



- a. On the video posted on the Internet by Democracy Now! protestors can be seen, initially standing behind the fence, yelling and shouting towards construction equipment that is actively working.
- b. AMY GOODMAN interviews a protestor at this time who says that his name is JACOB JOHNS.
- c. Protestors can be heard yelling, "Come on guys, we've got to stop this" and "Why are we standing here watching." It appears that this occurs prior to any protestors crossing the fence.
- d. Employees of Dakota Access Pipeline can be seen standing opposite the security officers, on the other side of the fence.
- e. A female and a small child are then seen approaching one of the security officers. The female and small child had crossed the fence. The security officer can be seen with his arms stretched out, preventing the female and small child from progressing further onto the land where construction equipment is actively working. Other security officers can be seen standing further back onto the property. The security personnel were standing in a line. While this female is speaking with the construction worker, a protestor can be heard yelling, "Why are we standing there watching, get in there."
- f. The video then shows more protestors breaking down the fence and crossing onto the property. The construction equipment is still moving at this time. AMY GOODMAN is narrating at this time saying that people are crossing over the fence and that people are yelling at the men in hard hats.
- g. The video is then edited to a male being put onto the ground by a security officer. Another protestor can then be seen running up to the security officer and striking the security officer.
- h. The video edits away from that scene and begins to show protestors walking across the right of way, which is the area of land which is being cleared by construction equipment. AMY GOODMAN can be seen walking along the right of way, with the protestors.
- i. The video shows the protestors that were riding horses. One of the protestors on a horse, identified as MASON REDWING, can be seen at this time riding his horse across a wooden bridge type structure. A K9 can be seen attempting to bite the horse that MASON REDWING is riding.

- j. JACOB JOHNS can be seen physically fighting with a male at this time, who appears to be security officer.
- k. The video shows two males and AMY GOODMAN talking about how the protestors were sprayed with "some sort of gas."
- l. Protestors can be heard chanting, "We're not leaving" repeatedly.
- m. The video shows security officers standing in a sort of line formation, being approached by a group of protestors. One of the protestors in particular can be seen approaching the security officer in what appears to be an aggressive manner. One of the security officers pushes the protestor back from the line.
- n. The video shows AMY GOODMAN questioning one of the security officer members regarding what had been sprayed on the protestors. The protestor who had been seen being pushed back (paragraph m) by a security officer then called AMY GOODMAN by name and tells AMY GOODMAN that he had been sprayed with mace.
- o. Another male protestor then tells AMY GOODMAN that he had been bit by a dog and shows the camera his upper right arm. This protestor begins arguing with security officers and AMY GOODMAN asks the protestor multiple times to see the protestor's arm. The protestor shows AMY GOODMAN his arm and a small amount of a red substance is seen on his arm.
- p. AMY GOODMAN is heard yelling at a female security officer working with a K9 and trying to deal with multiple protestors attacking her or her position that the security officer's dog bit a protestor. The camera shows the K9's mouth and AMY GOODMAN says that the dog has blood in its nose and mouth.
- q. During this time, the security officers can be seen standing in a line between the protestors and pickups. Protestors can be heard yelling "Get the fuck out of here."
- r. A female protestor is recorded talking about the security officers telling the K9's to bite people, specifically the female security officer. The video then shows the security officers with K9's. The female security officers send's her leashed K9 into a group of protestors. Some of the protestors in this group have sticks and their faces are covered with bandanas.
- s. AMY GOODMAN can be heard yelling, "Why are they letting her dog go after the protestors, it's covered in blood."

- t. The protestors are then seen trying to hit the K9's with sticks. The protestors are yelling "Get your fucking dogs out of here." Two protestors can be then seen standing with their hands in the air in-between security officers and the protestors. One of the protestors can then be seen trying to hit the K9 with a flag pole in-between the two protestors who are trying to stand between security and the protestors.
- u. The female protestor, who had just been shown being interviewed by AMY GOODMAN, is then seen going in the front of the protest line yelling and security officer. The female protestor has some sort of short stick or knife in her hand.
- v. The protestors advance on security officers, jabbing at the air with sticks and flag poles and throwing objects that the security officers. The protestors can be heard yelling, "What the fuck's your dog going to do" and "Get the fuck out of here."
- w. The security officers are backing up towards their vehicles and the protestors are following closely behind them, yelling and screaming.
- x. A male protestor can be seen trying to push the other protestors back and someone can be heard yelling "Let them leave."
- y. AMY GOODMAN then narrates that after the protestors has said that the dog was bloody from biting them, they then pulled the dogs away and now pickup truck after pickup truck are leaving.
- z. The video then edits to show pickups driving on the right of way and protestors following behind the pickups. Protestors can be seen throwing rocks at the pickups. AMY GOODMAN then says, "We'll see what happens. The protestors are moving in, to ensure that the security leaves."
- aa. AMY GOODMAN speaks with a female protestor about being sprayed with mace.
- bb. AMY GOODMAN interviews a male protestor identified as ELLIOT NEW HOLY JR. ELLIOT NEW HOLY JR. says that he got sprayed with mace two times and bit on his boot. ELLIOT NEW HOLY JR. says "I told them that they needed to leave but the guy didn't believe me, so he didn't want to listen." ELLIOT NEW HOLY JR. continues on to say that he got sprayed with mace and bit on the ankle by a dog. AMY GOODMAN then asks, "You pushed them back though?" ELLIOT NEW HOLY JR. then continues on telling why he participated in the protest.

- cc. The video continues to show protestors talking about what happened. AMY GOODMAN asks protestors, “Do you feel like you won today?” and “How do you feel?”
  - dd. MASON REDWING is then seen, again riding on a horse. MASON REDWING speaks to AMY GOODMAN regarding his participation in the protest.
  - ee. It is clear to S/A Wold by viewing the sequence of the events in the video, that the events portrayed in the video did not happen in the order the video was shown and that the video was edited, showing only part of the protest.
6. Security officers had turned over to law enforcement video that had been taken by security officers on the ground during the protest, as well as, from the helicopter. The following can be seen in the videos provided to S/A Wold by the security officers:
- a. The protestors can be seen pushing down and breaking the fence that separates the private land from the road ditch. The protestors then advance towards security officers, who had formed a line on the property between the protestors and the construction equipment. The protestors are yelling loudly and run towards the security officers. Some of the security officers forming the line have K9's with them. A group of protestors can be seen walking with their arms locked together and one of the protestors is carrying a large wooden fence post.
  - b. As the protestors advance on the security officers, the security officers can be seen walking backwards. The video shows protestors that have gone onto the right of way and are running and walking towards moving construction equipment.
  - c. The video shows security officers getting into their pickups and driving towards the west, away from the line of protestors though some of the protestors are behind the pickups by now.
  - d. The video shows the construction equipment driving to the west, away from the protestors and the protestors are chasing behind the construction equipment.
  - e. A protestor can be seen laying on the ground in front a pickup being driven by security officers, preventing the security officer from leaving.
  - f. CODY HALL can be seen interacting with a security officer who is trying to drive a pickup through a rough area of ground. Protestors can be heard yelling, “LET HIM LEAVE PEACEFULLY.” CODY HALL is standing next to the driver's door of the vehicle and pointing his finger away from the pickup.

7. While conducting this investigation, S/A Wold viewed video from multiple open sources, including Facebook. While viewing these videos, S/A Wold learning the following:
- a. Protestors can be seen throwing objects at security officer and attempting to hit K9's with sticks on numerous occasions.
  - b. Protestors can be seen advancing towards the lines being made by security officers. The protestors are continually yelling and chanting at the security officers, often saying threatening things.
  - c. Protestors continue to advance towards security officers, even after security officers deploy pepper spray on the protestors.
  - d. Some protestors can be seen and heard telling other protests to let the security officers leave and not to use violence.
  - e. The Red Warrior Camp posted a video to their Facebook page. At the end of the video, CODY HALL can be seen praising the protestors on their actions.
  - f. AMY GOODMAN can be seen on one video, walking with a group of protestors that are following a security officer while yelling and swearing at the security officer. The protestors had been telling the security officer to "Get the fuck out of here." The security officer can be seen running and the protestors are yelling "Run you motherfuckers" at the security officer. AMY GOODMAN is then seen walking with this group of protestors. The security officer runs ahead of the protestors, stops, turns towards the protestors and holds his arms up. The construction equipment can be seen driving behind the security officer. The protestors approached the security officers again, yelling and swearing at the security officer to leave. The security officer then turns around and starts walking towards the equipment. The protestors continue to follow security officer. At one point, a security officer turns around and starts to talk to the protestors. S/A Wold was not able to hear that the security officer was saying but one of the protestors yells, "shut the fuck up and go." The protestors continue to walk towards the security officer and the security officer retreats.
  - g. MARCUS FREJO posted "live" feed video(s) to his Facebook page, documenting the fact that MARCUS FREJO participated in the protest and crossed onto private property following the security officers. In the video(s) posted by MARCUS FREJO protestors can be seen walking towards security officers in an aggressive manner while yelling and swearing at the security officers. Protestors can be seen throwing rocks and dirt at the security officer's pickups.



12. Ged Love, a security officer, provided a written statement to agents. In this written statement, Ged Love says that at one point during the protest he was trying to get into his truck when he was struck from behind, across the back with a fence post. Ged Love wrote that he saw protestors carrying large knives and flag poles that had been sharpened. It was with these flag poles that protestors were trying to stab the dogs.
13. Aaron Lemley, a security officer, provided a written statement to agents. In this written statement, Aaron Lemley said that a protestor on a horse threw something at his head. Aaron Lemley then released his K9 on the protestor. Two other protestors then started trying to hit Aaron Lemley in the face. Aaron Lemley was punched by protestors in the head. Aaron Lemley said that his K9 was kicked by the horse.
14. Paul Olson, a security officer, provided a written statement to agents. In this written statement, Paul Olson said that the protestors were violent, breaking down a fence, throwing rocks, and wielding sticks, and physically fighting with security officers. Paul Olson said that some of the protestors used flag poles as weapons. Paul Olson said that one of the protestors brought a dog that had appeared to be trained, as the dog's owner was giving commands to the dogs. Paul Olson witnessed a protestor with a 2 inch bladed knife. The protestor held the knife in a "forward stabbing motion."
15. Ashley Welch, who was a K9 officer providing security on scene, told agents that AMY GOODMAN was actively protesting and acting like all the other protestors. Ashley Welch said that AMY GOODMAN was originally towards the back of the protestors and pushed her way up towards the front. Ashley Welch said that AMY GOODMAN was go up to some protestors get them riled up and then move on to another group of protestors. Ashley Welch felt that AMY GOODMAN was trying to get the protestors riled and get the protestors to go up closer to security officers. Ashley Welch said that AMY GOODMAN would do this in-between the times that AMY GOODMAN was filming.
16. According to the security officers that were present during this protest, the security officers have been receiving threats, including death threats to their family members, because of their involvement in providing security to Dakota Access. Because of these threats, security officers have been hesitant to provide information regarding the assaults and other crimes committed against them for fear of retaliation to themselves and their families.
17. S/A Wold was provided with a copy of the Surface Lease and Access Agreement that was made between Dakota Access and the landowners, the Meyer family. According to this agreement, the access to the property was limited to the operator and its contractors, personnel and agents and any law enforcement. The agreement also states that the owners may not allow any person on to the property for any purpose that does not relate to the owner's personal use and that the activity



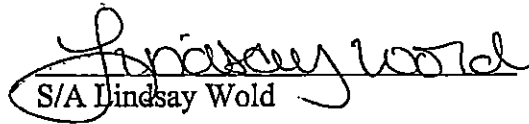
of even the owner of the land cannot interfere with the operator's use of the land. The agreement states that the land shall not be open to the general public. This land has since been sold to Dakota Access.

18. It is not known to S/A Wold if the land was posted "No Trespassing" on September 3, 2016, at the time the protestors entered the land. S/A Wold had received information that protestors had been seen on video taking down posted signs but S/A Wold has not been able to locate any evidence verifying that information. Security officers have reported that posting signs on the land have repeatedly been removed by people so it is not possible to determine if the land was properly posted when this incident occurred. Although it is clear on the videos that security officers were trying to keep people off the land, the fear that those officers currently have for their safety has resulted in not being able to have a cooperating witness verify that protestors were given actual notice to stay off the private land.
19. On October 12<sup>th</sup>, 2016, I staffed this case with McLean County State's Attorney Ladd Erickson who is assisting Morton County in handling protest related cases. Erickson said that the criminal trespass statute has specific notice requirements that must be met to prevail on a trespassing charge, even though the protestors were trespassing in fact. Based on the evidence, Erickson stated that the protestors currently charged with Criminal Trespass should actually be charged with Engaging in a Riot now that investigation is completed.
20. Based on my investigation of this incident:
  - a. There were more than 5 individuals present and actively participating in a riot at the time of this protest by creating a public disturbance through tumultuous and violent conduct which created grave danger of damage or injury to property or persons.
  - b. The names of people named in this affidavit all trespassed onto a construction zone and participated in this riot, which was located on private land while construction equipment was operating and security officers were clearly formed a line with K9's in an attempt to keep protestors off the land and attacks on workers and equipment.
  - c. The behavior of the protestors was frequently violent. Protestors armed themselves with sticks, fence posts, rocks, etc... and used these items, as well as their fists, to assault security officers that were present on scene. Some of the assaults on security officers occurred as security officers and worker were trying to leave the area. Both security officers and their K9's displayed injuries they received from protestors during the riot.
21. S/A Wold believes that based on the above information, the protest on September 3, 2016, constitutes a riot and that the follow subjects: MARCUS FREJO, AMY GOODMAN, CODY HALL, JACOB JOHNS, ELLIOT NEW HOLY JR, and MASON REDWING have committed

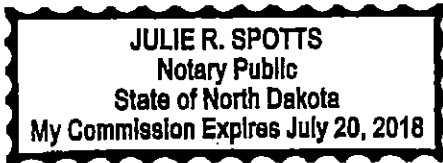
the crime of Engaging in a Riot in violation of ND Century Code 12.1-25-03, a class B misdemeanor.

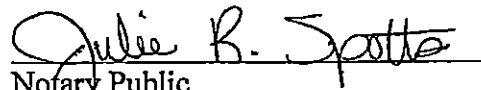
FURTHER YOUR AFFIANT SAYETH NOT.

Dated this 14<sup>th</sup> day of October, 2016.

  
S/A Lindsay Wold

Subscribed and sworn to before me on this 14<sup>th</sup> day of October, 2016.



  
Notary Public  
County, North Dakota