
5 deliver a letter to Pierre Gagnon on May 26,
6 2016?
7 A Yes.
8 Q And in that letter it says "The basic
9 concept is to establish an irrevocable trust to
10 protect the most valuable assets including the
11 house." Did you write that email?
12 A Yes.
13 Q I mean write that letter.
14 A Yes.
15 Q And it is basically aimed at making sure
16 that Valerie will not ever get the property. Is
17 that correct?
18 A Yes.
19 MR. RHOADES: I'd like to have
20 identified as, marked as, Exhibit A, Defense
21 Exhibit A. You're using numbers, right?
22 (WHEREUPON, THE DOCUMENT REFERRED

1 TO WAS MARKED AS DEFENDANT'S
2 EXHIBIT A FOR IDENTIFICATION.)
3 Show it to the witness. Actually
4 identify this.
5 Is that a copy of the letter you sent to
6 Pierre Gagnon?
7 THE WITNESS: Yes.
8 BY MR. RHOADES:
9 Q And that's Valerie's father.
10 A That's correct.
11 Q And actually his wife -- Well, you
12 thought him when you wrote that letter to be the
13 owner of the house, one of the owners of 511
14 Princess Street.
15 A Yes.
16 Q Okay. And does the homeowners
17 association give the president any authority in
18 its charter to approve or disapprove or move
19 people in and out of the properties there?
20 MS. BEST: Object to relevance.
21 MR. RHOADES: Well, he's taking the
22 authority on. I want to know where it comes

1 from.

2 MS. BEST: That's not relevant. He's

3 clearly demonstrated the bias by virtue of

4 producing the document. Whether he has legal

5 authority to do anything is irrelevant.

6 THE COURT: Whether he has authority, I

7 don't think that's relevant.

8 MR. RHOADES: Okay. Then, well, it

9 seems to me --

10 THE COURT: I've rethought that. I will

11 permit it in line of the fact that it was

12 written. Overrule the objection.

13 MR. RHOADES: Do you understand where we

14 are now?

15 THE WITNESS: I think so.

16 BY MR. RHOADES:

17 Q By what authority as the homeowner

18 president were you acting under when you wrote

19 that letter?

20 A First, I didn't come to him in my role

21 as the HOA president. I came to him as an

22 aggrieved neighbor who was alarmed at having this

1 other neighbor next to me for the next many
2 years.
3 Q Let me ask that question another way.
4 There is no authority as homeowner president to
5 try and get people in and out of the area. Is
6 that right? To sell their property or dispose of
7 it in any way. There's no authority under the
8 homeowners agreement.
9 MS. BEST: You can't defeat an objection
10 just by talking longer and louder. But I object.
11 MR. RHOADES: I thought maybe the Court
12 has ruled on the full question rather than part
13 of the question.
14 THE COURT: Let one person talk at a
15 time. That probably would help.
16 MR. RHOADES: Okay. I have said it.
17 MS. BEST: Your Honor, the objection
18 comes at this point as to relevance because he
19 said he didn't visit in the context of being HOA
20 president. He visited as a neighbor. What
21 authority he has is irrelevant. We are going down
22 a rabbit hole of irrelevant things I think most

1 of the questions aimed at bias are appropriate,
2 but now we're going into the authority of the
3 meeting. That has nothing to do -- It makes no
4 fact in this case more or less likely.
5 THE COURT: The Court has taken note
6 that the letter was written. I think we can move
7 on. Let's move on. Sustain the objection.
8 MR. RHOADES: Did you later have a
9 meeting with Pierre Gagnon at your house where
10 you said, "It is a nightmare scenario to have her
11 live in and own the house at all, ergo the need
12 to have the irrevocable trust. Clear
13 instructions to have the house sold." Did you
14 have that conversation? And did you tell Pierre
15 Gagnon that?
16 A Yes.
17 Q And did you make a memo as to that dated
18 5/30/15?
19 A Yes, for my own recollection.
20 MR. RHOADES: Your Honor, I would ask to
21 have this exhibit marked as Exhibit B after he
22 identified it as being the memo that he wrote.

1 THE COURT: You may approach.
2 MR. RHOADES: Okay. Is this a copy of
3 the memo you wrote that we were just referring
4 to?
5 THE WITNESS: Yes.
6 (WHEREUPON, THE DOCUMENT REFERRED
7 TO WAS MARKED AS DEFENDANT'S
8 EXHIBIT B FOR IDENTIFICATION.)
9 BY MR. RHOADES:
10 Q And then you sent an email to the
11 neighbors. We're talking about here being
12 Katherine Zwiki and her husband who is Pat
13 something.
14 A That's right.
15 Q Gabney or what's his name?
16 A I don't know his last name. Sorry.
17 Gabney I believe it is.
18 Q And you say in that, "I would also like
19 to share with you something I've been working on
20 with Pierre."
21 MS. BEST: Your Honor, I'm going to
22 object. This is an improper question.

1 MR. RHOADES: Probably. It might be.
2 I don't know that it is.
3 THE COURT: Where are we going with
4 this, Mr. Rhoades?
5 MR. RHOADES: This is -- He is
6 reaffirming that he is -- It's a reaffirmation of
7 the previous two documents.
8 THE COURT: It's clear to the Board that
9 he did write the letter suggesting a trust and
10 preventing the Defendant from owning the property
11 in the future. I think the Court is aware of
12 what the purpose of it is.
13 MR. RHOADES: Well, I think it's also
14 clear, Your Honor, that he is in effect
15 conspiring with his two neighbors to get it done
16 which makes it tortuous conduct on his part.
17 THE COURT: That might be so, but the
18 matter before the Court is the criminal charges.
19 They're not whether this person had authority to
20 write.
21 MR. RHOADES: This has nothing to do
22 with authority, Your Honor. It's just a

Tex

1 reaffirmation. Basically, it's additional piece
2 of evidence, Your Honor, which is what has
3 already been said. Now if the Court after
4 looking at thinks it's cumulative that's one
5 thing. But I don't think the Court can say it's
6 not relevant because the other two documents the
7 Court has already termed to be relevant.
8 THE COURT: Sustain the objection. Next
9 question.
10 MR. RHOADES: After the email -- this
11 was on July 1st -- did you have any further
12 contact with --
13 THE COURT: What is your question, sir?
14 MR. RHOADES: I'm making my questions
15 up as I go along.
16 And you did know that there were several
17 squirrels dead on the Gagnon property. Is that
18 correct?
19 THE WITNESS: Not personally. Valerie
20 said so.
21 BY MR. RHOADES:
22 Q Well, Pierre Gagnon said so, too, didn't

1 he?
2 A He said that Valerie had told him so.
3 I don't know that he saw them either.
4 Q He said that his daughter and his wife
5 told him. You didn't believe his wife, too.
6 A He did say that they said that, yes.
7 Q Okay.
8 A And I didn't doubt it. I thought there
9 probably were dead squirrels. But I couldn't do
10 anything about it.
11 Q The people who were making the
12 complaints said in their email with you
13 questioned whether there were actually any dead
14 squirrels more than once, hadn't they?
15 A No. The Zwikis who were my neighbors,
16 Katherine and Pat.
17 Q Yes.
18 A They were insistently quite strongly
19 they had nothing to do with it if there were dead
20 squirrels.
21 Q Well, didn't on more than one occasion
22 they questioned whether there were any dead

1 squirrels?
2 A I don't recall that. I don't think they
3 saw it either way. I don't think they witnessed
4 any dead squirrels. I don't think they denied
5 that there were dead squirrels at all.
6 Q And as of the 18th of July of last year
7 -- we haven't gotten to the 18th of July of this
8 year yet -- was Valerie -- was the idea of
9 Valerie residing once again at 511 Princess
10 Street still a nightmare to you?
11 A Yes.
12 Q And when you found the dead squirrel,
13 she was outside gardening and you went over and
14 talked to her there, didn't you?
15 A No. She came to me as I was unloading
16 my luggage from my car.
17 Q At what point in your conversations with
18 Valerie on that day did you have any thoughts of
19 violence toward her?
20 A I had no personal thoughts of violence
21 toward her. I felt threatened by her.
22 Q All right. But you didn't have any --

1 Regardless of what she had done to you, you
2 didn't feel violent toward her.
3 A I wasn't sure what was going to happen
4 because I was just so alarmed at vehemence, the
5 anger, the hatred words that she threw at me and
6 the fact that she left a note with a dead
7 squirrel at my doorstep.
8 Q Yes. But the key question there, Mr.
9 Rowe, was the only question I asked which was
10 whether on that day did her action precipitate
11 you any urge to be violent towards her or
12 anybody.
13 A No.
14 Q Did she at any point -- She at one point
15 asked you to pay for the dead squirrel to be
16 examined, didn't she, for poison?
17 A No.
18 Q Never did.
19 A No.
20 Q Okay.
21 A Officer Howes said that he offered her
22 the option of paying to have the dead squirrel

1 examined for toxins and she declined. That's
2 what he told me over the phone.
3 Q But that was her paying for it. She
4 didn't ask you to have the homeowners association
5 pay for it.
6 A That's right. She did not.
7 Q Okay.
8 A The officer gave her the choice if you
9 wish to pay. He told me over the phone. And it
10 was something like $200 I think he said it was
11 and she declined. Instead the dead squirrel
12 appeared on my doorstep.
13 Q Did you consider the arrest of Ms.
14 Gagnon on these charges to be a step toward
15 resolving the problem with her?
16 A No.
17 MS. BEST: I object to relevance.
18 THE COURT: Sustained.
19 MR. RHOADES: I have no further
20 questions.
21 THE COURT: Redirect.
22 REDIRECT EXAMINATION

1 BY MS. BEST:

2 Q The meetings that you had with Ms.

3 Gagnon's father about the trust and disinheriting

4 her from the house, what was his attitude about

5 your proposal?

6 A He was aware that I was really alarmed

7 about the prospect of her being a long-term owner

8 of the house given all the bitterness and all the

9 threats and the --

10 MR. RHOADES: Your Honor, I object.

11 THE COURT: Sustained.

12 MR. RHOADES: And I ask that the

13 testimony be stricken.

14 MS. BEST: Your Honor, I can respond.

15 Much was made on cross examination to paint Mr.

16 Rowe as having a vendetta in repeatedly pursuing

17 this option. If her father was agreeable and

18 engaging in these conversations with him, I think

19 that lessens the findings and explains his

20 behavior.

21 MR. RHOADES: Whether he agreed or not

22 the bias is clear. It's not impeachable. And if

1 he knows that Dr. Gagnon and/or his wife executed
2 these documents, that's one thing. And if he has
3 the documents that are executed, that's one
4 thing.
5 But his opinion about where Dr. Gagnon
6 stood on this, I don't think is relevant.
7 THE COURT: Sustain the objection. Next
8 question.
9 MS. BEST: Did Mr. Gagnon agree to
10 participate in these meetings with you?
11 THE WITNESS: Yes. And he did know the
12 purpose of the meeting when it came.
13 MS. BEST: All right. I have no further
14 questions, Your Honor. I want the witness to
15 remain though.
16 THE COURT: All right. You may step
17 down. Please remain in the hallway and do not
18 discuss your testimony.
19 (WITNESS WAS TEMPORARILY EXCUSED.)
20 MS. BEST: I call Officer Meehan.
21 (WITNESS SWORN.)
22 DIRECT EXAMINATION

1 BY MS. BEST:
2 Q Can you introduce yourself to the Judge?
3 A My name is Officer Lindsay Meehan. I'm
4 a police officer with the City of Alexandria.
5 Q Were you on duty on July 18, 2015?
6 A I was.
7 Q Did you have occasion around 6:30 p.m.
8 that day to respond to 507 Princess Street here
9 in the City of Alexandria?
10 A I did.
11 Q When you responded that day, who did you
12 speak with?
13 A Mr. Rowe.
14 Q And the initial time you responded, what
15 was the context of your conversation with him?
16 A He came out and stated in response to
17 the complaint. That's what the call was
18 dispatched as. When we got on the scene, he
19 explained to us that he came home that day and
20 found a dead squirrel on his front porch.
21 Q While you were speaking with him, did
22 anyone else approach you?

1 A Ms. Gagnon did, the neighbor that lives
2 up the street. She came down.
3 Q Do you see Ms. Gagnon in the courtroom
4 today?
5 A I do.
6 Q Would you point her out for the Judge?
7 A She is sitting over there next to the
8 attorney.
9 MS. BEST: All right. Let the record
10 reflect she's identified the Defendant.
11 THE COURT: So identified.
12 MS. BEST: When Ms. Gagnon approached
13 you, can you describe her demeanor and her
14 behavior?
15 THE WITNESS: She kind of was walking
16 hastily toward us and saying "Hey, why aren't you
17 talking to me?" Blah-blah-blah. Just really
18 screaming.
19 We were like "Well, ma'am. You need to
20 wait a second. We'll talk to you in a second."
21 We weren't dispatched for her. I guess we were
22 dispatched for Mr. Rowe.

1 BY MS. BEST:
2 Q Okay. And when you told her to wait,
3 did she back off?
4 A Yeah, she went back to her house.
5 Q After speaking with Mr. Rowe, did you
6 speak with her again?
7 A I did.
8 Q After speaking with both parties, what
9 did you decide to do?
10 A Mr. Rowe asked me -- I mean Mr. Rowe
11 told me that he would like to go to the
12 magistrate. So we went to the magistrate.
13 Q Why couldn't you make an arrest then and
14 there?
15 A It was a misdemeanor that wasn't done in
16 my presence. So I don't have arrest power.
17 Q Okay. Is it common to transport someone
18 to the magistrate if they want to swear out a
19 warrant?
20 A Yes, it is.
21 Q When you took him there that day, about
22 how long was he there?

1 A I can't be exactly sure, but I would say
2 at least two to three hours.
3 Q At the conclusion of his interaction
4 with the magistrate, was a warrant issued?
5 A Yes, it was.
6 MS. BEST: May I approach?
7 THE COURT: You may.
8 MR. RHOADES: No objection.
9 (WHEREUPON, THE DOCUMENT REFERRED
10 TO WAS MARKED AS COMMONWEALTH
11 EXHIBIT NO. 2 FOR IDENTIFICATION.)
12 MS. BEST: Officer Meehan, I'm showing
13 you Commonwealth's Exhibit 2. Do you recognize
14 it?
15 THE WITNESS: I do.
16 BY MS. BEST:
17 Q What is this?
18 A It's the misdemeanor warrant that was
19 issued for disorderly conduct.
20 Q And on the bottom lefthand corner of
21 this warrant, there's a portion that says
22 "Summons."

1 A Yes, ma'am.
2 Q Is that on every warrant?
3 A No.
4 Q What is it?
5 A You can put it on a warrant and you have
6 the option to issue a summons.
7 Q Okay. And could you read what it says
8 with respect to when it may be issued as a
9 summons?
10 A I'm sorry. You want me to read what?
11 Q I'm sorry. After Summons.
12 A Oh. It says, "Summons. If authorized
13 above and by serving officer."
14 MS. BEST: I offer Commonwealth Exhibit
15 2 into evidence.
16 THE COURT: Without objection, admitted.
17 (WHEREUPON, THE DOCUMENTS REFERRED
18 TO, PREVIOUSLY MARKED COMMONWEALTH
19 EXHIBIT NO. 2 FOR IDENTIFICATION,
20 WAS RECEIVED IN EVIDENCE.)
21 MS. BEST: All right. So that line
22 about authorized by serving officer, what does

1 that mean?
2 THE WITNESS: It means you have the
3 discretion to serve it as a summons or make an
4 arrest.
5 BY MS. BEST:
6 Q After receiving that warrant from the
7 magistrate, what did you do?
8 A We went back to Ms. Gagnon's residence
9 and when we got there, I had noticed her front
10 door was open the whole way. And I called out
11 her name so she could come down.
12 Q Let's go back a little bit.
13 A Okay.
14 Q Did you take Mr. Rowe home?
15 A Yes, I took him home and he went inside
16 into his residence.
17 Q And were you by yourself?
18 A I was not. Officer Waple was there at
19 the residence.
20 Q Okay. When you -- Then after Mr. Rowe
21 went inside, you went to 507 Princess Street and
22 you said the front door was open.

1 A Yes, ma'am.
2 Q That was a locked door like standard.
3 A Like wide open. Like I could see into
4 her house.
5 Q What did you do?
6 A I just called her name and she came
7 downstairs or out the door. I'm not sure if she
8 came downstairs. But she came out the door.
9 Q Okay. When she came out the door, are
10 there stairs there?
11 A Yeah, there's like a little gate because
12 she had a dog. And so she came out of the gate
13 like down the front steps and out onto the
14 sidewalk.
15 Q Okay. When she came all the way down,
16 what was your exchange with her?
17 A I explained to her. I started to
18 explain to her that there's a warrant for arrest
19 for her.
20 Q When you explained that to her, did her
21 demeanor change?
22 A It did.

1 Q How so?
2 A It was almost like a shocked expression.
3 And then as I started to explain, that's when she
4 started to take steps back seeming that she was
5 going to go into her house.
6 Q All right. What did you do?
7 A At that time, that's when I grabbed her
8 with my left hand on her right arm. But before
9 that, I kept telling -- giving her ample chances
10 for compliance like "Please turn around," like
11 "Put your hands behind your back." And that's
12 when she got I guess just -- I don't know. She
13 started to run back inside from my impression.
14 Q Okay. So when you affronted her you had
15 a warrant and she needed to come with you.
16 A Hm-hm.
17 Q Did she make any statements?
18 A She said, "She wasn't coming with me."
19 She wanted her lawyer.
20 Q All right. And then after that
21 statement, you told her to turn around.
22 A Yes.

1 Q After you told her to turn around and
2 put her hands behind her back, then what did she
3 do?
4 A She started to take the steps back
5 inside the house. And that's --
6 Q (INTERPOSING) All right. Before --
7 A (CONTINUING) I'm sorry.
8 Q I'm sorry. When you told her to place
9 her hands behind her back, did you tell her that
10 she was under arrest?
11 A Yes.
12 Q All right. Were you holding onto her at
13 that time?
14 A No, she was just standing in front of
15 me.
16 Q Okay. At some point after you told her
17 that she was under arrest, did you touch her?
18 A Not until she started to back into the
19 -- like take steps back away from me.
20 Q Okay. When she took the steps back away
21 from you, is that when you grabbed her?
22 A That's when I grabbed her right side

1 with my left arm. Left hand, I'm sorry.
2 Q And then what happened?
3 A She thrashed and kind of wiggled away
4 from me and that's when I went back into to grab
5 her again. And that's when she struck me with a
6 closed fist in the center of my chest.
7 Q All right. You said she thrashed and
8 wiggled away from you. Did she break free of
9 your grasp?
10 A She did. I had to try to re-grab.
11 That's when I went in to grab again.
12 Q All right. When she broke free, did she
13 continue heading towards her house?
14 A Yes.
15 Q After you grabbed onto her again, you
16 stated that she punched you.
17 A Yes.
18 Q Were you holding onto her at that time?
19 A I was not. I was attempting to.
20 Q After she punched you, what happened?
21 A When she punched me, I kind of went in
22 to grab her again because she was still trying to

1 break -- Like I was in the process of trying to
2 grab her at that time. Since we were so close
3 quarters, in defense my right hand struck her
4 face, the left side of her face when I was trying
5 to go back to her again.
6 Q Okay. So at the time that you hit her,
7 what was your intent?
8 A My intent was to grab her and make her
9 stop thrashing around. She was like trying to
10 wiggle away and go back into the house.
11 Q All right. About how long did that last
12 after she punched you where she was wiggling and
13 thrashing?
14 A I honestly can't be sure. It was all
15 happening like everything was fast. I know as
16 fast as that happened that's when Officer Waple
17 came in to help because he saw that a struggle
18 was ensuing.
19 Q All right. At what point in time then,
20 can you describe how you were ultimately able to
21 get her under control?
22 A Once Officer Waple stepped in, we were

1 able to get her turned around so that her back
2 was facing us so that he could get her arms
3 behind her back to place her in handcuffs.
4 Q What was Ms. Gagnon doing at this time?
5 A She was screaming extremely loud to the
6 point where I had people that were living in the
7 neighborhood coming out of their houses.
8 Q Was she screaming words or?
9 A No, just sounds like high pitched
10 screaming.
11 Q When you and Officer Waple were able to
12 ultimately -- You said you put her up against the
13 wall.
14 A There's like a -- It wasn't a wall.
15 There's like a fence I guess that was breaking.
16 I don't honestly remember. It was some sort of
17 divider between the land.
18 Q Okay. Do you recall where you were in
19 relation to her? Like what side?
20 A I was on her right side.
21 Q All right. And where was Officer Waple?
22 A On my left side.

1 Q And how were the two of you holding her?
2 A I had one arm and she had the other arm.
3 And then we went to apply the handcuffs.
4 Q And what happened then?
5 A We put her in the back of my cruiser.
6 Q All right. Were you able to get the
7 handcuffs on?
8 A Yes, I am. I had to strong arm like we
9 had a hold of her to get the handcuffs on and
10 then after that we kind of had to pick her up
11 almost to support her into the cruiser.
12 Q While you were trying to put the
13 handcuffs on, did she continue to struggle?
14 A Yes.
15 Q During the course of your encounter with
16 her or after it concluded, did you observe any
17 injuries on Ms. Gagnon?
18 A I'm sorry. What?
19 Q Did you observe an injuries on Ms.
20 Gagnon?
21 A No. And my sergeant had to respond to
22 the scene because I got struck. And he even asked

1 her. And she said she did not have any injuries.
2 Q And during the course of this
3 interaction, were you ever on the ground or did
4 everyone remain upright?
5 A We were all upright.
6 Q When you got to the jail, did the
7 deputies examine her for injuries or speak with
8 her about medical problems?
9 A Yes.
10 Q Did Ms. Gagnon report any medical
11 problem?
12 A No.
13 Q Were any injuries observed?
14 A No.
15 Q Prior to July 18th, had you ever
16 encountered Ms. Gagnon or dealt with her?
17 A No.
18 Q Any feelings about her prior to that
19 night?
20 A No.
21 MS. BEST: I have no further questions.
22 THE COURT: Cross?

1 MR. RHOADES: Your Honor, I'll be asking
2 a few questions from the hearing. I would like
3 to at this time submit the original transcript to
4 the Court.
5 MS. BEST: And I would object. I have
6 never seen this.
7 THE COURT: That is not appropriate.
8 You can ask the questions from the transcript.
9 But to offer the transcript in totality that's
10 not appropriate.
11 MR. RHOADES: Okay.
12 CROSS EXAMINATION
13 BY MR. RHOADES:
14 Q Officer, when you dropped off Mr. Rowe
15 and then you went across the street to serve the
16 warrant. Is that right?
17 A I'm sorry. Just to confirm. This is
18 after I dropped Mr. Rowe off.
19 Q After the warrant was issued and you
20 brought Mr. Rowe back and then you went to serve
21 the warrant which was actually -- I'm wrong --
22 it's not across the street. It's two doors down,

1 right?
2 A It was up the street, yes.
3 Q And at that time, the counsel previously
4 pointed out on the warrant that there was a place
5 for you to issue it as a summons.
6 A Yes, sir.
7 Q And at the time that you went up there,
8 did you intend to issue it as a summons or did
9 you intend to serve it and arrest her?
10 A I intended to talk to her about it and
11 issue it as a summons. But her actions, her
12 demeanor was otherwise.
13 Q It says and you tell her in your first
14 contact with her that she needed to come with
15 you. Is that right?
16 A Is this when I came back with the
17 warrant?
18 Q Yes.
19 A I said that there was a warrant for your
20 arrest and that she, yeah, needed to come with
21 me.
22 Q Come with you meant to -- She said she's

1 not leaving. Is that when you said when you don't
2 have to leave? I'm just going to give you the
3 warrant.
4 A She never said I'm not leaving.
5 Q Well, that's -- To me you're stating --
6 A (INTERPOSING) I think that was after
7 when I said that she needed to turn around and
8 put her hands behind her back.
9 Q (CONTINUING) Well, let me ask you. You
10 did an incident report in this case that's dated
11 I believe the 19th at 4:47 a.m. Do you recall
12 that?
13 A I actually have that with me if I could
14 get it out.
15 Q Yeah.
16 A I asked her -- Sorry.
17 Q On page three I'll refer you to the last
18 -- It's the big paragraph before the end that
19 starts "At this time..."
20 A Yes, sir.
21 Q Okay. And did you not say "I informed
22 Ms. Gagnon that I had a warrant for her arrest

1 and that she needed to come with me."
2 A Yes, sir.
3 Q She stated, "I'm not leaving."
4 A Yes, sir.
5 Q Is that what happened?
6 A Yes, sir.
7 Q Okay. So if you are going to serve her
8 with a summons, she didn't need to come with you,
9 did she?
10 A When I went there, I was reading the
11 situation as it was happening.
12 Q Okay.
13 A But if you said you intended to serve
14 her the summons and she says, "I'm not leaving,"
15 then the answer to -- Then you said, "I asked her
16 again." Assuming the same thing, it says, "She
17 needed to come with you." That's the way I would
18 read the sentence. And she stated, "I'm not
19 going without my lawyer." Is that --
20 MS. BEST: I am making an objection.
21 MR. RHOADES: Let me finish my question
22 and then make the objection.

1 MS. BEST: Your Honor, the objection
2 doesn't require the question to be finished. His
3 statement was "That's the way I'm reading this
4 statement." He can't testify.
5 MR. RHOADES: That would be correct,
6 Your Honor. That objection is well taken.
7 THE COURT: You can use that report to
8 impeach her or to refresh her memory.
9 MR. RHOADES: Yeah.
10 THE COURT: But I don't think that you
11 can just read it into evidence.
12 MR. RHOADES: I agree. Those statements
13 I'm just saying that at the point you said, "I
14 asked her again," you asked her again to come
15 with you.
16 THE WITNESS: Yes, sir.
17 BY MR. RHOADES:
18 Q Okay. And then she said, "I'm not going
19 without my lawyer." Is that right?
20 A Yes.
21 Q "At that point, I asked her to turn
22 around and place her hands behind her back

1 stating 'You're under arrest.'" Is that right?
2 A Yes.
3 Q Okay. And you are this point where?
4 A In front of her house on the sidewalk.
5 MR. RHOADES: Now do you recognize
6 these?
7 Your Honor, I would like to have these
8 marked Defendant C-1, C-2, C-3.
9 (WHEREUPON, THE DOCUMENTS REFERRED
10 TO WERE MARKED AS DEFENDANT'S
11 EXHIBITS C-1, C-2, C-3 FOR
12 IDENTIFICATION.)
13 MR. RHOADES: If you can identify them.
14 Do you recognize that?
15 THE WITNESS: It looks familiar. This
16 looks like the block where she lived, yes.
17 BY MR. RHOADES:
18 Q Can you identify that as being the
19 entrance to her home, the sidewalk in front of
20 her home, and the walkway leaving from her home
21 to the sidewalk?
22 A This would be the walkway and this would

1 be the sidewalk.
2 Q Okay. So when you say that she came out
3 to the sidewalk -- I probably should have these
4 marked so I can approach. A, B and C I don't
5 care which one is A, which one is B.
6 THE CLERK: I marked them A, B and C.
7 I did not mark.
8 MR. RHOADES: Okay.
9 THE CLERK: I'm assuming they're B, C
10 and D.
11 THE COURT: Yes, you've already
12 identified A.
13 MR. RHOADES: Excuse me, Your Honor. It
14 would be C-1, C-2 and C-3. That's what we do.
15 THE CLERK: C-1, -2 and -3.
16 MR. RHOADES: Well, we have A and B
17 already.
18 THE CLERK: You mentioned B was a
19 memorandum, but you never had me mark it.
20 MR. RHOADES: I will have it marked.
21 THE CLERK: So C-1, C-2, C-3.
22 MR. RHOADES: Yes, if you please.

1 THE CLERK: We'll do it that way.
2 CROSS EXAMINATION (Cont'd)
3 BY MR. RHOADES:
4 Q Could you then tell me, Officer, whether
5 you at the time you were having the discussion
6 with Ms. Gagnon were on C-1, C-2 or C-3? Were
7 you on the sidewalk?
8 A This picture I would just say I was on
9 the sidewalk assuming this is the sidewalk.
10 Q It's the continuation on the same
11 sidewalk.
12 A Yeah. I would say I was on the sidewalk
13 in front of the residence.
14 MR. RHOADES: Okay. And she's referring
15 to C-1 there.
16 THE COURT: Are you moving this into
17 evidence?
18 MR. RHOADES: Not at this point. No.
19 THE COURT: Okay.
20 BY MR. RHOADES:
21 Q And the first physical contact between
22 you and Ms. Gagnon was when you grabbed her right

1 arm with your left hand. Is that correct?
2 A Yes, sir.
3 Q You then -- Your left hand, your right
4 hand then contacted her face. Is that right?
5 A No.
6 Q Your right hand didn't contact her face.
7 A Not right away. I mean it was after the
8 whole thrashing and struggling and everything in
9 between.
10 Q Okay.
11 A And after she struck me in the chest.
12 Q Okay. And at that time, you were
13 attempting to grab her left arm again.
14 A I was grabbing -- It would be her --
15 Because my left arm -- It would be her left side,
16 yes.
17 Q And you were trying to grab it with
18 your?
19 A With my right hand.
20 Q Right. And where did her hand touch
21 you?
22 A Right here.

1 Q And you touched there it sounded hard.
2 A Yes. It has a trauma plate plus another
3 layer of the normal ballistics padding.
4 Q And were you dressed the same way on
5 that occasion?
6 A Yes, I was.
7 Q In other words, you had protection from
8 your -- I can't see how far it goes down but from
9 right there. But your face was unprotected.
10 A Yes.
11 Q On that day.
12 A I don't wear anything on my face.
13 Q Exactly. So at that time her fist
14 touched your vest, your face was unprotected. Is
15 that right?
16 A Yes.
17 Q Your face and head, this area up in
18 here, unprotected.
19 A I don't wear anything on my head.
20 Q Okay. I'm just asking on that day.
21 A All right. I'm sorry.
22 Q You see on television where people run

1 around wearing football helmets it looks to me
2 like. So I'm just saying on that occasion you
3 didn't have any such gear as that on.
4 A We're not SWAT. So I don't wear
5 anything.
6 Q Okay. And when I asked you at the
7 preliminary hearing whether you intended to serve
8 it -- why you didn't serve as a warrant you
9 didn't answer me. Why is that?
10 A I said I have officer's discretion.
11 Q But you're now saying you intended to.
12 A It still falls under officer's
13 discretion.
14 Q In your statement it says "I went to 511
15 Princess Street with warrants in hand."
16 A Where is that coming from?
17 Q That's from your incident report.
18 A Yes.
19 Q All right. At the time that you were
20 talking to Ms. Gagnon on the sidewalk, did you
21 have the warrants in your hand?
22 A By in hand, I meant they're somewhere in

1 my possession. They're in my car. They were not
2 physically in my hand.
3 Q All right.
4 A That's just -- I mean I can understand.
5 It's just terminology I guess.
6 Q But in order for you to issue the
7 warrant at the summons, you would have had to
8 have it in your hand. Doesn't she have to sign
9 it?
10 A I'm not sure to be honest with you.
11 Q I think I've got one right here. You
12 issued this as a summons. The Court has one.
13 This is a copy. It says down here that it
14 requires a signature down here by the accused.
15 A If this is the same one, then yes.
16 Q Okay. So if you were going to have her
17 sign this warrant as a summons, how could she do
18 that if it was in the car?
19 A I would have taken it out of the car.
20 Q Okay. But you didn't have it then.
21 A I don't usually walk up to someone's
22 house with a warrant in my hand. We almost

1 never.
2 Q Even if you're trying to serve it as a
3 summons?
4 A Unless it's a ticket for like if I
5 pulled someone over, then no.
6 Q Right. But you never at any time
7 offered this warrant to Ms. Gagnon and asked her
8 to sign it as a summons, did you?
9 A Because the second I brought a warrant
10 her demeanor to me completely changed in front of
11 me.
12 Q I suppose the answer to my question is
13 no, I didn't ask her to sign it.
14 A I didn't get a chance to.
15 Q Okay. And that was before you told she
16 had to go with you.
17 A Yes, sir.
18 Q And the arrest took place on the
19 sidewalk that we just depicted. Is that right?
20 A I'm sorry. What?
21 Q The arrest took place on the sidewalk we
22 just discussed in Exhibit C-1.

1 A Outside of her house, yes.
2 Q And when she -- How far -- You said she
3 turned to go back in the house. Let's look at
4 Exhibit C 1-3 and tell me how far she got back
5 toward the house.
6 A I'm sorry. Are we looking at the same
7 ones? This one?
8 Q Yes.
9 A I mean this only shows so much of the
10 sidewalk. So I can't be exactly sure. But she
11 only took -- She was taking a step backwards.
12 Q One step?
13 A I honestly couldn't be 100 percent sure
14 to answer that question for you.
15 Q Okay. To the best of your recollection
16 and that's all anybody can testify to, did she
17 get back beyond these brick borders here?
18 A I honestly could not tell you.
19 Q And do you remember -- To the best of
20 your recollection you can't say it was one step
21 or less or more or a half step or?
22 A I mean we were standing right in front

1 of each other. So it was at least some sort of
2 step to make me assume that she was about to go
3 back into the house.
4 Q Okay. And you struck her -- when your
5 hand hit her face, was it closed or was it open?
6 A I do not remember.
7 Q But it was your testimony I believe that
8 you had intended to grab her shoulder. Is that
9 right?
10 A Yes, we were very close like right in
11 front of each other. It was close quarters.
12 Q So like me you're chest to chest or a
13 few inches from me chest to chest.
14 A I mean like right here. I thought I was
15 standing a little closer than I would say a
16 normal interview stance would be.
17 Q Okay. I don't know what that is.
18 A It's just as if you're having a
19 conversation with someone like the normal
20 boundary you would keep.
21 Q But your hands you're saying --
22 A (INTERPOSING) I mean I would say grab

1 her. So that's when she struck me. So obviously
2 we were closer than just normal like far away.
3 Q (CONTINUING) And when your hand hit her
4 in the face, you don't know whether it was closed
5 or unclosed.
6 A I honestly could not tell you.
7 Q And whether you hit her in the eye or
8 somewhere else in the face.
9 A I just remember the side of the face.
10 Q Do you remember where it was or do you
11 know?
12 A It was her left side of her face because
13 she was facing me.
14 Q But could you have hit the eye?
15 A I do not know.
16 Q And you sustained no injuries of any
17 kind in this incident, right?
18 A No, I did not.
19 Q Was there anything afterwards that you
20 could have taken a picture of to depict where you
21 were struck?
22 A It was kind of inappropriate locations.

1 Q Probably not or not.
2 A There was nothing on there. I did
3 check. I did unzip my vest and looked to make
4 sure there was nothing because I actually felt it
5 on my middle of my chest. So there were no marks
6 or anything.
7 MR. RHOADES: No further questions.
8 THE COURT: Redirect.
9 REDIRECT EXAMINATION
10 BY MS. BEST:
11 Q When you say you felt it, that was
12 through the?
13 A The trauma plate and the ballistic vest.
14 Q And you continued to feel it after her
15 fist left.
16 A Enough to where once we had her safely
17 in the car there's a sergeant on the scene and
18 people were around me. I felt comfortable enough
19 to unzip my vest and check it.
20 Q So after all of that time passed you
21 could still feel it.
22 A Yes, I could.

1 Q And on cross examination counsel asked
2 you where it was. You pointed to a location.
3 A Right.
4 Q Is that center of your chest? Is that
5 fair to say?
6 A It would be like I mean I can unzip and
7 show you.
8 Q Well, for the purposes of the record.
9 A It would be like right on -- So you have
10 pretty much the center of your chest. It would
11 be where your sternum would be or a little bit
12 above it. But right there.
13 Q All right. And the term that Mr.
14 Rhoades asked you about warrants in hand, what
15 does that mean?
16 A To me, it just means that there are
17 warrants and it's like either in the car or
18 physically have them.
19 Q If you encounter a subject -- Dispatch
20 informs you that somebody has a warrant. Would
21 it be common for them to confirm that they have
22 warrants in hand?

1 A Yes. It's somewhere in like records has
2 it and the magistrate has it. You take it out of
3 the record. So we have it in our car. It's just
4 a general term I guess for an active warrant.
5 Q And you said it wouldn't be common for
6 you to approach a suspect with the actual
7 physical warrant in your hand.
8 A No, it usually doesn't go well.
9 Q Right. Why wouldn't you do that?
10 A Because nine times out of ten you walk
11 up to someone with a warrant like if you have a
12 warrant, they're not going to comply.
13 Q All right. Do you need both hands free
14 in case something happens?
15 A Yes, we always have my right hand free
16 for accessing my firearm and left hand for
17 accessing non-lethal weapons.
18 Q When you approached Ms. Gagnon when you
19 came back after the magistrate, what was your
20 intent at that time?
21 A It was to tell her that she has a
22 warrant out for her arrest and then to see how

1 that goes.
2 Q When you asked her to come with you, was
3 that to come discuss the warrant at your vehicle?
4 A Yeah, pretty much. I mean I wasn't --
5 When I say, "Turn around. You're under arrest,"
6 at that time you're under arrest. Like come with
7 me isn't anything like that. I would tell you
8 that to break away from confusion.
9 Q And the last thing the counsel asked you
10 on cross examination whether you were dressed
11 that night the same way you are dressed today.
12 For the purposes of the record, you're wearing a
13 police uniform. Is that correct?
14 A Yes, I am.
15 Q Police badges on both sleeves.
16 A Yes.
17 Q An exterior vest.
18 A Yes.
19 Q And that vest has a police badge on it.
20 A It does.
21 MS. BEST: I have no further questions.
22 THE COURT: Do you have any further

1 questions?

2 MS. BEST: I would ask that she remain.

3 THE COURT: Please remain. Do not

4 discuss your testimony with anyone.

5 THE WITNESS: Thank you.

6 (WITNESS WAS TEMPORARILY EXCUSED.)

7 MS. BEST: The Commonwealth's last

8 witness is Officer Waple. It's a relatively

9 short witness.

10 THE COURT: Officer Waple.

11 (WITNESS SWORN)

12 DIRECT EXAMINATION

13 BY MS. BEST:

14 Q Will you state your name and your

15 occupation for the Judge?

16 A Yes. My name is Officer Ryan Waple.

17 And I'm police officer with the City of

18 Alexandria.

19 Q On July 18th of last year 2015, did you

20 have occasion to assist Officer Meehan in

21 executing a warrant at 507 Princess Street?

22 A Yes, I did.

1 Q Had you been there earlier in the
2 afternoon for the incident that had happened as
3 well?
4 A Correct. A couple of hours before.
5 Q Okay. And for that incident, did you
6 have an active role or were you just standing by
7 as backup?
8 A I was standing by as backup as Officer
9 Meehan conducted her investigation.
10 Q When you came back from the execution of
11 the warrant, can you describe for the Court what
12 you observed?
13 A Officer Meehan had an active warrant for
14 the arrest of Ms. Gagnon. So the house that Ms.
15 Gagnon originally came out of the screen door was
16 still open. So we called into the house. Ms.
17 Gagnon came outside. At that point in time,
18 Officer Meehan explained to her that she had
19 active warrants for her arrest.
20 Ms. Gagnon said that she was not going.
21 Officer Meehan still tried to plead with her to
22 go peacefully or she would have to use force to

1 affect the arrest. At that time she said that
2 she was not going anywhere without a lawyer.
3 She started to kind of backstep away
4 back to the house to prevent her from evading
5 escape of the arrest Officer Meehan took control
6 of her arms, attempted to take control of her
7 arms. She started to flail and scream, actively
8 resisted Officer Meehan's effort to make the
9 arrest.
10 At that time, she broke grasp with
11 Officer Meehan. Officer Meehan attempted to try
12 and re-engage with her. At that time, Ms. Gagnon
13 with a closed fist struck her in the chest area
14 of her vest.
15 Q What happened next?
16 A At that point in time, Officer Meehan
17 went ahead to re-engage with her and I assisted
18 in taking her to custody. After that, she was
19 just screaming, still flailing her arms. We put
20 her in the back of the cruiser and Officer Meehan
21 transported her to booking or I did. I can't
22 remember who transported her.

1 Q During the point prior to the time that
2 Ms. Gagnon punched Officer Meehan, you described
3 her as stepping back or flailing. Where was --
4 Was there a location where she was headed
5 towards?
6 A It would have been back to her house,
7 her residence. We were on the public sidewalk at
8 this point in time. And she started taking --
9 From her house it's like either a brick or
10 sidewalk that goes to her house and it goes left
11 up the stairs to her house. She started making
12 motions to walk backwards to the house.
13 Q And that was after she had been told she
14 was under arrest.
15 A Correct. The same time this was going
16 on Officer Meehan had hands on told her
17 physically at that time she was under arrest and
18 effected the arrest.
19 Q After you became involved and you and
20 Officer Meehan had hands on the Defendant, did
21 she continue to resist?
22 A She continued to scream, fell away. But

1 it wasn't hard to control her.
2 Q Before you were able to put handcuffs on
3 her or while you were trying to, did she resist
4 that effort?
5 A She was still trying to pull away. She
6 was still screaming, screaming help. It was just
7 a scene to see.
8 Q Okay. And in addition to screaming
9 help, was she screaming anything else or was she
10 just screaming sounds?
11 A I don't remember anything other than
12 help and nothing else.
13 Q At any point in time, did the struggle
14 with Ms. Gagnon go to the ground?
15 A I don't remember if it did or not.
16 Q Did you observe any injuries on Ms.
17 Gagnon?
18 A I did not.
19 MS. BEST: I have no further questions,
20 Your Honor.
21 THE COURT: Cross.
22 CROSS EXAMINATION

1 BY MR. RHOADES:
2 Q You and Officer Meehan went there in one
3 cruiser or two.
4 A Two cruisers, sir.
5 Q Two cruisers.
6 A Two separate cruisers.
7 Q Right. Were there any other cruisers
8 there at that time?
9 A During the first encounter or the
10 second?
11 Q During the second encounter.
12 A I don't believe so, no.
13 Q And before you went there, did you
14 discuss with Officer Meehan about whether or not
15 you're going to issue a summons or arrest the
16 Defendant?
17 A I don't recall.
18 Q Do you recall what Officer Meehan yelled
19 into the house of Ms. Gagnon? What did she say
20 at that point?
21 A I think she was just saying "Hey, could
22 you please come outside?"

1 Q And she didn't at that point say that
2 "You have to go with us."
3 A Once Ms. Gagnon responded outside the
4 house down to -- We were still on the sidewalk
5 area.
6 Q Yes.
7 A As she came down to the sidewalk area,
8 that's when Officer Meehan had a conversation
9 with her about having two arrest warrants.
10 Q And did she say that you were going to
11 arrest her and she had to go with you?
12 A I don't remember what she said at that
13 point.
14 Q And Officer Meehan's right hand made
15 contact with the left side of Ms. Gagnon's face.
16 Is that correct?
17 A Right.
18 Q Do you recall whether that the hand was
19 closed or open?
20 A I don't recall. I recall that when the
21 move was Officer Meehan back with a strike to her
22 and she was attempting to cross or grab her

1 shoulder or grab her arm. And that's when Ms.
2 Gagnon still was flailing around.
3 Q And she was attempting to grab. Is that
4 what you're saying?
5 A She was -- Officer Meehan?
6 Q Yeah.
7 A Yes, Officer Meehan was attempting to
8 grab her shoulder to control her arm.
9 Q And you don't recall whether she had her
10 opened or closed in a fish.
11 A I don't recall, no.
12 Q How is she going to grab her with a
13 fist?
14 A I don't know.
15 MR. RHOADES: No further questions.
16 THE COURT: Redirect.
17 MS. BEST: None, Your Honor. I would
18 ask that he be excused.
19 THE COURT: Officer, you are free to
20 leave. Thank you.
21 THE WITNESS: Thank you.
22 THE COURT: Unless you have need for the

1 officer. Thank you.
2 Ms. Best.
3 (WITNESS EXCUSED)
4 MS. BEST: The Commonwealth rests, Your
5 Honor.
6 THE COURT: The Commonwealth rests. Mr.
7 Rhoades.
8 MR. RHOADES: Your Honor, I think this
9 is going to be a credibility case and it's going
10 to go the facts. And I don't see any literal
11 reason why the case can't go forward. So if I
12 found one before the end of the case, I'll raise
13 it right now.
14 THE COURT: Yes, sir.
15 MR. RHOADES: Okay.
16 THE COURT: Do you have any witnesses?
17 MR. RHOADES: Yes.
18 THE COURT: Let's take about a ten
19 minute recess. Off the record.
20 (A SHORT RECESS WAS TAKEN.)
21 THE COURT: On the record. Mr. Rhoades,
22 call your first witness.

1 MS. BEST: Your Honor, I would make a
2 motion to exclude his witnesses. I was informed
3 that they were all sitting out in the hallway
4 discussing their testimony. Officer Meehan asked
5 them to stop. And they said no one told them
6 they could not talk about their testimony and
7 they continued to discuss what they observed that
8 night, what they observed after the arrest and
9 things of that nature. They're under the rule.
10 I would ask that they be excluded.
11 THE COURT: Mr. Rhoades.
12 MR. RHOADES: Your Honor, my
13 understanding of the rule is that witnesses
14 cannot see witnesses who are in the Court and
15 comment on their testimony. There has been no
16 evidence that they have any idea of what other
17 witnesses said in Court. So therefore I don't
18 believe they're breaching the rule assuming they
19 did what the prosecutor said. They would say
20 they didn't do that.
21 THE COURT: Your motion is denied. You
22 may inquire of the witnesses when they take the

1 stand as to their bias. Call your first witness.
2 MR. RHOADES: Thor, Your Honor. I don't
3 have --
4 THE COURT: Mr. and Mrs.?
5 MR. RHOADES: Thor. I forget his name.
6 Thor Rogin. Mr. Rogin.
7 THE COURT: Okay. Mr. Rhoades, how many
8 witnesses do you anticipate?
9 MR. RHOADES: I have four plus the
10 Defendant.
11 THE COURT: Okay. So we'll probably
12 take a break at around 1:00 p.m. or thereafter.
13 MR. RHOADES: Okay. I think, Your
14 Honor, I can finish. I have four witnesses. I
15 think I can finish those in a period of time
16 there and then maybe the Defendant after 1:00
17 p.m. Is that what you have in mind?
18 THE COURT: That's fine.
19 MR. RHOADES: Yes. He was out there
20 when I walked in, Your Honor.
21 THE COURT: Do you have another witness?
22 MR. RHOADES: I can go get him.

1 THE COURT: Okay.
2 (WITNESS SWORN.)
3 DIRECT EXAMINATION
4 BY MR. RHOADES:
5 Q Would you state your name please, sir?
6 A Thor Rogin.
7 Q And what is your address, sir?
8 A 328 North Pitt.
9 Q And I ask you to identify your dwelling
10 in the picture?
11 A The one on the right.
12 MR. RHOADES: And I would like to have
13 that marked as D. I believe that's what we're
14 at. D.
15 (WHEREUPON, THE DOCUMENT REFERRED
16 TO WAS MARKED AS DEFENDANT'S
17 EXHIBIT D FOR IDENTIFICATION.)
18 Where is your house there? Where is it?
19 That's where Princess Street ends in relation to
20 that.
21 THE WITNESS: Yes, it's directly across
22 from my driveway and the rear of my house.

1 BY MR. RHOADES:
2 Q And on the 18th of July of last year,
3 did you hear or see anything at 511 Princess
4 Street?
5 A Yes.
6 Q First of all, what did you hear?
7 A I heard yelling, a loud disturbance. I
8 thought a person was being attacked.
9 Q What time and place was that? What time
10 was that?
11 A Around slightly after dusk in my
12 recollection because I had a clear view. So
13 there was light I think additional to the
14 streetlight.
15 Q And where were you located?
16 A I was in the third floor window which
17 overlooks the house. It's in the top group of
18 windows in that picture.
19 Q Would you point out on Exhibit D where
20 that is to the Court?
21 A So it's these windows on the top, the
22 windows across my house. It's not a picture

1 window, but larger. It's three windows.
2 THE COURT: Yes, sir.
3 MR. RHOADES: I am trying to locate
4 Exhibit C, Your Honor. I'm sorry. I apologize.
5 There we go. My apologies.
6 THE COURT: Do you have it?
7 MR. RHOADES: Yes. I was guilty of
8 mislaying them.
9 THE COURT: You have papers on top of
10 the microphone.
11 DIRECT EXAMINATION (Cont'd)
12 BY MR. RHOADES:
13 Q I ask you if you recognize this as over
14 on Princess Street.
15 A Yes.
16 Q And do you recognize this?
17 A Yes.
18 Q And the first this I referred to is C-2
19 and the next is this I'm referring to is C-1.
20 A Right.
21 Q At the time you heard something over at
22 511 Princess, what did you do?

1 A I immediately went to the window because
2 I thought someone was being attacked.
3 Q And what did you see?
4 A I saw there was a police car, two
5 officers and my neighbor was being led out of her
6 storm door by these officers under restraint.
7 Q Okay. So where was she when you saw
8 her?
9 A It's not clear in the picture here.
10 There's a glass storm door and she was coming out
11 of that. Or they were sort of coming out of
12 that. And there was a group.
13 Q She was not out on the sidewalk.
14 A Not at that time, no.
15 Q Okay. So they were taking her out. And
16 there are steps. Was she above the steps?
17 A As I said she was coming out of her door
18 out of her house.
19 Q Okay.
20 A She was being brought I should say out
21 of her house.
22 Q And being brought, how do you mean being

1 brought?
2 A Under restraint.
3 Q Okay.
4 A By the officers.
5 Q All right. Do you have any -- And
6 what's your current occupation, sir?
7 A I run a foundation, a consulting
8 foundation, that does national security and
9 terrorism consulting to U.S. Government agencies.
10 I'm a former federal officer and the Joint
11 Terrorism Task Force in the State of Department
12 Terrorism Advisory Group. In that capacity, I'm
13 also well familiar with establishing the
14 surveillance posts.
15 And sitting on an elevated position it
16 happens to be that my house is considerably
17 taller. So I was looking down on this scene the
18 entire time.
19 Q Okay.
20 A Well, most of the time. Sorry.
21 Q And did you then see what they did with
22 her after they led her down the steps and across

1 this walkway?
2 A They led her down the sidewalk to the
3 car and put her in the car.
4 Q And before you looked out and saw her at
5 that door you had screams and noises. Is that
6 correct?
7 A Yeah, screams. Yes.
8 Q And did you see them take her from the
9 scene?
10 A No.
11 Q They put her in the back of the cruiser,
12 right?
13 A Yes. Put her in the back of the
14 cruiser. The two officers stayed outside on the
15 sidewalk talking to each other for a considerable
16 amount of time. And then eventually another car
17 arrived and people got out.
18 Another police car parked behind them.
19 Officers got out and were in discussion for a
20 some period of time. Then the officers went into
21 the house. They went into the house a
22 considerable amount of time overall during this

1 process.

2 Then a third officer came somewhat

3 later. It seemed to me somewhat later. It

4 seemed to me older and taller. And they had

5 discussions with him. What struck me about was

6 that it all lasted for a significantly long time.

7 MS. BEST: Your Honor, I object.

8 THE COURT: Sustained.

9 MR. RHOADES: About how long a time did

10 it last?

11 THE WITNESS: Probably two hours from my

12 own knowledge, well over an hour and as I said

13 from others longer. But there were three cars at

14 one point.

15 MS. BEST: Your Honor, I would object to

16 a reference to what others said. I will renew my

17 motion to strike him from discussing his

18 testimony with everyone else.

19 THE COURT: Overruled. Sir, please just

20 limit your answer to the question.

21 THE WITNESS: Okay. Sure.

22 MR. RHOADES: And from your

1 observations, how long do you estimate that they
2 were there before the car that Ms. Gagnon was in
3 before it left there?
4 THE WITNESS: At least an hour.
5 BY MR. RHOADES:
6 Q And were there other police cars still
7 there when the one that she was in left?
8 A I'm not certain. They left sort of one
9 after the other. One was parked actually
10 blocking the street somewhat for a period of
11 time. So there was the original car, a car in
12 front that left and a car in street left. And
13 then finally the car she was in left. But I'm
14 not sure about the time of it.
15 Q And you say you were in law enforcement.
16 A Yes, sir.
17 Q What was that?
18 A Federal Protective Service and the Joint
19 Terrorism Task Force.
20 THE COURT: Cross.
21 CROSS EXAMINATION
22 BY MS. BEST:

1 Q You've been waiting outside --
2 A Sorry.
3 Q You've been waiting outside.
4 A Yes.
5 Q Talking to the other people who are
6 outside.
7 A We're all neighbors. We talk all the
8 time.
9 Q But you were talking today.
10 A Yes.
11 Q And you were talking about this
12 incident.
13 A Mostly not.
14 Q But some, yes.
15 A Some, yes.
16 Q And you were talking about what you
17 observed.
18 A To a limited extent, yes.
19 Q So you were sharing your stories with
20 each other about what you saw.
21 A I wouldn't say sharing stories though,
22 not in any conspiratorial kind of sense such as I

1 assume your line of questioning.
2 Q You can assume all you want, sir.
3 A So can you.
4 Q I'm asking you --
5 THE COURT: Please let's not argue.
6 Just answer the question, sir.
7 MS. BEST: It seems like you've come
8 here today with a bit of an attitude against the
9 Government. Is that true?
10 THE WITNESS: Completely not.
11 BY MS. BEST:
12 Q Okay. But you seem to feel that you're
13 entitled to talk about your testimony outside the
14 courtroom. That's what you told Officer Meehan.
15 A I don't know who Officer Meehan is.
16 Q Was there a police officer who told you
17 to stop discussing the case outside?
18 A She told us all as a general warning.
19 Q And you responded to her that you were
20 allowed to do that.
21 A No, I didn't.
22 Q Did others in the group?

1 A I'm sorry.
2 Q Did others say that?
3 A No, I don't think so.
4 Q And you continued to discuss the case.
5 A No, we did not discuss the case. We
6 talked about life. We're neighbors. If we want
7 to discuss the case, we've had months to do that
8 face to face, over dinner, in courtyard parties
9 or whatever. We were talking about general life
10 and.
11 Q But you discussed today outside the
12 courtroom what happened on the night of July
13 18th.
14 A To a very limited extent, yes. Mostly
15 we talked about other things. We've been here
16 for hours. We've talked about deceased
17 neighbors. We've talked about selling a house.
18 We've talked about ongoing litigation about
19 variances, all sorts of things.
20 Q Okay.
21 A As neighbors do.
22 Q How did you come to be involved in the

1 case today?
2 A I was interviewed by the attorney.
3 Q Mr. Rhoades.
4 A Yes.
5 Q He came to your door.
6 A Yes.
7 Q So you didn't talk to the police about
8 what you saw.
9 A The police didn't talk to me.
10 Q Okay. So you felt it relevant to tell
11 Mr. Rhoades specifically that she was inside the
12 house.
13 A Well, I just answered his question.
14 Q Did he suggest that idea to you?
15 A No.
16 Q You say you saw her being brought out of
17 the door.
18 A Yes.
19 Q And down the stairs.
20 A Yes.
21 Q You never saw her fall though, correct?
22 A No.

1 Q You never saw the officers hit her or
2 injure her in any way.
3 A No. I think that just in the general
4 process often of jostling or trying to move three
5 people in a small space the space between the --
6 First of all, getting out the foyer of the house.
7 Q Would it be easier if I ask the question
8 again?
9 A Perhaps.
10 Q You never saw the officers hit her in
11 any way.
12 A No.
13 Q Okay. And you didn't see them throw her
14 to the ground.
15 A No.
16 Q You didn't see them injure her.
17 A I can't say whether she was injured or
18 not.
19 MS. BEST: I have no further questions.
20 THE COURT: Redirect.
21 REDIRECT EXAMINATION
22 BY MR. RHOADES:

1 Q In the process at the time that you saw
2 her, was she in handcuffs at that time first?
3 A I'm sorry.
4 Q When you first saw her, was she in
5 handcuffs?
6 A I believe so and she was under control
7 and direction. The way I was trying to answer
8 the question is she was being in small space,
9 three people in the small space only to be
10 jostled or hurt. I can't speak to it. I don't
11 know if they hurt her or not.
12 Q Did you see her hit then any officers?
13 A No.
14 Q You have to say yes or no.
15 A No. I'm sorry. I have a cold. Sorry.
16 THE COURT: You may step down. You're
17 free to go.
18 THE WITNESS: Thank you.
19 (WITNESS EXCUSED)
20 MR. RHOADES: Diane Darvey please.
21 THE COURT: Are any of these ladies
22 witnesses who are coming in the courtroom?

1 MR. RHOADES: I don't know who they are,
2 Your Honor. They're not my witnesses.
3 (WITNESS SWORN.)
4 DIRECT EXAMINATION
5 BY MR. RHOADES:
6 Q State your name please, ma'am.
7 A Diane Darvey.
8 Q What's your occupation or profession?
9 A I'm retired currently.
10 Q And what did you do before you retired?
11 A I did Government Affairs, Public Policy
12 work and going further back I did some other
13 stuff.
14 Q Yes. We've all done other stuff. So
15 where do you live? What's your address?
16 A 515 Princess Street in Old Town
17 Alexandria.
18 Q And do you know the address we're
19 talking about, 511 Princess Street?
20 A Yes, I do.
21 Q Okay. And where is that located? Say
22 you are looking out of the front of your house.

1 Where is that located?
2 A In relation to?
3 Q Left or right?
4 A Do you mean right of Valerie's house?
5 Q Yes, or left of yours whichever.
6 A Valerie's house is if I look out left of
7 mine.
8 Q And how many doors down is it?
9 A There's one house between my house and
10 her house.
11 Q And let me show you what's been marked
12 in this case as Exhibit C-1,-2 and -3. All
13 right. Do you recognize what structures in these
14 pictures?
15 A I'm sorry. Let me turn it around.
16 Q Yes.
17 A Yes, sir. I do. That would be
18 Valerie's house and this is the sidewalk in front
19 of Valerie's. And I can see my house up there.
20 Q And your house is where?
21 A My house is where you see that gray.
22 That's the cover of my fountain.

1 Q Okay. And then bringing your attention
2 to the 18th of July of last year, did anything
3 unusual happen at Valerie's house?
4 A That evening I was in my bedroom asleep
5 or almost asleep when I heard terrible screaming
6 and I thought someone was being murdered. And I
7 called 911. I was that concerned that someone
8 was being killed.
9 Q And then did you have the opportunity to
10 look toward where you hear the screams?
11 A Yes, I did. I jumped out of bed. I
12 called 911. And I looked out and I was able to
13 look down the street to where I heard the
14 screaming coming from.
15 Q And where was that?
16 A That was near where Valerie's house is.
17 Q All right. And at the time you looked
18 out that window or any time after you heard the
19 screaming, did you see Valerie's house?
20 A I was able to see Valerie's the brick
21 walkway and those green puffy plants that are in
22 front of Valerie's house.

1 Q So you could see one -- What could you
2 see? What part?
3 A Well, I was able to see as you look down
4 here.
5 Q Tell the Judge.
6 A I'm sorry. I have like a hand condition
7 that makes my hand shake. So I apologize for
8 that. I was able to see further up this way and
9 I was able to see this walkway. And there are
10 other green bushes that go up that way.
11 Q So how far could you see back towards
12 the stairs would you say?
13 A I could see probably three bushes back
14 towards the stairway.
15 Q There is something that I'm not sure
16 what it is. It looks like a newspaper there in
17 this picture.
18 A Yes.
19 Q Could you see that far back or not?
20 A About that far back, yes.
21 Q About that far back. All right. At the
22 time that you looked out the window could you see

1 Valerie?
2 A No.
3 Q Did there come a time when you could see
4 her?
5 A I did see her in the police car.
6 Q Okay. But you didn't see her at the
7 time of the screams. You didn't see her in this
8 area.
9 A No.
10 Q Could you see the police car here?
11 A I could see police cars plural in front
12 of the house. And I could see the walkway, part
13 of the walkway and the general walkway.
14 Q Okay. And was there anybody in the
15 police cars or could you tell?
16 A Initially when I looked out, no. There
17 was no one in the police cars. There were police
18 on the street.
19 Q Yes.
20 A But I did not see any -- The police
21 there.
22 Q All right. Very good. And you say

1 there came a time when you could see Valerie.
2 A Yes, at that time she was in the car.
3 Q And so you watched from your window,
4 right? And this window was located where in your
5 house?
6 A It's at the front of my house on the
7 bump-out that sticks out. It's the central
8 window in my bedroom.
9 Q And then you left that location and went
10 somewhere else.
11 A Well, I stayed in the bedroom, but I sat
12 down while I called 911. And then I thought
13 about going back to sleep. Then I got back up
14 again because I was very concerned that something
15 was going on. So I kept looking out the window
16 to see what was going on.
17 Q And then was that at the point you saw
18 Valerie in the police car?
19 A No, she was not in the police car at
20 that point. That was later on. I also did go
21 out. I was still concerned that someone was
22 being killed. I went out my front door and stood

1 on my steps at that time. One of the policemen
2 in the street told me to get back in my house.
3 Q Okay.
4 A Which I did. But I continued to look
5 outside the window off and on repeatedly out of
6 concern now since I did not know what was going
7 on. And then at one point I saw Valerie in the
8 car.
9 MR. RHOADES: No further questions.
10 THE COURT: Cross.
11 CROSS EXAMINATION
12 BY MS. BEST:
13 Q You said you got out of bed when you
14 heard this.
15 A Yes.
16 Q You were sleeping or.
17 A I had just laid down. I was not really
18 asleep. But I heard violent screaming and I was
19 concerned that if someone was being killed I
20 needed to call 911 which I did.
21 Q So this was around 10:00 p.m. Around
22 what time?

1 A Yeah, 10-ish. I mean it was 10-ish.
2 Q So it was dark outside.
3 A Yeah, as dark as it is in whatever time
4 of the year that is. But there are street
5 lights. The street lights are such that I can
6 see the street.
7 Q Oh, I understand.
8 A Okay.
9 Q But it was dark outside. Like the sun
10 wasn't out any longer.
11 A There was no longer sunlight, correct.
12 MS. BEST: Thank you. No further
13 questions.
14 THE COURT: Redirect.
15 MR. RHOADES: No redirect.
16 THE COURT: Ma'am, you may step down and
17 you're free to leave.
18 THE WITNESS: Thank you very much.
19 (WITNESS EXCUSED.)
20 THE COURT: Call your next witness.
21 MR. RHOADES: Hazel Rigby, Your Honor,
22 please.

1 THE COURT: There doesn't be any
2 response, Mr. Rhoades. You may want to go out
3 and check and see if she's still there.
4 MR. RHOADES: I will, Your Honor.
5 (WITNESS SWORN.)
6 DIRECT EXAMINATION
7 BY MR. RHOADES:
8 Q State your name please, ma'am.
9 A Hazel Rigby.
10 Q And, Ms. Rigby, what's your occupation
11 by fashion?
12 A I was a teacher at TC Williams High
13 School for 30 years.
14 Q And you are retired now.
15 A Yes.
16 Q Okay. And where do you reside?
17 A 330 North Pitt Street.
18 Q And 330 North Pitt Street is where in
19 location to 511 Princess Street?
20 A Right directly across the street.
21 Q Can I ask if you can identify this
22 picture for me and tell me what that depicts?

1 A That's what the builder of the house
2 many years ago called the roof garden which is
3 above the garbage at the back of my house.
4 That's on Princess Street. It faces Princess.
5 Q And from this picture, this is the back
6 of your house.
7 A Hm-hm.
8 Q From this picture, can you see 511
9 Princess Street?
10 A Yes.
11 Q I mean from this location.
12 A Yes, very definitely.
13 Q And would you point out for the Court
14 where it is on this?
15 A Where the street is?
16 Q No, where 511 Princess Street.
17 A Right there.
18 MR. RHOADES: Okay. And this would be
19 whatever it is. E I believe, aren't we? E.
20 (WHEREUPON, THE DOCUMENT REFERRED
21 TO WAS MARKED AS DEFENDANT'S
22 EXHIBIT E FOR IDENTIFICATION.)

1 THE COURT: Yes, you're right.
2 MR. RHOADES: Your Honor, I don't
3 believe I did this for the record. I will move
4 in now the exhibits that I had.
5 THE COURT: Any objection?
6 MS. BEST: No, Your Honor.
7 THE COURT: Exhibits A through E
8 admitted without objection.
9 (WHEREUPON, THE DOCUMENTS REFERRED
10 TO, PREVIOUSLY MARKED
11 COMMONWEALTH'S EXHIBITS A-E FOR
12 IDENTIFICATION, WERE RECEIVED IN
13 EVIDENCE.)
14 MR. RHOADES: And do you recognize
15 what's been marked as Exhibit C-1, -2 and -3?
16 THE WITNESS: Yes.
17 BY MR. RHOADES:
18 Q And what is that?
19 A Well, the one that's on top there is the
20 side leading to Valerie's house, the porch way.
21 Q And do you know where Mr. Rhoades' house
22 is in relation to this house?

1 A Yes, vaguely. I don't know the exact
2 house number, but I know where it is.
3 Q And where would it be?
4 A It would be east of Valerie's about two
5 houses down.
6 Q On the 18th of July of 2015, did you see
7 any interaction between Ms. Gagnon and Mr. Rowe?
8 A Yes.
9 Q All right. And where were they when you
10 saw them?
11 A They were on the sidewalk.
12 Q Okay. And which sidewalk? Would that
13 be?
14 A The sidewalk directly in front of her
15 house or his house.
16 Q All right. Do you know whose house it
17 was the closest to or did they move around?
18 A They moved around. They moved back and
19 forth.
20 Q So sometimes they were in -- Did you --
21 With the first time you first saw them, can you
22 tell whether they were closer to his house or her

1 house?
2 A Oh, I wouldn't be able to testify to
3 that. What I would see is movement. He would go
4 to his house and then come back. She would kind
5 of go down and talk to him and then come back.
6 And this went on for a short while.
7 Q Okay. Could you hear what they were
8 saying?
9 A No.
10 Q But you could hear but you couldn't hear
11 what. Is that right?
12 A That's right. It was sort of that.
13 There was some animation that I could see, just
14 hand movements.
15 Q Okay. And for just how long did this go
16 on would you say?
17 A Oh gosh, ten minutes maybe, 15.
18 Somewhere there. It was a little while but not
19 extensive.
20 Q And what time of day or night was this?
21 A It was in the afternoon. I had a bunch
22 of plants that I was planting and my recollection

1 is that it was sort of in the afternoon, maybe
2 early afternoon, two-ish. Somewhere in there.
3 Q Did there come a time when you saw
4 police cars in front of Valerie's house?
5 A Yes.
6 Q And when was that?
7 A That would have been later on in the
8 day, maybe 4:00 p.m. or somewhere. What I recall
9 is quite a police presence most of the day in the
10 afternoon later on. Yes.
11 Q Did you see a female police officer come
12 to Valerie's door?
13 A Yes, I did.
14 Q And did you see any of the interchange
15 between the two of them?
16 A Not a lot. I was aware of the fact that
17 she went up the stairs. There was sort of some
18 pause there on the stairway. And eventually --
19 MS. BEST: I would object to this. I
20 just want to be clear. She said she didn't see a
21 lot and she said I was aware. I just want to
22 make sure this is something she personally saw.

1 THE COURT: Sustained. Only what you
2 saw, ma'am.
3 THE WITNESS: Yes, I'm telling what I
4 saw. I saw the police officer pause on the
5 stairs for a short while. Eventually she made it
6 up to the platform or to the top of the stairs.
7 I know that the door was open. And I was aware
8 that Valerie was there talking with her.
9 I couldn't hear anything. I could hear
10 basically nothing at that point. I was just
11 aware of the police officer because they were
12 talking.
13 DIRECT EXAMINATION (Cont'd)
14 BY MR. RHOADES:
15 Q Whether you could hear the words or not,
16 did the exchange appear to be cordial or animated
17 or somewhere in between?
18 A I thought it seemed quite cordial. But
19 there's some plants and things there. I couldn't
20 see entirely what was happening. I was aware
21 that the conversation was taking place.
22 Q And did there come a time when -- you

1 said later that there were several police cars
2 around.
3 A Yes.
4 Q When was that?
5 A It was still daylight when there were
6 cars coming and going. And I think at one point
7 I counted four or five police cars on the street,
8 vehicles of some type. I mentioned to my husband
9 that there were four or five cars out there. And
10 it was later on after the woman had been there.
11 Q And did you see Valerie arrested or
12 anything related to that?
13 A No.
14 MR. RHOADES: No further questions.
15 THE COURT: Cross.
16 MS. BEST: No, Your Honor. I don't have
17 any questions.
18 THE COURT: Ma'am, you may step down.
19 You may leave.
20 THE WITNESS: Thank you.
21 (WITNESS EXCUSED)
22 MR. RHOADES: Your Honor, I don't think

1 the system is working out there. So I'll just go
2 out and get the next witness.
3 THE COURT: Okay.
4 MR. RHOADES: With Your Honor's
5 permission.
6 (WITNESS SWORN.)
7 DIRECT EXAMINATION
8 BY MR. RHOADES:
9 Q Would you state your name please, ma'am?
10 A My name is Kathleen Curtin.
11 Q And where do you reside, Ms. Curtin?
12 A I live at 501 Princess Street,
13 Alexandria, Virginia.
14 Q And 501 is on the corner.
15 A The corner of Princess and North Pitt.
16 Q And do you know the Defendant in this
17 case?
18 A Yes.
19 Q All right. And you know Mr. Rowe.
20 A Yes.
21 Q All right. And I'll bring you back to
22 July 18, 2015, do you recall any -- did you see

1 any interaction between the Defendant and Mr.
2 Rowe?
3 A I did not.
4 Q Later that day, did you see any police
5 presence at 511 Princess Street?
6 A Yes, I saw police presence on the
7 street. Correct.
8 Q Okay. And did you interact with the
9 police in any way?
10 A I did not.
11 Q How many police cars did you see on the
12 street?
13 A Well, there were two events where the
14 police arrived that day.
15 Q Okay.
16 A In the early evening, around dinnertime,
17 5:30 p.m., 6:30 p.m., there were anywhere -- My
18 memory recalls at least two to three police cars
19 at that time of day.
20 Q Did you see them interact with Ms.
21 Gagnon at that time?
22 A I did not see any interaction, but they

1 did -- Well, let me say this. I did not see them
2 interacting with Ms. Gagnon. But I saw them go
3 to her house.
4 Q And what, if anything, did you see about
5 that?
6 A I saw the cars arrive and at least two
7 of the officers approached her house.
8 Q So how many cars did you see arrive?
9 A As I said, now that I'm thinking about
10 it it was probably three. There was one in
11 front, one closer to my house and then another
12 one closer to North St. Asaph.
13 Q And did you hear anything or see
14 anything about the interaction between the police
15 and Ms. Gagnon at that point?
16 A No, I did not.
17 Q All right. Did there come a time later
18 in the day, the same day, when there were police
19 cars back in the neighborhood?
20 A Yes, sir.
21 Q And what time was that to the best of
22 your recollection?

1 A That was probably closer to 9:30 p.m. or
2 10:30 p.m.
3 Q And what, if anything, did you see or
4 hear at that point?
5 A We were taking the dog out for what we
6 call the last call before we go to bed.
7 Q We being?
8 A Me, my husband and the dog.
9 Q Okay.
10 A And we walked out and we saw and noted
11 that there were still police cars at the top of
12 the block near St. Asaph. And as we left and
13 crossed the street heading south on North Pitt
14 another police car arrived. Mr. Rowe got out of
15 that police car.
16 While we were standing there talking to
17 Mr. Rowe, another police car arrived again. So
18 we were up to three police cars at that time. We
19 took our dog for a walk and we came back and
20 there was at least another police car. So at
21 that point we were up to close to four police
22 cars.

1 Q And did you see or hear anything related
2 to Valerie being arrested at that time?
3 A No.
4 MR. RHOADES: I have no further
5 questions.
6 THE COURT: Cross.
7 MS. BEST: No.
8 THE COURT: Ma'am, you may step down.
9 You are free to leave.
10 THE WITNESS: Thank you.
11 (WITNESS EXCUSED.)
12 MR. RHOADES: That's the Defendant's
13 case except for the Defendant testifying, Your
14 Honor.
15 THE COURT: Do you have any idea how
16 long this witness will be? Your witness.
17 MR. RHOADES: I would say that it will
18 be at least 20 or 30 minutes. Probably closer to
19 30. All right. Let's take a recess for lunch.
20 Let's reconvene at 2:00 p.m. Off the record.
21 (WHEREUPON, AT 1:15 P.M., THE ABOVE-
22 ENTITLED MATTER RECESSED TO RETURN AT 2:11 P.M.

1 THE SAME DAY.)

2 THE COURT: On the record. Mr. Rhoades,

3 call your next witness.

4 MR. RHOADES: I'll call the Defendant

5 please. Would you want a drink of water up

6 there?

7 THE DEFENDANT GAGNON: Yes.

8 DIRECT EXAMINATION

9 BY MR. RHOADES:

10 Q What is your name please?

11 A Valerie Ann Gagnon.

12 Q And what is your occupation or

13 profession?

14 A I'm an interior decorator.

15 Q And where do you live?

16 A Right now, 811 South Coleman Street in

17 Old Town.

18 Q And who lives at 511 Princess Street?

19 A Both my parents.

20 Q And do you have occasion to be there

21 frequently?

22 A I did last year, the year of the event,

1 because my mother was very ill.
2 Q Okay. And you were there on -- Well,
3 first of all, before we get to July 18th, we put
4 in evidence of some notes you allegedly left on
5 the neighbor's door concerning poisoning and
6 squirrels. Could you tell the Court about that
7 please?
8 A Yes, I did. I left an anonymous drawing
9 of the squirrel because I'm a draftsman. And I
10 said I know the rules and there are animals being
11 killed and he wasn't doing anything about it.
12 Q All right. In that note, did you in any
13 way threaten the neighbors or anybody else?
14 A No.
15 Q Okay. And did you have any subsequent
16 conversations with the neighbors about the issue?
17 A Months later once.
18 Q And in that conversation what did you
19 say?
20 A I said it was the first time I was ever
21 meeting these people. And I said, "Do you know
22 anything about the squirrels?"

1 Q And other than that, what interchange
2 did you have with them?
3 A It was immediately hostile. The answer
4 was hostile. And I said -- Well, first of all,
5 they mocked me. And then the wife immediately
6 called the police as I was speaking. And I said
7 that I would have him prosecuted if any of my
8 family members or my pet or I or anyone who
9 worked for us would be harmed.
10 Q Would be what?
11 A Would be harmed?
12 Q Harmed, okay.
13 A Sorry.
14 Q Harmed by what? What do you mean?
15 A I was talking about the poison.
16 Q Okay. And what is the poison?
17 A Well, we never got to test it. So I was
18 assuming it was poison but.
19 Q Why do you think it was poison?
20 A We found a large amount of white powder
21 in our fish pond. All the fish were dead,
22 floating. A few birds started to die. And then

1 shortly within a week the animals, squirrels,
2 started to die one after the other.
3 Q And did you talk to your neighbors about
4 that?
5 A It took me awhile. I didn't talk about
6 that until maybe the 5th or the 6th. The 5th
7 animal I started to wonder if animals were dying
8 in their patio as well, if they were seeing
9 animals dying.
10 Q Did at any point -- You said that a few
11 -- All right. Did you talk to Robert Rowe about
12 any of these things?
13 A Months later after the -- Months later.
14 Q This would be in the May period we're
15 talking about.
16 A The fish pond situation was in
17 September.
18 Q Okay.
19 A And I contacted Robert Rowe at the
20 urging of my immediate neighbors late. It was
21 cold. I can't remember. So February or
22 December.

1 Q February, okay. And what conversations
2 did you have with Mr. Rowe?
3 A I had maybe a three minute conversation
4 with him. I said that the neighbors had asked me
5 to talk to him and we were seeing a lot of -- I
6 was seeing a lot of dead squirrels. And his
7 answer to me was I'm not interested in this.
8 It's not my problem. I do not care. And call
9 Animal Control.
10 Q Okay. And when was the next time you
11 had a conversation with him about that?
12 A Months later in May. He came to our
13 house and he wanted to speak to my parents.
14 Q What, if anything, had happened in
15 between there that precipitated this visit to
16 your knowledge?
17 A I had spoken to the immediate neighbor,
18 the person that I considered -- that I suspected
19 of poisoning. So he must have come just a couple
20 of days after that.
21 Q You spoke to your neighbor. What do you
22 mean you spoke to your neighbor?

1 A I mean I confronted. Which neighbor?
2 Q The one you suspected of poisoning.
3 A Gaffney. Can you repeat the question?
4 Q Yes. What did you do when you
5 confronted Gaffney? Why did you do that?
6 A Because I was tired of seeing the
7 animals dying and it was the first time that I
8 was actually seeing him. I'd never seen him.
9 Q Then Mr. Rowe came to your house to talk
10 to you.
11 A Not to me. To my parents.
12 Q Were you present during the meeting?
13 A Yes.
14 Q Okay. And during this meeting, did he
15 talk to you?
16 A He was avoiding trying to talk to me.
17 Q Did you talk to him?
18 A Yes.
19 Q And you say he was avoiding talking to
20 you. What do you mean by that?
21 A He was looking only at my mother and he
22 was having a conversation strictly with her.

1 Q Your father was there or not?
2 A He wasn't.
3 Q And what, if anything, did you tell Mr.
4 Rowe at that meeting?
5 A Venting.
6 Q What did you tell him?
7 A Well, I was telling him that we had seen
8 the poison. At that point, we had seen two
9 events of poison or what we assumed to be poison.
10 And it was a question of not only vermin but the
11 life of my dog. It was actually dangerous for
12 everybody because the poison would be washed into
13 the sidewalk and people's cats are free. And I
14 was trying to imply to him that it was a
15 community matter. And we should at least try to
16 attest.
17 Q And what did he say to you after you had
18 raised these issues?
19 A What he told me is that I had absolutely
20 no right to confront Gaffney, that I should have
21 contacted him about every event, that I should
22 have each time I called Animal Control that he

1 should have been notified, that each time that an
2 animal had died that he should see it and so
3 forth. He was livid. And he was saying that I
4 had taken this upon myself and I had no right to
5 do so.
6 Q And then what was the next contact you
7 had with Mr. Rowe after that?
8 A The next contact is the 18th of July.
9 Q Okay. Why on the 18th of July did you
10 contact Mr. Rowe again?
11 A Because the animals kept on dying and I
12 decided to have Animal Control look at it, pick
13 it up and send it to him. Officer Howes refused
14 to do that. So I said that I will do it myself.
15 And I left him a note with that.
16 Q What was the purpose in your mind
17 leaving the note?
18 A I wanted him to show the evidence
19 because he seemed to imply that it was all in my
20 head. He was calling me delusional and to have
21 the association help me pay for the poison
22 testing which was running in the 300s.

1 Q When you left the note and the squirrel
2 on his doorstep, did you threaten him in any way?
3 A No.
4 Q All right. Did you intend that to be a
5 threat to him in any way?
6 A No, I just didn't want to talk to him
7 because I really dislike him.
8 Q Okay. And then later that day, did you
9 encounter Mr. Rowe again?
10 A He came back. I didn't know that he was
11 on vacation. But he came back and I was
12 gardening. We live just very close. And he came
13 to our part of the -- toward our house. And I
14 was already outside.
15 And he said that it was harassment, that
16 it was harassing him and that he would call the
17 police. And I tried to explain to him again that
18 I wanted the animal tested for poison, reminding
19 him that he had demanded to see evidence and to
20 contact him each time that Animal Control had
21 come which I did not do.
22 But I did it on that time. But I

1 couldn't access him. He kept on saying he was
2 harassed. It was harassment.
3 Q And how long did this discussion with
4 him go on or off or altogether, whatever it was?
5 A I thought it was maybe five minutes.
6 Q Okay. And he has alleged that you
7 called him some offensive names.
8 A I did.
9 Q Okay. And what names did you call him?
10 A I said that he was a fag.
11 Q Okay. Did you call him -- I think the
12 word was asshole. Did you call him that?
13 A No.
14 Q And did you call him a wimp?
15 A No.
16 Q And this went on at this point. The
17 squirrel thing had gone on at this point for six
18 months. Is that right?
19 A Since September to July.
20 Q Oh, September. So it would be ten
21 months more or less. And did you talk to the
22 officer, Officer Meehan, later that day about

1 this issue?
2 A She came to visit. And our interaction
3 was very cordial. And I explained to her that
4 this had been going on for a long time, that I
5 was concerned about my dog. I got the poison
6 inside our area and that Robert Rowe was blowing
7 things out of proportion.
8 Q And your conversation, however long it
9 took, did he use any abusive terms toward you?
10 A Robert Rowe?
11 Q Yes.
12 A Well, he refers to me as being
13 delirious.
14 Q Anything else you can recall?
15 A No.
16 Q So did he threaten you with violence?
17 A No.
18 Q And did you threaten him with violence?
19 A No.
20 Q Okay. When you left or when the officer
21 left your house on the 28th --
22 A Eighteenth.

1 Q The 18th, excuse me. Did you at that
2 point -- What did you think was going to happen
3 with the complaint?
4 A I was convinced that she was on my side.
5 Q And then what happened? There came a
6 time when the officer came back, right?
7 A Yes.
8 Q Okay. And between the period of time
9 and what you described, did you have any more
10 contact with Mr. Rowe?
11 A No.
12 Q When the officer came back, what
13 happened?
14 A I was grilling and.
15 Q Grilling where?
16 A In the patio in the back. And I heard
17 a voice and a knock on the door. (Knocks) And I
18 looked out and they were standing on the stoop.
19 Q What, if anything, did they say? They
20 being he or they or who?
21 A The female officer was speaking.
22 Q Yes.

1 A And she said that she had a warrant for
2 my arrest and she was taking me to the station.
3 Q And let me first of all -- Where were
4 you when you were having this -- the initial
5 meeting with the officer? Where were you as far
6 as on Exhibit C-1, -2 and -3?
7 A Right here, sir. Right in front of the
8 door.
9 Q And was the door open?
10 A Yes.
11 Q Okay. And you said you had been
12 grilling. Where within the house were you
13 grilling?
14 A It's further down the house on the
15 patio.
16 Q Okay. So is it the entire width of the
17 house or the entire length of the house or?
18 A The entire length of the house.
19 Q And the one officer came up. Were both
20 officers on the landing here?
21 A Both. One was on the landing and then
22 the male officer was two steps behind.

1 Q Two steps. So he was in here.
2 A Yes, he was high.
3 Q Is there a gate here?
4 A There's a little gate, yes.
5 Q And when she said she was going to take
6 you to the station.
7 A Yes.
8 Q And then what happened?
9 A I said I want to see a warrant.
10 Q And did they show you one?
11 A No.
12 Q And then what happened?
13 A They grabbed my right hand very
14 aggressively and she pulled me toward her. I
15 yanked my arm out and I turned around and I
16 pushed her. It was you know a knee-jerk
17 reaction. The male officer just was on the step
18 and moved in, grabbed my arm like that and then
19 my other arm and immediately handcuffed me while
20 the female officer hit me full force, torque
21 rotation in the face. I was sent immediately on
22 my knees and I started to scream.

1 Q And when your hand went towards the
2 officer -- you said that -- were you intending to
3 strike her when your hand went there?
4 A No, I was actually trying to even keep
5 my balance and it was an involuntary reaction.
6 Q Was your hand in a fist when you did
7 that?
8 A No.
9 Q And when she struck you in the face, was
10 her hand in a fist?
11 A Absolutely.
12 MR. RHOADES: Okay. I ask you what this
13 picture is and I ask if you could tell the Court
14 what this is. It's F.
15 (WHEREUPON, THE DOCUMENTS REFERRED
16 TO WERE MARKED AS DEFENDANT'S
17 EXHIBIT F AND G FOR
18 IDENTIFICATION.)
19 THE WITNESS: This is the bruise that I
20 had after I was struck.
21 BY MR. RHOADES:
22 And who took that picture?

1 A I must have.
2 Q And when?
3 A While I was in the car with the bail
4 bondsman, Jim Wilkinson.
5 Q Okay. And this one, this picture, what
6 does that depict?
7 A That is a scrap that I experienced
8 probably while losing my balance. I can't
9 remember.
10 Q And you took that picture, too.
11 A Yes.
12 Q But the action we are talking about did
13 not take place on the sidewalk as testified by
14 the officers. Is that correct?
15 A Nowhere near.
16 MS. BEST: Objection as to leading.
17 MR. RHOADES: At any point before you
18 were in handcuffs, were you out anywhere above
19 this landing?
20 THE WITNESS: No.
21 BY MR. RHOADES:
22 Q When you were talking to the officers,

1 was the door open?
2 A Yes.
3 Q Were you in the doorway or were you
4 inside the house or were you on the landing?
5 A I was in the doorway.
6 Q If you'll excuse me just a minute
7 please. After the officer hit you in the face
8 with her fist, what did she do then?
9 A I was on my knees. And she was about to
10 hit me again.
11 Q Why do you say that?
12 A Because I could see her whole hand up.
13 And I was on my knees and I looked up and I
14 started screaming for my life.
15 Q What did they do after they arrested
16 you?
17 A After what?
18 Q After they put you in handcuffs, what
19 happened then?
20 A They lifted me up and they brought me
21 down the stairway and we walked to the car.
22 Q You walked or they picked you up and

1 carried you to the car.
2 A They certainly carried me down the
3 stairway. I was having a hard time.
4 Q What was the male officer doing at the
5 period of time that she struck you and that she
6 was going to strike you again?
7 A He was holding me down. He's the one
8 who put the handcuffs behind me.
9 Q And at the time that they arrested you
10 and put you in the car, how many policemen were
11 present?
12 A A swarm. I can't remember.
13 Q Did the officer ever say anything to you
14 that led you to believe that she would have
15 released you on a summons?
16 A Absolutely not.
17 Q And the first thing she said to you was?
18 A "You're under arrest. We're taking you
19 to the station."
20 MR. RHOADES: No further questions.
21 CROSS EXAMINATION
22 BY MS. BEST:

1 Q Were those her exact words?
2 A Exact words.
3 Q Yes. So she said, "We're taking you to
4 the station."
5 A That's what I remember.
6 Q But no one ever took you to a police
7 station, right? You were taken to a jail.
8 A Well, that's what I understood.
9 Q So it's not she said. It's what you
10 thought.
11 A It could be.
12 Q And it's your testimony that you told
13 her you wanted to see a warrant.
14 A Yes.
15 Q And after that, she grabbed your hand
16 and pulled you, right?
17 A Yes.
18 Q You pulled free and you pushed her?
19 A Yes.
20 Q And then after that the male officer
21 held you down while the female officer beat you.
22 A Exactly at the time that I'm withdrawing

1 my hand from her, the male officer is grabbing
2 it. It's almost simultaneously. And he takes
3 the other arm and pulls it in the back and is
4 handcuffing me.
5 Q Okay. But you're still standing up at
6 that point.
7 A Yes.
8 Q But you just told Mr. Rhoades you were
9 on your knees while she was beating you.
10 A No, she struck me and I landed
11 immediately on my knees.
12 Q So she hit you so hard on the face that
13 you fell down.
14 A Indeed.
15 Q And then she was going to hit you again
16 and the other officer held you.
17 A Indeed, yes.
18 Q But she didn't.
19 A Because I started screaming for my life.
20 Q Okay. And there were your other
21 neighbors around at this time. They started
22 coming out, right?

1 A I couldn't see anything.
2 Q Your eyes were closed.
3 A I was on my knees and they were in front
4 of me.
5 Q And you told your attorney right after
6 this they took you outside, right?
7 A Yes.
8 Q And you went outside. Your neighbors
9 had come out because you were screaming, right?
10 A I couldn't see any neighbors.
11 Q Okay. Did you have your eyes closed?
12 A I couldn't see any neighbors.
13 Q My question was did you have your eyes
14 closed.
15 A I don't think so.
16 Q You don't remember.
17 A I was under extreme stress.
18 Q Okay. And there were other police
19 officers on the scene, correct?
20 A Yes.
21 Q And at one point a sergeant approached
22 you and asked you if you were injured, correct?

1 A No one approached me to ask me if I was
2 injured.
3 Q No one ever asked you.
4 A No one.
5 Q When you got to the jail as part of the
6 booking process, is it your testimony that no
7 deputy asked you if you had any injuries?
8 A True.
9 Q And you were hit so hard in the face
10 that you fell down, but you had no visible injury
11 at that time.
12 A It's probably a mugshot.
13 Q So you're saying you did have a physical
14 injury at that time.
15 A No one gave me a mirror so that I could
16 look at myself.
17 Q All right. So that picture that you
18 claim you took you said you took it the next day.
19 A Indeed.
20 Q In that picture of your leg, you said it
21 probably happened when you fell.
22 A I didn't remember clearly what happened

1 to the leg. I saw it. I realized that I had
2 scraped the day after.
3 Q So that picture is taken the day after
4 as well.
5 A As well.
6 Q And it's your testimony then that that
7 would have existed when you were checked into the
8 jail.
9 A It is my testimony and I have witness to
10 that.
11 Q You have a witness.
12 A Oh yeah.
13 Q Are they here today?
14 A No.
15 Q Okay. You told your attorney about all
16 the witnesses though that had information about
17 your case, right?
18 A Yes.
19 Q Is this witness that saw it at the jail?
20 A The bail bonds man, Jim Wilkinson.
21 Q No, I'm talking about when you were
22 arrested.

1 A Pardon me?
2 Q When you were arrested and taken to the
3 jail, when you got there they searched you,
4 right?
5 A No, they asked me to get naked.
6 Q You were searched.
7 A First to enter the facility.
8 Q Yes.
9 A Probably. I was practically naked.
10 Q Is your testimony they strip searched
11 you?
12 A No, I was already practically naked. I
13 had a nightgown on.
14 Q Okay. You had a whole nightgown on.
15 A A nightgown.
16 Q So you weren't naked.
17 A Underneath I was. There wasn't a lot of
18 searching done then.
19 Q Okay. But they inspected you, correct?
20 A Yes.
21 Q And they asked you questions. Like for
22 example did they ask you if you were feeling

1 suicidal?
2 A I honestly don't remember.
3 Q But it's your testimony that you don't
4 remember that, but you remember for sure that
5 they didn't ask if you had any injuries.
6 A I don't remember of being asked if I had
7 injuries. But I can tell you something. They
8 were looking at me in a very strange way. They
9 knew my eye was bleeding. They were not telling
10 me.
11 Q Your eye was bleeding?
12 A Well, you look at the picture.
13 Q Bleeding.
14 A I mean it's a vessel that was broken
15 that creates the red in the eye.
16 Q Okay. Were you bleeding?
17 A The eyeball was bleeding.
18 Q Your testimony is the night you were
19 arrested there was blood coming from your eye.
20 A No, that's not my testimony.
21 Q Okay.
22 A It's a --

1 Q A metaphor.
2 A The red that you see in the eye in the
3 white is created by blood.
4 Q And it's your testimony that existed the
5 night of the arrest.
6 A That was created by the woman who struck
7 me.
8 Q Is it your testimony that is the way
9 your eye looked the night of the arrest?
10 A I couldn't look at myself in the mirror.
11 Q Okay. What about your leg? Is that the
12 way your leg looked the night of the arrest?
13 A I cannot tell you that either.
14 Q You don't know how your own leg looked.
15 A If you were hit in the face and you're
16 terrorized, your leg is not really something that
17 you pay attention to.
18 Q So at no point after your arrest that
19 you were at the jail, while you were before the
20 magistrate, while you were waiting to make bond,
21 at none of those times did you look down and see
22 your leg.

1 A None.
2 Q And so you saw the injury for the first
3 time when you left the jail.
4 A When I felt it. When I was in the car,
5 I realized that I had scraped my leg.
6 Q So a scrap that size you didn't realize
7 for a full day.
8 A That was the worst night of my life. I
9 was close to a fall. I was put in solitary
10 confinement and I thought I was going to die.
11 Q Had you been drinking that night?
12 A No.
13 Q Okay. Solitary confinement. You were
14 held in the booking area, correct?
15 A That's called solitary confinement as
16 far as I'm concerned.
17 Q After this incident, you didn't call the
18 police to report that you had been assaulted,
19 correct?
20 A No.
21 Q You never called these officers'
22 sergeant to institute a use of force

1 investigation, correct?
2 A No.
3 MS. BEST: I have no further questions.
4 THE COURT: Redirect.
5 MR. RHOADES: I don't have any redirect,
6 Your Honor.
7 THE COURT: You may step down.
8 (WITNESS EXCUSED.)
9 Call your next witness.
10 MR. RHOADES: That's the Defendant's
11 case, Your Honor.
12 THE COURT: Defense rests. Any
13 rebuttal?
14 MS. BEST: No, Your Honor. Just to be
15 clear, F and G were not moved in. And I would
16 have an objection.
17 THE COURT: I'm sorry.
18 MS. BEST: Exhibits F and G were not
19 moved in. But I would have an objection to
20 those.
21 MR. RHOADES: I move those into
22 evidence, Your Honor. I'm sorry. My fault.

1 THE COURT: F and G?
2 MR. RHOADES: That's the picture of the
3 eye and the scrap, Your Honor.
4 THE COURT: Okay.
5 MS. BEST: Your Honor, the
6 Commonwealth's objection is that it's the lack of
7 foundation. She's testified that she's not even
8 sure especially with respect to the leg where it
9 happened, how it happened. Just that she saw it
10 the next day. On direct testimony, it happened
11 during this incident.
12 THE COURT: I'll give the appropriate
13 weight. Overrule the objection.
14 MS. BEST: Okay.
15 (WHEREUPON, THE DOCUMENTS REFERRED
16 TO, PREVIOUSLY MARKED DEFENDANT'S
17 EXHIBIT F AND G FOR IDENTIFICATION,
18 WERE RECEIVED IN EVIDENCE.)
19 MS. BEST: I call Robert Rowe briefly.
20 REBUTTAL EXAMINATION
21 BY MS. BEST:
22 Q Mr. Rowe, when you went to the Gagnon

1 residence the first week of May to discuss with
2 the Defendant and her mother the issue with
3 yelling at the neighbors and the squirrels, at
4 any point during that conversation did you tell
5 the Defendant that in the future she must inform
6 you personally if she sees a dead squirrel?
7 A No.
8 Q During that conversation, did you ever
9 tell her that you wanted her to bring proof to
10 you of the dead animals?
11 A No.
12 Q At any time outside of that
13 conversation, did you ever tell her those things?
14 A No.
15 MS. BEST: All right. I have no further
16 questions.
17 THE COURT: Cross.
18 CROSS EXAMINATION
19 BY MR. RHOADES:
20 Q Mr. Rowe, obviously at that point, you
21 had a considerable interest in this matter. Is
22 that right? You had actually been trying for

1 some time I believe from your testimony to deter
2 Ms. Gagnon from what you perceived to be conduct
3 she shouldn't be engaged in. Is that a fair
4 statement?
5 A Yes.
6 Q In regard to the squirrels.
7 A In regard to harassing our neighbors.
8 Q Okay. And therefore, is it your
9 testimony that you didn't have any interest about
10 finding and knowing about future incidents?
11 A I really didn't care about squirrels
12 honestly at that point. I was really more
13 worried about one neighbor harassing another
14 neighbor. Squirrels were immaterial to me.
15 MR. RHOADES: That's all the questions
16 I have.
17 THE COURT: Redirect.
18 MS. BEST: I ask he be excused.
19 THE COURT: You are excused. Thank you.
20 (WITNESS EXCUSED.)
21 MS. BEST: Officer Meehan.
22 REBUTTAL EXAMINATION

1 BY MS. BEST:
2 Q Officer Meehan, when you came back to
3 serve the warrant on the Defendant, at any point
4 did you ever tell her you were going to "take her
5 to the station"?
6 A No.
7 Q Why would you ever take someone to the
8 station?
9 A If they were a juvenile.
10 Q Do adults go to the police station if
11 they're arrested?
12 A No.
13 Q Where do they go?
14 A Booking which was 2001 Mill Road.
15 Q Is that the jail?
16 A Yes, that's the detection center.
17 Q So when you arrived that night, did you
18 make any statements to her immediately that she
19 was under arrest and coming with you to anywhere,
20 a jail or?
21 A When I first saw her?
22 Q Yes.

1 A No.
2 Q After she was placed under arrest, was
3 there ever a time when she was on her knees?
4 A No.
5 Q Was there ever a time where Officer
6 Waple held on her knees in hand in handcuffs so
7 that you could punch her in the face?
8 A No.
9 MS. BEST: I have no further questions.
10 THE COURT: Cross?
11 MR. RHOADES: I just need a second, Your
12 Honor.
13 CROSS EXAMINATION
14 BY MR. RHOADES:
15 Q You did tell her that she had to come
16 with you, did you not?
17 A When I came back?
18 Q Yes.
19 A With the warrants?
20 Q Yes.
21 A Yes.
22 MR. RHOADES: Thank you. No further

1 questions.
2 THE COURT: You may step down.
3 (WITNESS EXCUSED.)
4 MS. BEST: No further witnesses, Your
5 Honor.
6 THE COURT: Mr. Rhoades.
7 MR. RHOADES: Your Honor, at this point
8 rather than make a motion to strike, I believe
9 that it's probably just as well that we argue the
10 beyond unreasonable doubt argument guilt and
11 innocence. So if Commonwealth wants to make
12 their opening, I'll make a closing.
13 THE COURT: Yes, sir.
14 MS. BEST: The Commonwealth would ask
15 the Court to convict the Defendant of all four
16 counts. There's evidence today that after being
17 told repeatedly to not contact Mr. Rowe about any
18 issues pertaining to squirrels and that she was
19 only to contact Animal Control instead left a
20 dead squirrel on this doorstep. That coupled
21 with the verbal assault calling him a faggot and
22 an asshole when he attempted to discuss the

1 situation with her amounts to disorderly conduct.
2 It does not matter that Mr. Rowe did not
3 feel purposefully incited to violence. So what
4 we focus on is the Defendant's conduct and her
5 intent in those actions. It had been made clear
6 to her that only Animal Control should deal with
7 the situation. Yet she chose to engage in
8 conduct that angered and upset Mr. Rowe.
9 The facts that he is not the type of
10 person to throw a punch or that he didn't that
11 night isn't the issue. It's that she engaged in
12 conduct intended to do that. There is no other
13 conclusion by her words coupled with her actions
14 that that's what she intended.
15 The issues with respect to the other
16 three charges are relatively clear. The officer
17 had a warrant in hand. As the Court knows,
18 that's a legal term meaning she had it with her
19 and not physically in her hand. But she had
20 obtained a warrant and she was serving that
21 warrant when she returned to the house.
22 It does not matter that the warrant

1 could have been released on a summons. What the
2 Court must look at is whether it was a lawful
3 arrest. There has been no challenge to the
4 warrant. There's no reason to believe the warrant
5 was invalid. And Officer Meehan was lawfully
6 serving it at the time.
7 The testimonies of Officer Meehan and
8 Officer Waple obviously is in contradiction with
9 the Defendant's testimony. I would ask the Court
10 to create the officers' testimony. They have no
11 motivation to lie about what happened. There's
12 no evidence that they encountered Ms. Gagnon
13 before. There's no evidence that they would have
14 any reason to put their careers on the line by
15 holding down and beating woman.
16 I would ask you to credit their
17 testimonies that when they got there they asked
18 her to come outside. She did so. And then she
19 tried to run back inside after she found out that
20 she had a warrant.
21 The resisting is met by Officer Meehan
22 telling her she was under arrest and placing her

1 hand on her to effect the arrest, then breaking
2 free and taking a step towards the house. The
3 assault is met by Officer Meehan's testimony and
4 Officer Waple's testimony that the Defendant
5 punched Officer Meehan in the chest for no
6 reason.
7 There was no testimony as Mr. Rhoades
8 alluded to in the opening that her arm was
9 twisted and it was a reflexive action. The
10 officer's testimony was clear that she wound up
11 and she punched the officer with such force that
12 the officer could still feel it minutes later
13 through a bulletproof vest.
14 The obstruction is met by the
15 Defendant's continuous resistance of the officers
16 while they were trying to handcuff her, pulling
17 away, thrashing and flailing while they attempted
18 to do so. They testified that they both had to
19 take an arm and hold her up against a wall in
20 order to effect the handcuffs. All three of
21 those crimes are met easily by what the officers
22 testified to.

1 And Ms. Gagnon's testimony is wholly
2 self-serving and incredible. She testified that
3 the officer told her that she was going to be
4 taken to the station. She was very adamant about
5 it. She repeated it several times. And then
6 when confronted with the idea that that might be
7 incorrect she said that it could have been.
8 That's what she interpreted it.
9 All of her testimony she backtracked on
10 when she realized that what she was saying wasn't
11 consistent or wasn't credible. The officers on
12 the other hand testified consistently, were not
13 impeached and have no motive in this case to make
14 anything up.
15 I would ask the Court to find the
16 Defendant guilty of all four counts.
17 MR. RHOADES: We'll start with the
18 disorderly conduct, Your Honor. She
19 unfortunately did call Mr. Rowe some names. But
20 putting a squirrel on somebody's porch I don't
21 believe a dead squirrel is not disorderly
22 conduct. Certainly, it didn't incite an ordinary

1 person to violence nor did Mr. Rowe -- Anyway,
2 the bottom line is he at no point he said he was
3 incited to violence by any of her conduct.
4 This was a period that had gone on for
5 some time. And there is a considerable dispute
6 between the parties to as what did occur and what
7 could have occurred. But we are at this point
8 talking about beyond a reasonable doubt. And
9 beyond a reasonable doubt requires as I
10 understand that her conduct was such that it
11 could have incited him to violence. And he
12 clearly says it wasn't.
13 Of course, the most important thing is
14 the assault charge because that is the felony.
15 And there is obviously a conflict between my
16 client's testimony and the officers' testimonies.
17 But there are objective witnesses who have no axe
18 to grind in this case who clearly state that part
19 of the officer's testimony that the confrontation
20 occurred on the sidewalk rather in or around her
21 front door did not happen that way.
22 Two of them clearly state that they saw

1 her being led down from there in handcuffs after
2 they heard her scream. There's no evidence of
3 any time that the scream occurred at any time
4 other than when she was being arrested. And she
5 said she screamed for her life. She thought that
6 the officer was going to strike her again.
7 The meditation why they would distort or
8 testify falsely is that this young police officer
9 make a mistake and popped her in the eye with her
10 fist. She doesn't deny that she popped her in
11 the eye with her fist. She says she doesn't
12 recall. Well, isn't that a convenient thing when
13 you don't recall whether you hit somebody in the
14 eye with her hand or your fist.
15 Any speculation that these injuries
16 occurred any place in any other time is surely
17 speculation. And there is no evidence of that.
18 It's very difficult for a person in custody to
19 take a picture. That takes up a certain amount
20 of time before she had the opportunity to take a
21 picture. So she did.
22 The scrap on her leg is consistent with

1 her story as to how the arrest occurred and
2 inconsistent with the officers' testimonies as to
3 how it occurred. According to their testimonies,
4 she was standing up on the sidewalk, remained
5 standing up and didn't happen. According to my
6 client's testimony, she was in her doorway with a
7 stoop of cement there where she easily could have
8 scraped her leg with the adrenaline flowing and
9 the fear and she didn't notice it until the next
10 day. But nonetheless there is that. It is
11 entirely consistent.
12 And as I said there is something unusual
13 about this case for some reason. I have never
14 been able to put my hand on why there were so
15 many officers there, why they were do dead bent
16 on arresting this woman rather than giving her a
17 summons for a case that's classically called for.
18 There is no danger of flight been
19 testified to. There is no saying that she was a
20 danger to the community. There is nothing to say
21 that she ever physically threatened anybody with
22 anything.

1 Then why would you then not give her the
2 summons and move on. There is something here
3 that I can't prove, Your Honor, with the evidence
4 before us. And why were there all those police
5 cars around at the time of her arrest? If the
6 probability that the officer was going to -- And
7 she said it was probable she was going to give
8 her a summons. So why were there so many police
9 officers there?
10 Once again, Your Honor, the arrest was
11 resisted -- The large portion of the resisting of
12 the arrest is after she was popped in the eye and
13 that is, Your Honor, a resistance of any illegal
14 arrest because it was with undue force.
15 And keeping the concept of undue force
16 is a relative thing, Your Honor. If you arrested
17 somebody for a violent crime, then it would be
18 more reasonable than if there isn't. They
19 arrested this woman for a crime that even if she
20 had committed it is entirely nonviolent.
21 Let's see if I covered all the offenses.
22 I think I started with one.

1 THE COURT: Assaulting the law
2 enforcement officers, obstructing justice and
3 resisting arrest.
4 MR. RHOADES: Yes, I think resisting
5 arrest and obstruction are pretty much the same
6 in this context, Your Honor, to tell you the
7 truth. And like I said, once the violence was
8 escalated or the violence was started by the
9 officer because the officer admittedly started
10 that first.
11 My client does say and there is really
12 no proof to the contrary from objective evidence
13 that she had voluntarily stuck her hand out and
14 pushed the officer when her arm was being twisted
15 behind her back. I believe that's her clear
16 testimony.
17 And I think that the credibility issue
18 is why would the officers lie about how this
19 happened. Well, the clear reason is that in
20 order to have disorderly conduct it has to be
21 outside. It has to be in public. And if it was
22 in her house, it can't happen.

1 I think also they were aware after it
2 went down that it looks bad when you drag a woman
3 who has no record before this Court or any
4 substantial record.
5 MS. BEST: Your Honor, I object.
6 THE COURT: Sustained.
7 MR. RHOADES: It has -- A citizen of
8 Alexandria that the Court has no reason to
9 believe is anything other than that. Pull her
10 out of her house at 10:00 p.m. on a private
11 porch. Your Honor, that's unusual and I think it
12 is the usual conduct of the City of Alexandria
13 police it should be stopped. Anyway, that's all.
14 THE COURT: Commonwealth.
15 MS. BEST: The Commonwealth would
16 disagree with the contingent that the civilian
17 witnesses, the first one specifically, had no axe
18 to grind. He had clear contempt for the
19 Commonwealth and the officer before he went on
20 the stand when he was outside and discussed what
21 he was going to testify about with the other
22 witnesses. And when Officer Meehan instructed

1 him not to, he showed hostility towards her.
2 He is the only person, the only witness,
3 who said that she was led down the stairs. But
4 mind you. He said that she was upright the entire
5 time. There was no evidence that she was on her
6 knees.
7 The only person who says that is the
8 Defendant. And the Court can take a look at the
9 pictures of the injuries now that they are in
10 evidence. And consider the Defendant's testimony
11 that when she got to the jail she had that giant
12 scrap on her leg and blood pooling in her eye and
13 that the jail didn't question her about it.
14 Despite being practically naked as she testified,
15 no one observed these injuries or did anything
16 about them.
17 Her testimony with respect to the
18 injuries are wholly incredible. Officer Meehan
19 testified that the sergeant asked her if she was
20 injured. Multiple officers on the scene and
21 neighbors on the street were able to observe her.
22 If she had been hit in the face with such force

1 that she was knocked to the ground, that injury
2 would have been observable by anyone who came in
3 contact with her especially the booking deputies
4 who would have been evaluating her health and
5 safety upon entering their facility.
6 There are questions as to why there were
7 so many officers present. The testimony from
8 Officer Meehan and Officer Waple is that when
9 they arrested her they were the only two officers
10 there present. And the testimony from the other
11 witnesses confirmed that there was a female
12 officer and a male officer there. The other
13 officers arrived after she assaulted a police
14 officer. That's completely reasonable until the
15 circumstances.
16 Officer Meehan doesn't have to testify
17 why she didn't give a summons. But she did. She
18 testified that when she arrived she had intended
19 to serve it as a summons. But the Defendant's
20 demeanor changed when she found out that she had
21 a warrant and she took steps back to retreat back
22 into her house. And that behavior caused her to

1 decide to arrest the Defendant.
2 The fact that she could have released
3 her on a summons should have or might have
4 doesn't matter. She had a lawful warrant and she
5 was serving it.
6 THE COURT: Please stand, ma'am. I'll
7 take it in the order that the Commonwealth and
8 your counsel took these matters. On the count
9 four, disorderly conduct, the Court does not find
10 that the Commonwealth has met its burden of
11 finding you guilty of that count.
12 Count three, resisting arrest, I think
13 the evidence is not supportive of the resisting
14 arrest charge. Likewise, you are found not
15 guilty on count three.
16 Obstruction of justice, the count two,
17 the Court finds you not guilty on that count.
18 Count one, there is where the problem
19 is, ma'am. The problem is that the testimony is
20 that you struck the officer with a closed fist.
21 The Court finds you guilty.
22 MS. BEST: Commonwealth would make a

1 motion to revoke her bond and sentence her to a
2 mandatory minimum. I would inform the Court that
3 throughout that there are documents that were
4 provided in discovery that Ms. Gagnon has
5 international ties and has plans to leave the
6 country to move to Europe. That was discussed
7 among some of the people at some point.
8 Please consider the mandatory minimum
9 sentence and that fact that she has the ability
10 and the means to go elsewhere I would ask to
11 revoke her bond.
12 THE COURT: Anything you want to say,
13 Mr. Rhoades?
14 MR. RHOADES: Your Honor, she has
15 remained. She has been a member of this
16 community for a very long time. I understand
17 there's a mandatory minimum here, but the Court
18 gets a pre-sentence report. And the sentences
19 are at that time and I believe that she --
20 THE COURT: What could I do with a pre-
21 sentence report other than provide her with the
22 mandatory minimum. Do I have any options?

1 MR. RHOADES: You could give her more as
2 I understand.
3 THE COURT: I could give her more, but
4 could I give her less?
5 MR. RHOADES: Not the way I understand
6 the law. But if you are considering at all
7 giving her more, then we'd have to have a pre-
8 sentence report.
9 THE COURT: I'm absolutely not inclined
10 to give her more. That's not an issue. But I
11 don't have an option. I don't have a choice.
12 When the Commonwealth made these kind of charges,
13 felonies, it really kind of creates a real catch-
14 22 for the court.
15 MR. RHOADES: It's not easy on the
16 defense either, Your Honor.
17 THE COURT: For many, many years, I've
18 seen officers come before this court on these
19 kinds of charges and wound up with assault and
20 battery charges and you got nowhere near six
21 months. But that's not my call. I can't do
22 anything about it. It is what it is.

1 Ma'am, please stand. The Court having
2 found you guilty of assault on a police officer I
3 remand you to the custody of the sheriff. And do
4 you want this matter for sentencing?
5 MS. BEST: Any date, Your Honor.
6 THE COURT: Give me a date.
7 THE CLERK: We can do it six weeks away.
8 THE COURT: That's fine.
9 THE CLERK: Depending on the Defense
10 attorney.
11 THE COURT: All right.
12 MR. RHOADES: What is it?
13 THE COURT: April 28th.
14 THE CLERK: Six weeks away.
15 MR. RHOADES: That's good, Your Honor.
16 April 28th, right?
17 THE COURT: For sentencing, yes. Okay.
18 You're remanded to the custody of the sheriff,
19 ma'am. Off the record.
20 (WHEREUPON, AT 3:07 O'CLOCK P.M., THE
21 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER WERE
22 CONCLUDED.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Virginia v Valerie Gagnon

Before: The Honorable Nolan B. Dawkins, Judge

Date: 03-18-16

Place: Alexandria, VA

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R Gross

Court Reporter