



October 31, 2022

PARTICULARS IN THE MATTER OF

REGINA v. FOX, Patrick

COURT FILE NO. 244069

APPEARANCE/TRIAL DATE: November 16, 2022

TO: THE ACCUSED PERSON AND THEIR LEGAL COUNSEL

As of October 31, 2022 via courier to accused at North Fraser Pre-trial – vd

- ✓ File Number #244069-9B:
 - Information #244069-9B (1 pg);
 - Conviction List (2 pgs);
 - Narrative (2 pgs);
 - Probation Order 244069-8B (2 pgs);
 - Appointment Slip (1 pg);
 - Client Log (1 pg);
 - Google Search of website (1 pg).
- ✓ File Number #244069-10-BC:
 - McELROY, Amber VA2343 – Police Statement-4 (2 pgs);
 - McELROY, Amber VA2343 – Miscellaneous Notes-3 (1 pg);
 - FOX, Patrick – Transcript of Arrest (5 pgs);
 - FOX, Patrick – Transcript of Transport (6 pgs);
 - FOX, Patrick – Transcript of Interview (49 pgs);
 - FOX, Patrick – Transcript of Transport to Jail (4 pgs);
 - Screenshot of Webpage (1 pg).

Initial Disclosure July 7, 2022 to accused at North Fraser Pre-Trial– ns

- ✓ Information #244069-10BC (2 pgs);
- ✓ Criminal Record (2 pgs);
- ✓ Conviction List (2 pgs);
- ✓ Arrest and Booking Report (1 pg);
- ✓ McNeil Form (1 pg);
- ✓ Narrative (8 pgs);
- ✓ CAPUANO, Desiree-RCC Statement (1 pg);

- ✓ McELROY, Amber VA2343-RCC Statement (5 pg);
- ✓ MEIKLEJOHN, Catherine VA9189-RCC Statement (2 pgs);
- ✓ KIM, Jim VA3284-Police Notes (3 pgs);
- ✓ Interview Log Notes (1 pg);
- ✓ Report-Form 5.2 (2 pgs);
- ✓ Probation Order (3 pgs);
- ✓ Arrest Script (7 pgs);
- ✓ Interview Script (4 pgs);
- ✓ Screen captures May 3, 2022 of desicapuano.com (16 pgs);
- ✓ Screen Captures May 3, 2022 of desicapuano.com (42 pgs);
- ✓ LAYTON, David-Email dated May 15, 2022 (4 pgs);
- ✓ Multimedia:
 - AUDIO RECORDING OF INTERVIEW;
 - AUDIO RECORDING OF ARREST;
 - AUDIO/VIDEO FOX INTERVIEW;
 - AUDIO RECORDING OF TIME PRIOR TO INTERVIEW.

Please find attached a copy of the Crown's particulars in relation to the charges.

TO THE ACCUSED

TAKE NOTICE THAT this disclosure material is provided to you for the sole purpose of assisting you to make full answer and defence in this prosecution. You must not use the material for any other purpose or for any other case.

1. The material may contain private or confidential information. You must keep it secure and not copy it or provide to any other person, other than your legal counsel without the prior written permission of Crown Counsel.
2. The conditions set out above also apply to any further or additional disclosure material provided to you in relation to this prosecution.
3. If you are unable or unwilling to comply with these conditions, please immediately return the material to Crown Counsel.
4. If it is your intention to apply to exclude evidence under the section 24(2) of The Canadian Charter of Rights and Freedoms, you must give the Crown timely notice of the evidence you intend to rely on to support your application as well as the specifics of your argument and any remedy you seek.

TO THE ACCUSED AND DEFENCE COUNSEL

TAKE NOTICE THAT the Crown intends to produce the documents and records contained in this disclosure material, and any related testimony, at the trial or preliminary inquiry, pursuant to the *Canada Evidence Act*, *BC Evidence Act*, *Controlled Drugs or Substances Act* or the *Criminal Code*.

TO DEFENCE COUNSEL

TAKE NOTICE THAT this disclosure material is provided to you for the sole purpose of assisting the accused to make full answer and defence in this prosecution and not for any other purpose or any other case and also on the following conditions:

- a) You must keep the material in a secure fashion.
- b) You may permit access to the material or copy it or the use of the accused or persons acting under your supervision (for example, articling students, associate counsel, paralegals) in the preparation and presentation of the defence but only on the condition that they not copy it or provide access to it by anyone else.
- c) You must not copy or provide access to the material to any person or counsel who is not acting under your supervision. Notwithstanding the foregoing, you may copy the material and use it in conducting the defence (for example, in cross-examining a witness, providing material to the court, or providing witnesses with copies of their own statements).
- d) You may permit access to the material or copy it for the use of any expert retained to assist in the preparation and conduct of the defence but only on the condition that they not copy it or provide access to it by anyone else.
- e) You must not permit access to the material by or copy it for any person other than those referred to in conditions 2, 3, and 4, above, without the prior written consent of the Crown or a court order.
- f) If you are unable or unwilling to comply with any of these conditions, please immediately return this disclosure material to Crown Counsel.

VANCOUVER CROWN COUNSEL OFFICE

Enclosures

**INFORMATION BY TELECOMMUNICATION THAT PRODUCES
A WRITING/DÉNONCIATION PAR TÉLÉCOMMUNICATION QUI
REND LA COMMUNICATION SOUS FORME ÉCRITE**

CANADA:
PROVINCE OF BRITISH COLUMBIA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

Court Identifier: 2040 - P - R - A
Court File Number: 244069
Type Reference: B
Info. Seq. Number: 9
Agency File Number: VCRT:21-132224-09
DNA: ☐ K File: ☒ SOR: ☐

Pursuant to Section 508.1(2) of the *Criminal Code* and/or Section 13.1 of the *Offence Act* (British Columbia)/
Suivant le paragraphe 508.1(2) du *Code criminel* et/ou l'article 13.1 de l'*Offence Act* (Colombie-Britannique)

In the Provincial Court of British Columbia/Dans le tribunal provincial de la Colombie-Britannique.

This is the information of / Les présentes constituent le dénonciation de Katelyn Stacey, a Probation
Officer (the "informant" / le "dénonciateur") of / de Vancouver, BC submitted before a justice by
telecommunication that produces a writing / transmise à un juge de paix, par télécommunication qui rend la communication
sous forme écrite.

The Informant says that he/she has reasonable and probable grounds to believe and does believe that: / Le(la)
dénonciateur(trice) déclare qu'il(elle) a des motifs raisonnables et probables de croire et croit effectivement que:

Count 1

Patrick Henry FOX, on or about the 21st day of April, 2022, at or near Vancouver, in the Province of British Columbia, while bound
by a probation order made by The Honourable Judge Denhoff on February 25, 2022, did without reasonable excuse fail to comply
with such order by failing to report as directed, contrary to Section 733.1(1) of the Criminal Code.

Pursuant to Section 508.1(2) of the *Criminal Code* and / or
Section 13.1 of the *Offence Act* (British Columbia) the Informant states
that all matters contained in this information are true to my knowledge
and belief.

Suivant le paragraphe 508.1(2) du *Code criminel* et / ou l'article 13.1
de l'*Offence Act* (Colombie-Britannique), le dénonciateur(trice) déclare
qu'il/elle croit vrais, au meilleur de sa connaissance, les
renseignements contenus dans la dénonciation.

Dated/Fait le April 28, 2022
at/a Vancouver
British Columbia / Colombie-Britannique

Katelyn Stacey
Signature of Informant / Signature du(de la) dénonciateur(trice)

I certify this information was received by me by means of telecommunication that produces a writing at / Je certifie que j'ai reçu la présente
dénonciation par un moyen de télécommunication qui rend la communication sous forme écrite à

9:36 A m, on/le April 28, 2022 at/à VANCOUVER, British Columbia/Colombie-Britannique
time/heure date city/municipality ville/municipalité

Process/Acte
de procédure: Warrant issued confirmed

[Signature]
A Justice of the Peace in and for the Province of British Columbia / Un juge de
paix dans et pour la province de la Colombie-Britannique.

Name/nom: S. WENDLAND

[Signature]
A Justice of the Peace in and for the Province of British Columbia / Un juge
de paix dans et pour la province de la Colombie-Britannique.

Ministry of Attorney General

JUSTIN Conviction List

Accused: Fox, Patrick Henry

DOB: 24-NOV-1973

FPS Number: 275788G

CS #: 10582500

Alias: Fox, Patrick Henry; Riess, Ricky Steve; Fox, Patrick; Riess, Richard

Filters Applied Exclude Youth: ☐ Include 524/512.3: ☐ Include 810: ☐ Include MVA: ☐ Include NCR: ☐
 Include Non-Disclosure: ☐ Include Unknown Statutes: ☐

File Number	Charge	Offence Date	Disposition Date	Disposition Type	Sentence
27178-2 SRA Vancouver	(1) CCC 264- Criminal Harassment	11-JAN-2015	10-NOV-2017	Guilty	Jail - Jail Term that would have been imposed before Credit Granted: 3 Year(s); Actual Pre-Sentence Time in Custody: 17 Month(s); Credited Pre-Sentence Time in Custody: 25.5 Month(s) The Jail Term that would have been imposed before credit granted on Count 2 is: 10 months which is to be served CONSECUTIVELY to Count 1. ; Probation Order 3 Year(s); Prohibition, Firearms, Mandatory Lifetime
	(2) CCC 93 1- Possess Firearm etc. where not allowed	17-MAY-2016			Jail - Jail Term that would have been imposed before Credit Granted: 10 Month(s); Actual Pre-Sentence Time in Custody: 17 Month(s); Credited Pre-Sentence Time in Custody: 25.5 Month(s) The Jail Term that would have been imposed before credit granted on Count 2 is: 10 months which is to be served CONSECUTIVELY to Count 1. ; Prohibition, Firearms, Mandatory Lifetime
			06-FEB-2019		(1,2) Change to Court Order
244069-5-BC PRA Vancouver	(1) CCC 733.1 1- Breach of Probation Order	15-MAR-2019	12-JUN-2020	Guilty	(1,2) Jail 1 Day(s) - Actual Pre-Sentence Time in Custody: 8 Month(s); Credited Pre-Sentence Time in Custody: 12 Month(s); Probation Order 18 Month(s)
	(2) CCC 733.1 1- Breach of Probation Order				

Ministry of Justice JUSTIN Conviction List

Accused: Fox, Patrick Henry

DOB: 24-NOV-1973

File Number	Charge	Offence Dat	Disposition Date	Disposition Type	Sentence
244069-6-B PRA Vancouver	(1) CCC 733.1 1- Breach of Probation Order	07-MAR 2019	19-AUG-2020	Guilty	Jail 1 Day(s) - Jail Term that would have been imposed before Credit Granted: 6 Month(s); Actual Pre-Sentence Time in Custody: 4 Month(s); Credited Pre-Sentence Time in Custody: 6 Month(s); Probation Order 6 Month(s)
244069-7-B PRA Vancouver	(1) CCC 733.1 1- Breach of Probation Order	19-AUG-2020	12-APR-2021	Guilty	Jail 6 Month(s) - Jail Term that would have been imposed before Credit Granted: 16 Month(s); 15 Day(s); Credited Pre-Sentence Time in Custody: 10 Month(s); 15 Day(s); Probation Order 1 Year(s)
32532-1-W SRA Vancouver	(1) CCC 525 1- application: review detention where trial delay	17-NOV-2021	23-DEC-2021		Order Made See Court Inquiry for Order Made details
244069-8-B PRA Vancouver	(1) CCC 733.1 1- Breach of Probation Order	15 AUG-2021	25-FEB-2022	Guilty	Jail 2 Month(s), 18 Day(s) - Jail Term that would have been imposed before credit Granted: 12 Month(s); Actual Pre-Sentence Time in Custody: 6 Month(s); 8 Day(s); Credited Pre-Sentence Time in Custody: 9 Month(s); 12 Day(s); Probation Order 3 Year(s)

This report may contain information regarding youth matters provided to you pursuant to Sections 124 and 125 of the *Youth Criminal Justice Act* (Canada). Disclosure of this information to other parties may be subject to Sections 119 and 123 of the *Youth Criminal Justice Act* (Canada).

This report does not contain information about any offences for which a pardon has been granted.

This report does not contain any information about orders or obligations under the *Sex Offender Information Registration Act*.

Report to Crown Counsel
NARRATIVES

Police File Number: **VCRT:21-132224-09**

Court File Number:

NAME OF ACCUSED(S): Fox, Patrick Henry

Synopsis:

Submission:

Received Date 21 APR 2022 03:57 PM

Court File # 244069-8-B

Police File # 401:21-132224

Vancouver Provincial Court, Honorable Judge

Denhoff Condition 4 - Failed to report as directed

Narrative:

Submission:

Received Date: 21 APR 2022 04:01 PM

Court File # 244069-8-B

Police File # 401:21-132224

Vancouver Provincial Court, Honorable Judge Denhoff

Condition 4 - Failed to report as directed

February 25, 2022 - Patrick Henry Fox appeared in Vancouver Provincial Court before the Honourable Judge Denhoff and was sentenced to 3 years Probation for Breach of Probation Condition 4 of the Order states: Report to a Probation Officer within 72 hours of your release from custody only for the purpose of informing your Probation Officer at that time of the exact steps you have taken to comply with the conditions of this Probation Order, with the following condition of this Probation Order that: within 48 hours of your release from custody you shall take all necessary steps to ensure that any website, social media page or any other publication which you have authored, created, maintained or contributed to, which contains any information, statements, comments, videos, pictures which refer to or depict, by name or description, Desiree Capuano or any of her friends, relatives, employers, or co-workers, including the websites published under the domain www.desireecapuano.com and www.desicapuano.com are no longer available via the internet or any other means. Once you have reported these exact steps you have taken to comply with that condition, you will no longer be required to report to a Probation Officer.

April 19, 2022 - Duty Probation Officer Julia Seath of Vancouver Court Community Corrections met with Patrick Fox and reviewed the terms and conditions of the Probation Order Court File# 244069-8-B, as well as the consequences of non-compliance relating to section 733 of the Criminal Code. Patrick Fox acknowledged his understanding of the same by signing a stamped copy of the Orders (see attached copy).

April 19, 2022 - Probation Officer Julia Seath directed Patrick Fox to report again in person at 8:15am April 21, 2022 for the purposes of advising his assigned case manager, Probation Officer Koulis Trimis of the exact steps he has taken to comply with the terms of the current Probation Order as is required by condition 4. Patrick Fox verbally acknowledged his understanding of the reporting direction and was given a copy of the appointment slip (see attached copy), however he indicated his refusal to report again (see below)

April 21, 2022 - Patrick Fox failed to report to Vancouver Court Community Corrections. Patrick Fox's failure to report on this date was verified by Probation Officer Koulis Trimis.

Report to Crown Counsel
NARRATIVES

Police File Number: **VCRT:21-132224-09** Court File Number:

When a client attends at a Community Corrections Office, normal business practice is to make an entry to that effect in the individual's Client Log on CORNET, the Community Corrections data base. If the client fails to attend, no entry will be made

Probation Officer Koulis Trimis reviewed the Community Corrections data base (CORNET) to confirm that Patrick Fox did not report as directed on April 21, 2022 and that he has not reported at any time since to any other Community Corrections office in British Columbia (see attached CORNET entry)

Probation Officer Trimis reviewed the Community Corrections data base (CORNET) and JUSTIN systems to further verify that Patrick Fox is not in custody.

Please note that despite Patrick Fox's expressed understanding of the reporting direction provided on April 19/22 by Duty Officer Julia Seath, he indicated that he would not report again because he believed he was only required to report on one occasion. Probation Officer Seath explained to Mr. Fox that he was required to advise his assigned Probation Officer of the steps he had taken further to condition 4 before the reporting requirement was considered satisfied.

A warrant for arrest is respectfully requested.

**Probation Order
(Prison)**

Police File No.
401:21-132224

Court File No.
2040:244069-8-B

IND

Canada: Province of British Columbia

Ban on Publication CCC 486.5(1)

Primary Enf. Agency:

D.O.B.: November 24, 1973

Proceeded: **By Indictment**

☐ Interpreter present

Whereas on **February 25, 2022** at **Vancouver**, British Columbia,

Patrick Henry Fox

(the "offender") was convicted or found guilty, as the case may be, upon the following charge(s) and on **February 25, 2022** the Court adjudged that the offender be **imprisoned** in the Province of British Columbia as follows:

Count 1, on or about August 15, 2021, at or near Vancouver BC, did commit an offence of Failure to comply with probation order, contrary to section 733.1(1) Criminal Code.

SENTENCE: Jail: 2 Month(s) 18 Day(s) [Credited Pre-Sentence Time in Custody: 9 Month(s) 12 Day(s) ; Actual Pre-Sentence Time in Custody: 6 Month(s) 8 Day(s) ; Jail Term that would have been imposed before Credit Granted: 12 Month(s) ;]; Victim Surcharge Exempt; Probation Order: 3 Year(s);

I have read or have had read to me and understand a total of **1 Charge**

and in addition thereto, that the said offender comply with the conditions hereinafter prescribed:

Now, therefore, the said offender shall for the period stated above, from the date of expiration of imprisonment, comply with the following conditions, namely, that the said offender shall:

I have read or have had read to me and understand a total of 6 Conditions on 1 Conditions Attachment Page

Dated / Fait le **February 25, 2022** at / à **Vancouver**, British Columbia / Colombie-Britannique

I, the undersigned offender, acknowledge that I have received:

- a copy of the Probation Order
- an explanation of the substance of the sections dealing with changes to the Probation Order and failing to comply with the Probation Order (Sec 732.2(3) and (5), and Sec 733.1), and
- an explanation of the procedures for applying for changes to the Probation Order,

and that I understand the terms of this Probation Order and the explanations which I have received.

Refused to sign

Offender / Contrevenant(e)
Address / Adresse :

**555 Homer St
Vancouver, BC**

Phone Number / Numéro de téléphone :

Je, le(la) contrevenant(e) soussigné(e), reconnais que j'ai reçu :

- une copie de l'Ordonnance de probation
 - une explication du contenu des articles ayant trait aux changements apportés à l'Ordonnance de probation et au défaut de se conformer à l'Ordonnance de probation (Art. 732.2(3) et (5), et Art 733.1), et
 - une explication des procédés à suivre pour faire une demande de changements à l'Ordonnance de probation,
- et que je comprends les conditions de cette Ordonnance de probation et les explications que j'ai reçues.

K. Anderson 2022.02.25 15:21:17
-08'00'

A Clerk of the Court on behalf of / Un greffier du tribunal au nom du
Judge / Juge K Denhoff, in and for the Province of British Columbia /
dans et pour la province de la Colombie-Britannique

Probation (Prison)

**Probation Order/
Ordonnance de probation**

(Prison/ prison)

Canada: Province of British Columbia
Province de la Colombie-Britannique

Police File No./
Nu. de dossier de la police
401:21-132224

Court File No./
Nu. de dossier du greffe
2040:244069-8-B

D.O.B./ D.D.N. : November 24, 1973

Ban on Publication CCC 486.5(1)

Re/ Objet : Fox

**Conditions Attachment/
Annexe des conditions**

Condition 1: Keep the peace and be of good behaviour.

Condition 2: Appear before the Court when required to do so by the Court.

Condition 3: Notify the Court or the Probation Officer in advance of any change of name or address, and promptly notify the Court or the Probation Officer of any change of employment or occupation.

=====

Condition 4: Report to a Probation Officer within 72 hours of your release from custody only for the purpose of informing your Probation Officer at that time of the exact steps you have taken to comply with the conditions of this Probation Order, with the following condition of this Probation Order that: within 48 hours of your release from custody you shall take all necessary steps to ensure that any website, social media page or any other publication, which you have authored, created, maintained or contributed to, which contains any information, statements, comments, videos, pictures which refer to or depict, by name or description, Desiree Capuano or any of her friends, relatives, employers, or co-workers, including the websites published under the domain www.desireecapuano.com and www.desicapuano.com are no longer available via the internet or any other means. Once you have reported these exact steps you have taken to comply with that condition, you will no longer be required to report to a Probation Officer.

POR Condition 5: You shall have no contact or communication directly or indirectly with Desiree Capuano or any of their friends, relatives, employers or co-workers.

Condition 6: You shall not disseminate, distribute, publish or make publicly available in any manner whatsoever, directly or indirectly, information, statements, comments, videos or photographs which refer to or depict, by name or description, Desiree Capuano, or any of her friends, relatives, employers or co-workers.

I have read or have had read to me and understand a total of 6 Conditions on 1 Conditions Attachment Page/ J'ai lu ou j'ai m'a lu et je comprends 6 conditions sur 1 page de l'Annexe des conditions

Probation (prison)/ Probation (Prison)



Ministry of Public Safety
and Solicitor General

CORRECTIONS BRANCH
Vancouver Court Community Corrections

275 East Cordova Street, Vancouver, BC V6A 3W3
Telephone: 604 660-3777 or 604 660-3700
Fax: 604 660-3016

Date: April 19, 2022

Client: Darick Fox

Probation Officer: JS for Kallis

Next Appointment: ☒ In Person ☐ By Phone

Date: April 21, 2022 Time: 8:15 am.

Apt/Program: _____

Client Signature: _____

Witness: [Signature]

T006044



Ministry of Public Safety and Solicitor General

Client Log

Location: VCRT-Vancouver Court Community Corrections-0214, CS #: 10582500 - FOX, PATRICK HENRY

Entry Date: 2022.04.21 - 2022.04.21

Entered Date	Type	User	File Type	Title/Content
2022.04.21 15:45:55	Breach of Condition	TRIMIS, KOULIS	NONE	Failed to Report April 21/22 Probation Officer Koulis Trimis reviewed the Community Corrections data base (CORNET) to confirm that Patrick Fox did not report as directed on April 21, 2022 and that he has not reported at any time since to any other Community Corrections office in British Columbia. Probation Officer Trimis reviewed the Community Corrections data base (CORNET) and JUSTIN systems to further verify that Patrick Fox is not in custody.

Total Records: 1

Sign in to access this site

Authorization required by <http://www.desicapuano.com>
Your connection to this site is not secure

Username

Password

Sign in

Cancel

VANCOUVER POLICE DEPARTMENT**GENERAL OCCURRENCE HARDCOPY**

GO# VA 2022-66177

BREACH OF PROBATION-ADULT**Narrative: POLICE STATEMENT - 4**Subject: **EMAIL REQUEST FOR WRITTEN STMT AD HOC CROWN CHRIS JOHNSON**Author: **VA2343 MCELROY, AMBER**Related date/time: **Wednesday, 2022-Oct-12 12:39**

On October 12, 2022 Detective Constable 2343 Amber MCELROY (Det. MCELROY) sent the following email to Ad Hoc Crown Chris JOHNSON (JOHNSON) requesting that he provide a statement either confirming or refuting the conversation Patrick FOX (FOX) alleges to have had with him shortly after April 18, 2022. Also included is subsequent conversation.

From: MCELROY, Amber

Sent: Wednesday, October 12, 2022 1:06 PM

To: 'Chris Johnson <chris@johnsondoyle.com>

Subj ct: RE: Pa rick FOX

Mr. Johnson

All I can tell you is that he is stating he spoke to you about clarifying his condition of release around his requirement to report to Probation. Perhaps you have notes that you could refer to?

Det. McElroy

From: Chris Johnson <chris@johnsondoyle.com>

Sent: Wednesday, October 12, 2022 1:44 PM

To: MCELROY, Amber <amber.mcelroy@vpd.ca>

Subject: Re: Patrick FOX

Hello Det/Cst McElroy,

Are you able to advise me as to what Mr. Fox says that we discussed? I don't at this moment recall having a conversation, but it might refresh my memory if I knew what it is that he says we discussed, as it's possible.

-Chris Johnson

Sent from my iPhone

On Oct 12, 2022, at 12:39 PM, MCELROY, Amber <amber.mcelroy@vpd.ca> wrote:

Good Afternoon Mr. Johnson,

I am the Lead Investigator assigned to FOX's latest breach of Probation. I have been requested by Crown to obtain a written statement from you in regards to any conversation that you may have had with him in relation to the specifics of his probation release conditions from his previous charge. FOX was released on April 18, 2022. He claims that he had a conversation with you sometime within the first few days of his release.

Could you please provide a written statement detailing that either this conversation did happen and your recollection of the content, or, that it did not happen.

Thank you in advance,

***** CONFIDENTIAL *****

	VANCOUVER POLICE DEPARTMENT
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	GENERAL OCCURRENCE HARDCOPY
--	------------------------------------

GO# VA 2022-66177	
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	BREACH OF PROBATION-ADULT
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Det/Cst 2343 Amber McElroy
Special Investigations Section
Domestic Violence & Criminal Harrassment Unit
VANCOUVER POLICE DEPARTMENT 3585
Graveley Street | Vancouver BC | V5K 5J5
T: 604.717.9048
E: amber.mcelroy@vpd.ca | www.vpd.ca

*** CONFIDENTIAL ***

VANCOUVER POLICE DEPARTMENT**GENERAL OCCURRENCE HARDCOPY**

GO# VA 2022-66177

BREACH OF PROBATION-ADULT

Narrative: MISCELLANEOUS NOTES - 3Subject: **NEW LEAD INVESTIGATOR**Author: **VA2343 MCELROY, AMBER**Related date/time: **Wednesday, 2022-Oct-12 12:21**

Det. Jin KIM was in DVACH for a short period of time on a mentorship. Please send any further Crown requests to Det. Amber MCELROY.

Thank you,

Det. 2343 MCELROY

DVACH, Team 2

***** CONFIDENTIAL *****



Recorded Arrest with Patrick FOX

May 16, 2022

Incident #22-66177

K – Constable 3284 Jin KIM

M – Detective Constable 2343 Amber MCELROY

F – Patrick FOX

?F – Unidentified Female

?M – Multiple Unidentified Males

Background traffic noise throughout recording

K Hey, Patrick? This is Amber (unintelligible). We're here because, uh, I'm arresting you for failing to comply with your probation orders. Do you understand?

F I understand. What's the allegation?

K 'Kay, I'll explain that, okay?

F Mm-hmm.

K Can you turn around? I'm gonna put handcuffs on you. Hands behind your back. Do you have anything on you that I should be aware of...

F No.

K ...that can hurt me or my partner? No?

F No.

K (Unintelligible) make sure you don't (unintelligible).

F Mm-hmm.

K Quick pat-down, sir. Is that your wallet?

F Sure.

Short pause

K Face me.

Short pause

?F (Unintelligible)

K (Unintelligible) do you wanna sit down? (Unintelligible)

M (Unintelligible)

1 K This, this is not gonna go with you, all the properties that we served, uh, from
2 your place. Uh, this is Patrick Fox. Uh, I am Det. Jin Kim of the Vancouver
3 Police Department. It is May 16th, 2022. The time is 12:08. I am currently at
4 555 Homer Street, Vancouver. I'm gonna sit down next to you, okay? Patrick
5 Fox, I am arresting you for two counts of fail to comply with probation order
6 contrary to section 733.1 of the Criminal Code. This offence is alleged to have
7 occurred on or about April 21st and May 15th, 2022 in the City of Vancouver,
8 Province of British Columbia. It is my duty to inform you that you have the right
9 to retain and instruct counsel in private without delay. You may call any lawyer
10 you wish. There is a 24-hour telephone service available which provides a Legal
11 Aid duty lawyer, who can give you legal advice in private. This advice is given
12 without charge, and the lawyer can explain the Legal Aid Plan to you. If you wish
13 to contact a Legal Aid duty lawyer, I can provide you with a telephone number.
14 Do you understand?

15 F Yes.

16 K Do you want to call a lawyer?

17 F No.

18 K You're not obliged to say anything, but anything you do say may be given in
19 evidence. Do you understand?

20 F Yes.

21 **Short pause**

22 K You may be subject to audio and video recording at any time while in police
23 custody, with the exception of when you're speaking with legal counsel. Do you
24 understand?

25 F Yes.

26 K Are you aware of the pu-, uh, public health warning and the global pandemic of
27 COVID-19?

28 F Yes.

29 K Have you travelled outside of Canada in the last 14 days?

30 F No.

31 K Have you had any symptoms of COVID-19 such as fever, cough, headache,
32 shortness of breath and/or difficulty breathing in the last 14 days?

1 F No.

2 K Have you provided care or had close contact with a person with COVID-19,
3 probable...

4 F No.

5 K ...or confirmed? Would you like to wear a f-, uh, medical face mask?

6 F No.

7 K I'd like to advise you that myself and any others in contact with you today do not
8 have symptoms or have not exhibited symptoms of COVID-19 in the last 14
9 days. Do you want to call a specific lawyer or a L-, a Legal Aid duty lawyer?

10 F Nope.

11 K You'll be transferred to the, uh, Vancouver Police Department where you will be
12 provided an opportunity to call any lawyer in private to seek legal advice.

13 M (Unintelligible)

14 K 'Kay. No, you guys can have a seat. Um...

15 ?M (Unintelligible)

16 K ...so this is what's gonna happen. We're just getting a wagon, all right? They're
17 gonna transport you. And then, uh, we're gonna go to one of the police facilities
18 and we're just gonna talk, okay?

19 F Mm-hmm.

20 K Any questions for me at this point?

21 F No.

22 ?M (Unintelligible)

23 **Background noise**

24 **Unintelligible background conversation**

25 K (Unintelligible)

26 **Short pause**

27 K I can hold that if you want (unintelligible).

28 ?M Thank you.

29 F Uh, you were unclear though. You did specify that it's two allegations of breach
30 of probation, but what are the allegations?

31 K 'Kay. So one of your condition is to report to probation officer. Um, I believe you
32 missed one of the dates.

1 F Mm.

2 K That's one.

3 F Okay. Well...

4 K We, we can talk more.

5 F Yeah, yeah, yeah, yeah.

6 K Yeah. When we go to a, you're gonna have a chance to s-, tell your side of the

7 story once you're...

8 F I'm...

9 K ...there, right, so...

10 F ...(unintelligible). What's, what's the other one?

11 K The other one is, uh, y-, the website that you have, uh...

12 F Mm.

13 K ...one of your condition was to have, you know, take necessary steps to take the

14 website down, which is still active.

15 F That is completely incorrect. Upon my release the website was already, uh,

16 offline. So...

17 K Like I say, we can discuss a bit more...

18 F Yeah.

19 K ...okay, when we get to police facility. But those are the allegations, the basics

20 of the allegations, okay?

21 F All right.

22 K Yeah.

23 **Long pause (ends at E.T. 00:07:35)**

24 K Is there any medical concerns or anything I should be aware of?

25 F No.

26 K 'Kay.

27 **Long pause (ends at E.T. 00:09:34)**

28 K Do you have anything in your room that you wanna take with you?

29 F Right at this moment?

30 K Yeah.

31 F No.

32 K Okay.

1 Long pause (ends at E.T. 00:10:56)

2 K (Unintelligible)

3 Short pause

4 K Did you eat today?

5 F I had breakfast.

6 K 'Kay. So are you gonna be hungry when we get there or...?

7 F I'll be hungry eventually.

8 K Yeah? Okay. I mean we can get you some food when we go to the station,

9 okay?

10 Unintelligible conversation

11 M Uh, no, no, just to the Annex.

12 ?F Okay.

13 M Yeah.

14 **Short pause**

15 K 'Kay. Step in. Just watch your head. (Unintelligible) Just watch your head.

16 M Fox is in the wagon at 12:18.

17 K 12:18.

18 RECORDING ENDS

19 Transcribed By: VA5338/2022-09-13

20 Transcript Proofed By: Detective 2343 Amber MCELROY/October 12, 2022



Recorded Transport from Annex to Interview with Patrick FOX

May 16, 2022
Incident #22-66177

M – Detective Constable 2342 Amber MCELROY

K – Constable 3284 Jin KIM

F – Patrick FOX

?M1 – Unidentified Male 1

?M2 – Unidentified Male 2

M Fox out of the, uh, wagon and into the Annex at...

Door opens

M ...12:34.

K Yeah, so we don't have coffee. Um, cigarette I might...

Door opens

K ...be able to, but I can't make any promises because, um...

Door opens

F Mm-hmm.

K Yeah, I'm just...

Door opens

K Can I help you?

?M1 Uh, where is offices?

K Yeah. Can...

Door opens

K ...can I help you?

?M1 Oh, yes. I, uh, I'm applying for the lost (unintelligible). I lost my p-, pass and there should be a way for, for me to apply (unintelligible).

K Are you supposed to be at a police station? I have no idea what this is.

?M1 Yeah, but...

K You know? Just give us a few minutes, okay?

?M1 Uh...

K Just give us a few minutes. Yeah.

Door closes

1 K Hey...

2 ?M2 How's it goin'?

3 K ...how's it going?

4 ?M2 All good?

5 K Do you mind seeing what he wants? I'm just with, uh, him.

6 ?M2 Yup.

7 K Yeah. Thank you.

8 **Door opens**

9 ?M2 Hi, sir, what's goin' on? (Unintelligible).

10 K Sorry about that. Yeah, so with the...

11 **Door closes**

12 K ...cigarette, I'll see if I can get some, okay?

13 F Mm-hmm.

14 K Is there anything else that you need or (unintelligible)?

15 F No.

16 K Feeling comfortable?

17 F Coffee and cigarettes, that's it.

18 K Yeah.

19 F Yeah.

20 K Okay.

21 **Short pause**

22 K How do you like the stay there at the Belkin House?

23 F Mm, as far as homeless shelters go it's a nice place I guess, but it is a homeless

24 shelter.

25 K Yeah. It is, it is much cleaner than the others...

26 F Oh, yeah.

27 K ...so, that's what I've seen. Yeah. The food's good, or...?

28 F Yeah, it's fine, I guess.

29 K Oh.

30 F Um, I've been eating jail food for the past six years, so...

31 K Oh, so it's, uh, better food I guess, yeah?

32 F Similar.

1 K Yeah. People are nice there? Staff are nice? Staff (unintelligible).

2 F Staff are nice, yeah.

3 K Yeah. Very nice people. Yeah.

4 F Yeah.

5 K Oh, that's good.

6 **Short pause**

7 F It is my belief that...

8 K Yeah.

9 F ...there are some, uh, articles that will prove that, uh, I did report for probation,
10 um, and so if we could possibly have those on hand during the interrogation, that
11 would be beneficial.

12 K What, what are the stuffs?

13 F Uh, there is a receipt from the probation officer showing that I did report on the
14 19th and then they wanted me to come back on, two days later or something, but
15 I showed them on the probation order where it clearly states I have to report only
16 one time and then not anymore.

17 K Okay.

18 F Um, and she made a big deal about it and said, oh, well, I want you to come
19 back. And I said, well, the judge said I only have to report one time
20 (unintelligible).

21 K We'll talk more about it in the actual interview...

22 F Uh-huh.

23 K ...yeah. Yeah.

24 F And so that paper proves, uh, that I did report on that day. But...

25 K Okay.

26 F ...you've already admitted that you know that I reported the one time.

27 K Sorry?

28 F You already admitted over...

29 K Yes, yeah.

30 F ...before we came here that...

31 K We do know that...

32 F ...you were aware that I did report...

1 K ...you reported on the 19th.

2 F ...the one time.

3 K Yes.

4 **Long pause (ends at E.T. 00:05:05)**

5 **Door opens**

6 **Background conversation**

7 **Door closes**

8 **Short pause**

9 K Are the handcuffs too tight or are they good?

10 F The left one is a little snug.

11 K Is it? Okay.

12 F Mm-hmm.

13 K But tightness is fine?

14 F No, a little snug means...

15 K But it, maybe, uh...

16 F ...kinda tight.

17 K Oh, sorry.

18 F Only this one.

19 K Loosen that up for ya and then, uh, I'll lock this so it doesn't squeeze up on ya

20 any further, okay? Is that good?

21 F Sure.

22 K Yeah? I'm gonna lock it. (Unintelligible) doesn't squeeze up on ya anymore.

23 Actually, that's good, yeah. Yeah. Try that. Sit down and see if it, uh.... Better?

24 F Sure.

25 **Long pause (ends at E.T. 00:07:26)**

26 **Doors open and close**

27 **Long pause (ends at E.T. 00:10:31)**

28 **Doors open and close**

29 **Long pause (ends at E.T. 00:11:29)**

30 K Yeah, we're just waiting for the computer to go up so, I don't know, it's taking a

31 bit.

1 F Yeah, and you're probably waiting for your people to try to figure out how to get
2 those working and...

3 K Yeah, somethin' like that, (unintelligible).

4 **Door opens**

5 M Um, I'll wait here until you're done your...

6 K Is it working?

7 M Yeah.

8 K All right.

9 M It's in Room 333.

10 K 333? Okay. Where's, uh, where's, uh...

11 M Upstairs on three.

12 K Oh. Okay. I'll be back.

13 **Door opens**

14 **Long pause (ends at E.T. 00:12:52)**

15 **Doors open and close**

16 **Background conversation**

17 **Door opens/closes**

18 **Long pause (ends at E.T. 00:13:53)**

19 M (Unintelligible)

20 F No, no.

21 M You'll have them off soon enough.

22 F Yeah.

23 **Short pause**

24 **Doors open/close**

25 **Long pause (ends at E.T. 00:16:04)**

26 **Door opens**

27 K Okay. Do you have a phone? We'll take the elevator.

28 M 'Kay.

29 **Door opens/closes**

30 F Ah, shit.

31 K Ah...

32 M Hm.

1 K ...sorry. Yeah.
2 M Oh.
3 K No, it's the, it's...
4 F No, no...
5 K ...the cuffs.
6 F ...it's the...
7 K Yeah. You know what?
8 M Oh.
9 K I'll take it off. Once we get to the third floor...
10 M Okay.
11 K ...I'll take it off, okay?
12 **Door closes**
13 K (Unintelligible).
14 **Short pause**
15 **Door opens**
16 K Follow me. We're gonna be Room 333. (Unintelligible).
17 M Yeah, yeah, you can just stop right there in this room.
18 **Door opens**
19 M Just have to note the time.
20 K Yeah. Okay, come in Mr. Fox. 'Kay, the time is 12:51. I've turned the audio
21 device off, okay, but this room is being, uh, videotaped and audiotaped, okay?
22 F (Makes noise)
23 **RECORDING ENDS**

24 **Transcribed By: VA5360 / 2022-09-14**
25 **Transcript Proofed By: Detective 2343 Amber MCELROY/October 12, 2022**



Recorded Interview with Patrick FOX

May 16, 2022

Incident #22-66177

M – Detective Constable 2343 Amber MCELROY

K – Constable 3284 Jin KIM

F – Patrick FOX

Long pause (ends at 12:48:00 video time stamp)

Cst. Kim enters room

K Okay, um, this interview is regarding file number 22-66177. The date is 2022 May 16th. Time right now is 12:48. We are at the, uh, Annex building, 265 [sic] East Cordova Street in the City of Vancouver and I am the primary interviewer, Cst. Jin Kim, PIN number 3284, and monitoring is gonna be Det. Amber McElroy, PIN number 2342. Short synopsis, on February 25th, 2022, uh, Patrick Fox was convicted of breach of probation. Fox was released from jail on April 17th, 2022. One of his probation conditions was n-, to not disseminate, distribute, publish or make publicly available in any manner whatsoever, directly or indirectly, information, statements, comments, videos or photographs which reference to or the pi-, capu-, Capuano. As of today, his website, www.com [sic] desicapuano.com is still open to the general public, which is in contravention to his probation conditions. Fox also failed to report to his probation officer on April 21st, which is part of his probation conditions. The subject was arrested by arrest officer using a prepare arrest script, which I reviewed, and satisfied that all of the requirements of section 10(a) and 10(b) of the charter have been satisfied, that, uh, Mr. Fox has been given the official warning and that Mr. Fox is aware that he's subject to audio-video recording while in police custody. During the interview, I may make disparaging (phonetic) comments about people involved in this incident or about other people. These comments do not reflect my opinion or the opinion of the Vancouver Police Department.

Cst. Kim exits room

Long pause (ends at 12:51:59 video time stamp)

1 **Cst. Kim enters room**

2 M (Unintelligible)

3 K Yeah, okay, come in Mr. Fox.

4 **FOX enters room**

5 M (Unintelligible)

6 K 'Kay, the time is 12:51. I'm gonna turn the audio device off, okay? But this room
7 is being, uh, videotaped and audiotaped, okay?

8 F Ooh. I'd really prefer if you left that on 'cause you guys have a lot of technical
9 problems with your audio. Like for example, a year ago when, uh, Tanino was
10 interviewing me...

11 **Det. McElroy enters room**

12 F ...the audio wasn't working in the room at all and so the only thing we had was
13 the, the DAR.

14 M Okay.

15 K Yeah, sure.

16 M Uh, so we previously turned the DAR off...

17 K (Makes gesture)

18 M ...once we reached the interview room. Uh, it's 12:52. We've now re-turned it on
19 as per Mr. Fox's request just barring any further technical difficulties, so it will
20 remain on for the duration of the interview.

21 K Perfect. Have a seat. Yeah, good.

22 M Okay.

23 K Yeah.

24 **Det. McElroy and Cst. Kim exit room**

25 **Long pause (ends at 12:59:18 video time stamp)**

26 **Det. McElroy enters room**

27 M Hey. So, um, Mr. Fox, I haven't fully introduced myself to you. My name is Det.
28 Amber McElroy.

29 F Amber...?

30 M Amber McElroy.

31 F Okay.

1 M Yeah. Uh, you can call me Amber, though. Uh, is it okay if I call you Patrick?

2 Would you prefer Mr. Fox? What would you prefer?

3 F Almost everybody in the world calls me Fox, so...

4 M Y-, just Fox?

5 F ...because our relationship is more professionalistic (phonetic) with Det. McElroy

6 and Mr. Fox.

7 M Okay, good pronunciation. Thank you for that. Not everybody gets it. Um, all

8 right, so you've been dealing with my partner and he was saying that there was a

9 bit of, um, confusion around your conditions and I guess...

10 F No, there's no confusion around...

11 M Okay.

12 F ...my conditions. No.

13 M Okay.

14 F Um, I was required to report one time...

15 M Mm-hmm.

16 F ...only for the purpose of informing the probation officer, uh, what steps, the

17 exact steps I had taken to cause the website to no longer be available.

18 M Yes, okay.

19 F On the 19th of April...

20 M Mm-hmm.

21 F ...I reported in person and I have the m-, (makes gesture) piece of paper in my

22 bag from when they, uh, signed it and said you have to, we want you to come

23 back in two days, and I told them that, no, I'm only required to report one time. It

24 says right here (makes gesture) in the probation order. I just have to report one

25 time with the purpose of informing them of what steps I've taken to cause the

26 website to no longer be available, and I don't have to report any second or third

27 or subsequent times.

28 M Okay.

29 F Um, and so then I called Crown Counsel Chris Johnson afterwards to let him

30 know that the probation department was making a fuss...

31 M Mm.

1 F ...saying they wanted me to come back in two days and he said, well, it's my
2 understanding you're only required to report one time and you did that, so it's
3 done.

4 M My apologies. Who did you call?

5 F Chris Johnson.

6 M And who, where does he work?

7 F Uh, he's the ad hoc Crown Counsel on the last few cases...

8 M Okay.

9 F ...they prosecuted against me.

10 M Okay.

11 F Because...

12 M So he gave you the understanding that that was sufficient?

13 F The judge gave me the understanding that that was sufficient...

14 M (Unintelligible)

15 F ...because I don't know if you've read the probation order, but the condition very
16 clearly states that I'm required to report (makes gesture) one time...

17 M Mm-hmm.

18 F ...and one time only, and once I have done that, there's no further reporting
19 required.

20 M Okay. And so at that point when you went on the 19th, can you give me an idea
21 of, of what you reported? What di-, did...

22 F Sure.

23 M ...what steps did you take?

24 F Sure. I told, uh, Julie was her name...

25 M Okay.

26 F ...that I have taken absolutely no steps to cause the website to be no longer
27 available because the website went offline, it is my understanding, a couple of
28 weeks before I was released from custody. So at the time of my release, it was
29 already offline. There was nothing that I either could do or would have to do.

30 M Okay. And how did you, uh, become aware that the website was offline?

31 F That's a good question. I don't really recall how it first came to my attention.

32 M Okay. And do you know who had the authority to take it offline if not you?

1 F I have absolutely no idea.

2 M Okay.

3 F Listen. The website, the website has not been under my control for a number of

4 years.

5 M Okay.

6 F That was done deliberately. Like I've been over this (makes gesture) time and

7 time and time again.

8 M Yeah, uh...

9 F It was done on purpose because if I were (unintelligible) control the website, I

10 can't be compelled to do anything with the website.

11 M Mm-hmm.

12 F Um, and so prior to being on probation (makes gesture), I gave up all control and

13 so all the time that I've been on probation for the past three-and-a-half years or

14 so now, um, I've had no involvement and no ownership or control with the

15 website.

16 M Okay. So, I mean, I'm not super tech savvy, um...

17 F (Nods head)

18 M ...but I know that you are, so if you give up control of the website, you'd have to

19 put someone in charge of that, right? There's passwords. There's things that

20 they would have to know. Is that not correct?

21 F Um, the current website, well, I can't call it current because the website went

22 offline before I got released from custody. Okay, so that website...

23 M Mm-hmm.

24 F ...uh, went online while I was in custody, so I didn't have ownership or control of

25 it right from the beginning.

26 M Mm-hmm.

27 F Um, I'm not saying that I do or don't know who might've been involved in initially

28 setting it up, but that's got nothing to do with why I'm here today, so I sure would

29 like to know why it is that I'm here today since the website went offline before I

30 got released from custody...

31 M Mm-hmm.

1 F ...and I was only required to report for probation one time. So both of those
2 things were fulfilled, so why am I here?

3 M Yeah. So, I'll, I'll tell you my understanding, so the probation condition, it's not
4 actually something that we enforce. It's the probation officer.

5 F Mm-hmm.

6 M So what they've told us is that yes, you did come in on the 19th...

7 F Mm-hmm.

8 M ...um, and at that point, you told them something differently and they said that
9 they wanted you to come back on the 21st...

10 F Mm-hmm.

11 M ...to meet with your actual probation officer 'cause Julie, the woman you spoke
12 to, is just the like, the he-, the probation officer for that day. Not your specific
13 probation officer.

14 F Mm-hmm.

15 M So, they made an appointment for you at that time to come back on the 21st and
16 when you didn't show up for that appointment on the 21st, that's what caused
17 this warrant for your arrest.

18 F Oh, okay, wait, so is there actually a warrant? Or is it just an investigation at this
19 time?

20 M So there's a warrant, um, for your arrest for that charge.

21 F Mm-hmm.

22 M And then secondary to that, you're being charged with failure to t-, um, comply
23 with your probation because the website's still up and running.

24 F (Chuckles)

25 M So there's two charges.

26 F Well, okay, let's be clear, though.

27 M Mm.

28 F You said that the website is still up and running.

29 M Mm-hmm.

30 F The word still means that it has been up and running continuously. Is there some
31 question as to whether or not it was actually offline, I mean?

1 M I don't have any record of it being offline. What I have a record of and what
2 probation saw...

3 F Mm-hmm.

4 M ...on the 21st was that...

5 F What's today?

6 M April 21st, um, is when they checked it before they issued the warrant.

7 F They checked it on April 21st and they're claiming it was online?

8 M Yes. Password protected online.

9 F Well i-, i-, okay, if it's accessible on the internet but there's a password on it...

10 M Mm-hmm.

11 F ...such that nobody can access it, first that would still meet the requirements
12 because the requirement is that it not be available. It's not available if you
13 require a password. Um, second, if it requires a password, how do they know
14 there's anything there?

15 M Yeah.

16 F I mean, the page could just be blank.

17 M It still gives you previews on Google on what you're going to see potentially on
18 that website. And I think, um, we're arguing kind of semantics here. For me, uh,
19 being a novice...

20 F Mm-hmm.

21 M ...offline means you can't get to it. There's no record (unintelligible).

22 F You can't.

23 M But you can actually type it into the, the search and you can actually have a point
24 where it asks you for a password. So Crown is not considering that offline.

25 F Ah, that's fine. That's fine. They can, they can shove it up their ass. I don't give
26 a fuck.

27 M Okay.

28 F Um, go ahead. Try to find some evidence that I have anything at all to do with
29 this website, m-,...

30 M Yeah, but we both know, you know who's running it (unintelligible).

31 F No, I really don't. That was done on purpose. I can't tell you who's running it if I
32 don't know who's running it.

1 M Okay.

2 F I mean...

3 M So can you walk me through how that happens?

4 F How what happens?

5 M How do you give an unknown person all of the information to access and control

6 the website without knowing who that person is?

7 F Um, your question is based on the premise that I gave the content or the

8 information to some unknown person. Um, that's not the case.

9 M So it's a known person.

10 F Okay. There's me.

11 M Mm-hmm.

12 F There's a second person involved, which I've already stated, I've already testified

13 about in court...

14 M Mm-hmm.

15 F ...my friend Liz Munos (phonetic), and then there's some other third party beyond

16 that. And who that other third party was that did whatever they did, um, I have no

17 idea. I don't wanna know.

18 M So Liz Munos operated as your, your middleman so to speak.

19 F I decline to answer.

20 M Okay. Liz Munos at one point had access to your passwords for the website in

21 order to pass them on to a third person.

22 F Well, no, because when the current, or not current, when the second version of

23 the website went online...

24 M Mm-hmm.

25 F ...it wasn't done with my passwords or anything.

26 M Mm-hmm.

27 F Like th-, th-, they didn't access to my accounts to do it. It was set up as a new

28 website, and...

29 M Mm-hmm.

30 F ...if anything, I would've required the passwords from them.

31 M Yeah.

32 F So...

1 M Okay.

2 F ...anyway, I feel like we've been down this before.

3 M Okay. Sorry, and before we get too far into this, and I should've mentioned

4 earlier 'cause I just really wanted to answer your questions first, I know that you

5 declined to speak to a lawyer...

6 F Yes.

7 M ...um, at the scene. You have an opportunity now and we can stop and we can,

8 you can talk to a lawyer now. I know that typically you like to operate as your

9 own lawyer. Has that changed? What's your preference in what you'd like to do

10 right now?

11 F There's been no change in my preference. I have no interest in speaking with a

12 lawyer who's just gonna collude with the Crown and sabotage the case and

13 (makes gesture) so...

14 M Okay.

15 F ...if I'm gonna lose the case anyway, I'd rather lose it by myself.

16 M Okay, and all of your contact today, um, has been with myself and Det., uh, Jin

17 Kim, and I just wanna make sure that you haven't had the impression or the

18 conversation or thought that we've promised you any incentives to participate in

19 this process or told you that anything could go poorly for you if you don't

20 participate in this process.

21 F Um, sure.

22 M Okay, I mean, I just...

23 F Sorry. I'm giving a question that is as vague as...

24 M Mm-hmm.

25 F ...the proposition that you had just made. Um, I mean, to say that, um, okay, if I

26 cooperate and answer the questions, then things are likely to go better for me, or

27 you would think, anyway, that they would be likely to go better for me than if I

28 didn't cooperate. So, I mean, the question's kind of silly.

29 M Well, I'm just asking if Det. Kim...

30 F (Unintelligible)

31 M ...or myself has had that conversation with you.

1 F Um, no, and I'm familiar with the conversation. We can skip all the boiling plate
2 (phonetic) (makes gesture). Um...

3 M Okay. All right.

4 F ...there's been no threats. There's been no, uh, uh, offers of any kind of benefits.

5 M Okay. Thank you. Um...

6 F There has, however, been an inquiry about coffee and cigarettes.

7 M And what was the answer to that? I'm sorry. I wasn't privy.

8 F It was left in limbo.

9 M Okay, did you say that you'd like coffee, or...?

10 F Of course I would like coffee and cigarettes...

11 M Okay.

12 F ...but...

13 M Um, I will, uh, I can check now with...

14 F ...mm.

15 M ...my partner to see what the status is on that. Okay?

16 F (Nods head)

17 **Det. McElroy exits room**

18 **Long pause (ends at 13:22:10 video time stamp)**

19 **Det. McElroy enters room**

20 M All right. So, we've got two cups here for ya. There's no cream. Um, there's a
21 sugar cube in each one.

22 F Oh, gross. I take it black, but I'll put up with the sugar cube.

23 M Okay. There's just one, so should've asked. Uh, we can't do anything about
24 cigarettes, sorry.

25 F No? I guess crack is out of the question, too, then, huh?

26 M Crack is out of the question. Um, did you have any cigarettes that you had in
27 your bag?

28 F No, I have to go pick some up.

29 M Okay. All right. So we're just gonna push through then...

30 F Sure.

31 M ...if that's all right with you. Um, okay, so again, I don't have full file knowledge
32 that you've probably picked up on. Your file has been in our unit for quite a while

1 and it's rotated through detectives and I, I know that you've, you've been droppin'
2 names, so you're familiar with who you've dealt with in the past. Um, I'm
3 obviously a new face to you and I've done a bit of research, as much as I could,
4 about your file and I understand what you're saying is you've given up control so
5 to speak on your website, but knowing who the middle person is, that control
6 potentially could be seized back, and I guess that's the...

7 F Wait (makes gesture)...

8 M ...sticking point for Crown.

9 F ...no, no, see, Crown, Crown brought this up, too. Chris Johnson, that fuckin'
10 dipshit at the trial.

11 M Mm-hmm.

12 F Um, he argued that since Munos, uh, took care of the arrangements to have the
13 website put back online back in 2018 while I was in custody and therefore
14 couldn't have possibly had anything to do with it...

15 M Mm-hmm.

16 F ...um, that if I wanted to get the website taken down now, I could go through her
17 and then she would be able to provide me the information or something.

18 M Mm-hmm.

19 F Um, but, no, that's not the case. I mean, she no longer has anything to do with it
20 now.

21 M Mm.

22 F And even if she did, why would she help me? I mean...

23 M Yeah.

24 F ...you guys have no influence over her. She's in the US. She doesn't give a shit
25 about what happens up here in Canada.

26 M Mm-hmm.

27 F And she can't stand my ex-wife, so I mean...

28 M Yeah.

29 F ...but anyway, why does any of this matter?

30 M Uh, well, I'm just looking at the website, so it was password protected for a period
31 of time and then sometime over the weekend, it popped back up and it's open to
32 the public again.

1 F (Nods head) Mm.

2 M Um, there's some interesting updates in there, which include information about

3 disclosure from your trial...

4 F Mm-hmm.

5 M ...which, as you representing yourself, you would have free and fair access to.

6 I'm wondering how the person running your website would have access to that

7 information.

8 F Um, I don't know, but that's not really relevant anyway because there's nothing in

9 any of the probation conditions that prohibits me from publishing any information

10 about my cases. I'm only prohibited from publishing information about Capuano.

11 M Mm-hmm.

12 F Um, and so if information about my case has ended up in someone's hands and

13 they forwarded it to someone and somewhere along the line it ended up on the

14 internet, it doesn't violate any probation conditions, so it's simply not relevant.

15 But, um, you said that there was, the password was taken off or something?

16 M Mm-hmm.

17 F So what's online right now?

18 M Uh, it's a full website as it was before with some updates.

19 F Interesting.

20 M Mm-hmm.

21 F So then if I have a probation condition that says that I am required to take all the

22 necessary steps to ensure that the website is no longer available via the internet

23 or any other means, which is essentially what the probation condition says, if the

24 website goes back online, how quickly am I supposed to (makes gesture) take

25 these necessary steps to get it taken down again? Am I supposed to fuckin'

26 watch the website 24 hours a day, seven days a week? And...

27 M Mm-hmm.

28 F ...that would seem a little ridiculous, so...

29 M Mm-hmm. Yeah, I think the whole consensus, though, is, uh, what you're

30 providing is not having control over this website, does not, to me, seem

31 plausible...

32 F (Makes gesture)

1 M ...because...

2 F I don't care.

3 M ...you built this. You've taken pride in...

4 F But...

5 M ...building it. You've...

6 F ...let me ask you a question.

7 M ...spoken to the media about it.

8 F Uh, if you...

9 M Mm.

10 F ...owned a car...

11 M Mm-hmm.

12 F ...today, does that mean that 10 years down the road you still own that car?

13 M Mm-hmm.

14 F Are you not able to transfer that car? Can you not abandon that car?

15 M Mm-hmm.

16 F Yeah, why does everybody assume that just because I created the website eight

17 fucking years ago...

18 M Mm-hmm.

19 F ...that I must still own it and run it.

20 M Because in, in th-, your subsequent interviews, you've openly said that you, the

21 website will continue to be up (unintelligible).

22 F Yes, it will be because I have no fucking control over it.

23 M And you said if it gets...

24 F You can (unintelligible) you want. It's not gonna matter.

25 M ...if it gets taken down, it's gonna pop up again 'cause I've saved all the content.

26 It's important to you that this website is up and running and that it continues.

27 You've made that very, very clear, and for someone of your intelligence and your

28 skillset, to just hand that over to someone else, it just, to me, I don't quite get it.

29 F Tell me something.

30 M Mm-hmm.

31 F If I'm so intelligent that I could set up this website and do all this stuff and I'm so

32 sneaky about it, and I'm able to do it in such a way that technically you guys can

1 never prove that it's me, um, there's, I have no ties to British Columbia or to
2 Canada at all. Um, why am I still here then? Why would I keep the website
3 online or put the website back online? You guys know that I'm at the Belkin
4 House.

5 M Mm-hmm.

6 F Um, and then just sit around and wait for you guys to come and arrest me?

7 M Well, what were your plans after the Belkin House?

8 F That seems pretty fuckin' impossible, too, you gotta admit.

9 M Yeah, but you're last day at the Belkin House is comin' up.

10 F No, I have...

11 M What were your plans after that?

12 F ...I had an extension.

13 M No, I understand that, but it's comin' up still within this month, so what's, what
14 were your plans after that for a place to stay?

15 F I don't know. Maybe go to the Yukon?

16 M Yeah.

17 F Maybe go back to Los Angeles. Who knows. I mean, I can't really plan more
18 than a day or two in advance because...

19 M Mm-hmm.

20 F ...I know you guys can come at any moment and accuse me of whatever
21 ridiculous thing and...

22 M Mm-hmm.

23 F ...arrest me again, so...

24 M Yeah. You have spent...

25 F ...I was (unintelligible) (makes gesture) day to day.

26 M ...a lot of time in custody. Is that...

27 F Yeah, six years.

28 M And, and that s-, seems to be within your control.

29 F Right.

30 M Um...

31 F Oh, of course, because all I have to do is take down the website, right?

32 M Mm-hmm.

1 F Mm-hmm, yeah.

2 M Yeah. Have you made efforts to try to do that? Or are you just...

3 F What, take down the website?

4 M ...are you washing your hands of the whole thing and it's outta your control and

5 you can't...

6 F Upon my release from custody, there were no efforts to make. The website was

7 offline. I me-, and when I first got released, there was no password or anything.

8 There was just a, was it a 401 or a 403...

9 M Mm-hmm.

10 F ...message? Um, 'cause the content had been deleted or something?

11 M Mm.

12 F Um, and then subsequent to that, at some point, somebody put a password on

13 there.

14 M Mm-hmm.

15 F Um, why they put a password, I don't know (makes gesture). Mm...

16 M Okay, and how did someone get your disclosure for those recent updates on the

17 website against the woman who you're not supposed to have...

18 F Well...

19 M ...this up and running, right? So having those updates and making the website

20 relevant and current...

21 F Mm-hmm.

22 M ...would be, um, in violation of your condition.

23 F Let me ask you this question.

24 M (Unintelligible) Sure.

25 F All the stuff that you're talking about, this disclosure material and stuff that's...

26 M Mm-hmm.

27 F ...on the website. Um, if that same material was put onto a different website that

28 wasn't called desicapuano.com, let's say if it was called, um, rpfox.com or

29 something.

30 M Mm-hmm.

31 F There would be absolutely nothing about that that would violate the probation

32 conditions. I mean...

1 M I would probably agree with that, yeah.

2 F Right. So, putting that content, um, making that content accessible under, uh,
3 desicapuano.com, the domain name...

4 M Mm-hmm.

5 F ...li-, or likewise doesn't violate any probation conditions. The website itself, um,
6 was required to, oh, sorry, I'm not even required to take the website down. I'm
7 only required to take all steps necessary to cause the website to be no longer
8 available. Upon my release from custody...

9 M Mm-hmm.

10 F ...the website was no longer available. Therefore, there was nothing for me to
11 do in that respect. And the other probation condition simply prohibits me from
12 publishing any information about, uh, Capuano.

13 M Mm-hmm.

14 F And I don't know what new information has been put up there that you're
15 referring to, but, uh, I'm assuming it probably has nothing to do with Capuano.

16 M Well, it has to do with your proceedings and...

17 F (Makes gesture) That's not the point.

18 M ...someone got that information, if it wasn't you, that posted it, got that
19 information from likely yourself.

20 F Regardless. Let's say, for the sake of argument...

21 M Mm-hmm.

22 F ...let's say that I took all that disclosure material and I emailed it to
23 editor@desicapuano.com, the email address which has been right there on the
24 website for as long as...

25 M Mm-hmm.

26 F ...I can recall. Um, by doing that, still, I would not be violating the probation
27 conditions because there is nothing in the probation conditions that prohibits me
28 from publishing or sharing or disseminating the disclosure material.

29 M Mm-hmm. Yeah, conditions actually state that...

30 F Mm-hmm.

31 M ...it has to be no longer available by the internet.

32 F Yes.

1 M So it is available by password.

2 F Well, according to you, from what you're telling me, it's, wait...

3 M (Unintelligible)

4 F ...(unintelligible) I'm sorry, you're s-, you said it was available by password.

5 M Mm-hmm.

6 F How do you know? Like did you know what the password was? I mean, I had

7 tried to go to it and it prompted me for a name and a password.

8 M Mm-hmm.

9 F I didn't know the name and the password, so I just went, okay, fuck it. It's not my

10 problem anymore. The website's not accessible, so I don't give a shit. Maybe

11 when I go back to the US, maybe I'll see what I can do about taking it back or

12 somethin', but for now, it's not my problem. Um, but it sounds to me like you're

13 saying that behind the password, there was actually some, some content there.

14 So I'm curious like, did you have the password? Did somebody give you access

15 to the site?

16 M No. I don't have access.

17 F Then how do you know there was anything there? How do you know there

18 wasn't just a blank page? Like the, okay, to put a password like that on a

19 website...

20 M Mm-hmm.

21 F ...I mean it, it's just a matter of an apatchi (phonetic). It's just one configuration

22 setting in a, in a text file.

23 M Mm-hmm.

24 F Um, like there's no reason for anyone to believe, me included, that there was

25 anything being hidden by that password.

26 M Well there's no reason to believe that it isn't, though, and that's the question, I

27 guess. I think it's the unknowing.

28 F Yeah, because (unintelligible)...

29 M The assumption, the assumption would be that there is...

30 F ...mm.

31 M ...something there, and either way, it's the URL with...

32 F Mm-hmm.

1 M ...her name in it with a password.

2 F Mm-hmm.

3 M Um, and then it's been removed, and now it's up and live again.

4 F Okay, well I don't know anything about it...

5 M So...

6 F ...so I couldn't comment on that.

7 M ...so we are, um, following up with that, and that's why you're here today.

8 F Okay.

9 M 'Cause you've been charged with that violation because it's up and live, and

10 because we believe, and Crown Counsel believes...

11 F (Nods head)

12 M ...that you do have control of the website...

13 F Mm-hmm.

14 M ...um, and you obviously are saying that you don't...

15 F Well...

16 M ...and that's what's getting debated.

17 F ...tell me something.

18 M Mm-hmm.

19 F If you're so convinced that I have access or control over the website, why is it

20 that in the past three or four years that I've been prosecuted three times and now

21 we're about to start a fourth one...

22 M Mm-hmm.

23 F ...for this, nobody has ever come up with a single piece of evidence tying me to

24 the website. Nobody has made any attempt to contact the hosting provider to

25 ask whose name is on the account.

26 M Mm-hmm.

27 F Whose credit card is paying for the account.

28 M Mm-hmm.

29 F Yeah.

30 M Who is the hosting provider right now?

31 F GoDaddy.

32 M GoDaddy?

1 F Oh, sorry, as far as I know, it's...

2 M Mm-hmm.

3 F ...GoDaddy.

4 M Okay.

5 F But clearly, there have been changes made recently that I wasn't aware of, so...

6 M Mm-hmm.

7 F Tell me something else.

8 M Mm-hmm.

9 F If the Crown is so concerned about this website and about protecting Capuano,
10 because of course they won't want to admit that their concern is that there's
11 disclosure material or something that makes them look bad. So, they keep
12 arguing that Desiree Capuano needs to be (phonetic), needs to be protected
13 from this website. So why is it that nobody has bothered to try to get a
14 US court order to get this website taken down. Why is it that the only thing
15 they've done is prosecute me and put me in jail for it. Because that clearly is not
16 causing the website to come down.

17 M Mm-hmm.

18 F So it seems if, if their concern is protecting Capuano, it seems that what they
19 should be doing is probably trying to get a US court order, right?

20 M Yeah.

21 F To make GoDaddy...

22 M It's...

23 F ...take the website down?

24 M ...it's a, it's a multiple process and we have made attempts with GoDaddy before
25 and it was down for a period of time.

26 F Yes. It was down for 90 days.

27 M Mm-hmm. Um, and that's something that we're working on, as well. Obviously
28 this would be facilitated a lot quicker if you just made the calls and got it taken
29 down. Um, and the belief is that you do have control and that's obviously...

30 F (Makes gesture)

31 M ...the most easy, direct route for us to follow through with, but you're right. They
32 might have to go through...

1 F Please. It's...

2 M ...through a court order as, which...

3 F ...it's been three years and you...

4 M ...it's been...

5 F ...have done nothing to do that...

6 M Mm.

7 F ...because you know that no US court order's gonna give you, uh, an injunction

8 like against GoDaddy to take this website down because there is absolutely

9 nothing illegal on there.

10 M M'kay.

11 F Um...

12 M I don't believe that's the consideration. I believe that we're a very busy police

13 department and this is taking enormous...

14 F Yet not busy enough to have your officers...

15 M ...resources.

16 F Yes, it is, so why...

17 M Yes.

18 F ...do you keep doing it? It's such.... Okay. It's such a stupid...

19 M We, we feel equally frustrated.

20 F You can simply not investigate me.

21 M Mm-hmm.

22 F You can simply go, you know what? We have bigger fuckin' things to deal with.

23 We have people actually killing each other and raping each other and such.

24 M Mm-hmm.

25 F Um, but instead, you wanna have to write all these RTCCs and have to come

26 and testify in court, and every time you guys come and testify in court, I...

27 M Mm-hmm.

28 F ...end up making somebody look like a complete fuckin' idiot. Um, last time it

29 was Dent.

30 M Mm-hmm.

31 F As I caught him lying about stuff at the previous trial.

32 M Mm-hmm.

1 F Anyway, um...

2 M Yeah, I don't know why you're goin' through all this ordeal either, and it would be
3 nice...

4 F (Makes gesture) I'm not goin' through...

5 M ...it would be nice f-, to hear...

6 F Mm-hmm.

7 M ...that you're contacting, um, Liz and you're making efforts, and she should know
8 who's involved and that this is something that you've done to be exhausted to
9 your full measures of your ability to get this website down, but I think you're
10 enjoying just sitting back and washing your hands of it and saying it's got a life of
11 its own now, that I gave it, and now I have no control and my ex-wife now is
12 gonna be harassed for the rest of her life.

13 F (Makes gesture) Tell me something.

14 M And it's not gonna be on me.

15 F Okay, I don't believe that she is harassed in the slightest bit by this because in
16 the eight years that this website has existed, she has never once filed a single
17 complaint with the hosting provider. She filed one complaint about some
18 emails...

19 M Mm.

20 F ...but that had nothing to do with the website. She has never done anything at all
21 to get this website taken down. All she's done is things that could be reasonably
22 expected to result in me being arrested and imprisoned.

23 M Mm-hmm. Well, I don't think we fully know to the extent that she's been affected
24 by this. I haven't...

25 F (Makes gesture)

26 M ...you know?

27 F You would think that she would at least file a complaint with GoDaddy if she...

28 M Mm-hmm.

29 F ...was being affected in any way at all.

30 M And we don't know that she hasn't.

31 F No. I do know. Well, actually, sorry. I can't say that I know 100 per cent for
32 certain, but I'm quite confident.

1 M Because you don't run the site.

2 F Well, no, I'm, say, like okay, if she had filed a complaint, then the complaint

3 would've been forwarded to the person whose name is on the, uh, hosting

4 account, and I would think that maybe that person would notify me of it, but...

5 M So you are aware who that person is (unintelligible).

6 F ...editor@desicapuano.com. That's all I know.

7 M They have a way of contacting you?

8 F I have an email address...

9 M Mm-hmm.

10 F ...patrickhfox@gmail.com.

11 M Mm-hmm.

12 F They have an email address, editor@desicapuano.com.

13 M So we have...

14 F I've sent them emails.

15 M ...okay, and so we have your devices.

16 F Yes.

17 M Um, it would be a lot easier for us to be able to go in and, and take a look at

18 those emails and make sure there's no familiarity, that you're not first-name

19 basis...

20 F Yeah.

21 M ...that you don't have that relationship. Are you willing to assist us with that?

22 F I think, I think that you know the answer to that question.

23 M Yeah, I know that it's been asked before. So this is what I'm talking...

24 F Yes, it's not gonna happen.

25 M ...about. You're talking about us using all our resources and wasting your time

26 and you getting i-, imprisoned, but you're not taking steps to assist the

27 investigation to show that you're not culpable.

28 F Because I've done that in the past. I've assisted and cooperated with...

29 M Mm-hmm.

30 F ...the police and the prosecutors in the past and instead they, they just act nice

31 and friendly and they try to get information from me that they can twist and distort

32 and then they try to, burying anything that might prove that I'm innocent, so I

1 don't cooperate with you guys anymore. Because it, it's, there's no benefit for
2 me to cooperate with you, to give you the information that you're looking for. Like
3 for example, you (unintelligible) wanna go into my devices and find some emails
4 that I may or may not have sent to editor@desicapuano.com. You want access
5 to my devices so you can go search through them to try to find something else
6 that might be incriminating. Because if what you wanted was access to that
7 email...

8 M Mm-hmm.

9 F ...you don't need my devices for that.

10 M Mm-hmm.

11 F This was already covered at the most recent trial. It's in a Gmail account. It's on
12 the server.

13 M Mm-hmm.

14 F Any computer can be used to access it.

15 M Mm-hmm.

16 F So...

17 M It would be nice to, we'd be looking for files with a recent content that's been
18 posted on the website...

19 F Mm-hmm.

20 M ...and see if they're i-, you know...

21 F Mm-hmm.

22 M ...(unintelligible) there on your devices.

23 F Because of course I'd be dumb enough to leave something incriminating on
24 there.

25 M You seem to like to spend time in jail.

26 F No, nope, but I sure do like exposing corruption and misconduct.

27 M Yeah.

28 F And that might just coincidentally be something I have in common with whoever's
29 running the website. But simply because I like exposing corruption and
30 misconduct in the justice system doesn't mean that I'm the person putting the
31 stuff on the website.

32 M Okay. But you have contact with them. Likely this person would...

1 F I have sent them emails (unintelligible).

2 M ...would, would be swayed by your, uh request.

3 F Clearly they're not because the...

4 M So...

5 F ...website is still there.

6 M ...so I'm asking you...

7 F I sent them emails.

8 M ...have you, have you requested that this person take the website down?

9 F Yes. It was the email that I sent in August of last year that I didn't have access to

10 at the time of the interrogation because obviously I didn't have my devices or

11 access to the internet. So I told Tanino and Roberts at the time that I'll be able to

12 provide them a copy of that email once I get released from custody, which I

13 expected was probably gonna be in about three years (makes sound). And then

14 of course, that came up at the trial, and the Crown said that he doesn't believe,

15 and the judge said she doesn't believe, that I sent that email because if I did,

16 then I would've provided it and I would've given a copy to somebody. But then it

17 turns out that the judge admits that she thought I actually had access to the

18 internet while I was in custody.

19 M Mm-hmm.

20 F So she finds me guilty based on that false belief and then during sentencing it

21 comes out that she was under the impression that I actually had access to the

22 internet, even though that came up in the trial, but, um, so there was that email,

23 and then the day after I got released this other time, I sent one to

24 editor@desicapuano.com even though the website was already down.

25 M And when, this is when April when you were released?

26 F Yes. It would've been April 18th. The day...

27 M Okay.

28 F ...after I was released.

29 M Is that how you found out that it was down? Or is that 'cause you (unintelligible)?

30 F No. Um, I knew it was down before I was even released from custody. I think

31 somebody mentioned it or something.

32 M You don't know who?

1 F I didn't really pay much attention.

2 M Mm.

3 F One of the guards or something at, uh, Fraser.

4 M Okay. So, are you willing to provide either of those emails?

5 F Sure. I will happily provide you the email. I'm not going to provide you access to

6 my entire email account that has like literally thousands and thousands of emails

7 from the past 10 or 15 years.

8 M Okay. Right. So if you had access to the internet at some point, you could pass

9 on that email?

10 F I could forward those emails if you give me the email address to forward them to.

11 I will happily forward those to whatever email address, which I assume your

12 email address is your first dot last name at...

13 M Mm.

14 F ...VPD.ca or something.

15 M Yeah. I can give you my card.

16 F Of course, you understand, I don't have access to the internet from within

17 custody, contrary to what the judge claimed that she believed. So, I won't be

18 able to provide you access to those emails until I'm released from custody, which

19 won't be until after I'm convicted and sentenced and everything else, so...

20 M Okay. And there hasn't been (unintelligible) exceptions (unintelligible) in the time

21 that you've been incarcerated? It's always been, um, no access to the internet?

22 That specific...

23 F Absolutely correct. Yeah, it's...

24 M ...I'm just curious, is that specific to you, or...?

25 F No. No.

26 M Okay.

27 F BC Corrections has a very strict policy against it and nobody has any access to

28 the internet in there.

29 M Okay. Okay, so, I mean, we're just tryin' to get your side of things. We're gonna,

30 um, write up our summary of this statement, and I'll let the Crown know that

31 you're willing to provide that information.

32 F Sure. Uh...

1 M Which is helpful.

2 F ...so when did the website become accessible again? Oh, I think I already asked

3 you that, right? And you weren't sure?

4 M Over this weekend. For sure on Sunday. I don't know.

5 F So has it been more than 48 hours?

6 M Um (unintelligible).

7 F I'm just, I'm, I'm trying to get some clarity here on like, um, I had no reason to

8 believe, nor did anyone else, uh, that the website was going to stay offline.

9 M Mm-hmm.

10 F Um, and I was going to apply for a stay of the probation order in the court of

11 appeals 'cause I'm still, I'm appealing, uh, these convictions and sentences. Um,

12 but since it was already offline, I figured, oh, well, it can wait...

13 M (Unintelligible)

14 F ...it's not my priority. Um, but there's this issue (unintelligible) I have a probation

15 condition that requires me to take all necessary steps to ensure some website

16 that I say I don't have any influence or control over, um, if it comes back online,

17 how quickly am I supposed to then take steps to like...

18 M So I understand your argument.

19 F ...a minute after? A day, a week, or what?

20 M Yeah, no, I understand your argument, but as far as Crown sees it...

21 F Mm-hmm.

22 M ...it was never offline.

23 F That's i-, du-, like...

24 M So that's gonna be, that's, but I'm telling you, that's where they're coming from.

25 So you're, you're o-, you're arguing that because it had a password, you

26 considered that offline. Crown's saying, no, I don't consider that offline, so...

27 F Crown c-, uh, (makes gesture) they're...

28 M ...in answer to your question, I don't know how long it's been live. We're looking

29 into that right now.

30 F There's...

31 M We know for sure it's, was live yesterday.

32 F Yeah.

1 M It's live today.

2 F There's nothing in the wording of the condition that says that it has to be (makes
3 gesture) offline or something (unintelligible).

4 M Well it says it can't be available on the internet...

5 F Right.

6 M ...(unintelligible).

7 F No longer available.

8 M Mm-hmm.

9 F If there's a password on there, it is not available.

10 M In your definition.

11 F But with the password on there, you have no idea whether or not there's actually
12 anything behind the password. Therefore...

13 M They have no idea how many people have access to that password.

14 F (Makes gesture) Well, it seems like...

15 M (Unintelligible)

16 F ...before...

17 M It becomes...

18 F ...they can accuse me of something, they have to first...

19 M ...it becomes more challenging...

20 F ...prove that there's (unintelligible).

21 M ...because what is behind that password? There might be nothing. There might
22 be even worse material back there.

23 F Yes, there might be. But you can't...

24 M We don't know.

25 F ...you can't prosecute and convict somebody on suppositions like that.

26 M Well, that's...

27 F Oh, the door is locked so there must be something bad going on behind there.
28 Come on.

29 M I think it's more about not necessarily what might exist beyond the password. It's
30 the fact that it was available, albeit at a reduced...

31 F (Unintelligible)

32 M ...at a reduced, um, amount of people giving access.

1 F I mean, they have...

2 M So that's, that's something for the courts, right? That's not, that's not for me.

3 F It's something for the courts, but we know...

4 M Mm.

5 F ...how the system works. I'm gonna be denied bail and then I'm gonna spend six

6 months or nine months in custody waiting for it to actually get to the court.

7 M Mm-hmm.

8 F And then I'll become guilty anyway because, I mean.... Is there anything on the

9 website about, uh, these more, these recent probation breach cases.

10 M Yes..

11 F Good. I'm assuming the disclosure material is on there?

12 M Mm-hmm.

13 F From these cases? What about transcripts?

14 M There's, um, snippets of transcripts.

15 F Mm. Interesting.

16 M Mm-hmm.

17 F (Makes gesture) (makes sound) All the sugar was in the bottom.

18 M Mm. Okay, um, you have said in previous interviews that you, the website will

19 never come down.

20 F Yes.

21 M You want it to remain live.

22 F (Makes gesture)

23 M But now...

24 F Wait (unintelligible) (makes gesture).

25 M ...do you still feel that way? Do you feel that you want it to remain live? Or do

26 you feel...

27 F I have no recollection of ever saying that I wanted the website to remain live.

28 M Mm.

29 F I have a recollection of saying that the website will not come down.

30 M Mm.

1 F And the reason I said that is because I have no control over it. The judge orders
2 me to take down the website and I say to her in court (makes gesture) order me
3 all you want, but...

4 M Mm-hmm.

5 F ...it's not going to cause the website to come down. And then this most recent
6 time, she says, well, you understand that I just made a finding that you do have
7 control over the website (makes gesture). I'm like, are you fuckin' delusional? I
8 didn't say this to her.

9 M Mm-hmm.

10 F But I should've. Um, just because she says that I have control over the website
11 doesn't mean that I have control over the website. Like guilty beyond a
12 reasonable doubt should require some actual evidence, um, and all of these
13 convictions that I keep getting, which are all under appeal still and...

14 M Mm-hmm.

15 F ...um, so far they've all been just based on inferences, but neither here nor there.
16 Um, it's not a question of whether or not I want the website to come down. Um,
17 then, I mean, I don't really know if it is relevant to say if I want the website to
18 come down. I mean, it has no bearing on anything.

19 M Mm-hmm.

20 F Um, if I don't have the means to cause the website to come down, it doesn't
21 matter what I want.

22 M Mm-hmm. If the website came down completely, no password, nothing, you
23 can't even find the...

24 F Mm-hmm.

25 M ...URL at all, how would you feel about that?

26 F Um, before we answer that, let me ask you, you had said that over the past
27 month, uh, the website has been showing up in Google. I disagree with that. I've
28 checked in Google. I've done some searches, and...

29 M Mm-hmm.

30 F ...um, since I've been out of custody, there's been absolutely nothing in Google
31 about the website, so...

1 M We, we have screenshots. You'll get 'em in disclosure, so.... There's little
2 previews on Google.

3 F Previews on Google.

4 M Mm-hmm.

5 F Subsequent to my release from custody.

6 M No, previews of the website, yeah, subsequent.

7 F Fascinating. Um, I don't believe you, but...

8 M Okay.

9 F ...um...

10 M I'm not lying to you.

11 F ...i-, if...

12 M Yeah, I can only tell you what I've seen.

13 F ...if the website were to come down, I honestly wouldn't give a shit because
14 since there is nothing requiring me to stay in BC, I have no intention of staying
15 here any longer than, that necessary, and the only reason I'm still here now is
16 because...

17 M Mm-hmm.

18 F ...I'm prosecuting these appeals and I didn't wanna just abandon the appeals
19 because the appeals, in my opinion, are so strong. Like the...

20 M Mm-hmm.

21 F ...the stuff the judge did and the Crown did is so outrageous that these appeals
22 either have to be granted, um, or it just shows how ridiculous the justice system
23 is here.

24 M Mm-hmm.

25 F And so that's the re-, that's the only reason I haven't already left.

26 M Okay, and if you went to the States, where would you go?

27 F If I went to the US, um, most likely I would return to Los Angeles. Um, and
28 there's no point in discussing what I would do, uh, if I was to go back to, or when
29 I go back to the US, because I'm going to be out of this jurisdiction and so it's not
30 gonna matter what I'm gonna do.

1 M Okay. Um, maybe a more relevant question then is how do you feel about
2 Desiree right now and would you want to continue contact? Would you, is she
3 out of your system? What's goin' on on that front?

4 F First, I have no interest in having any contact with her. Um, I haven't for many
5 years. The only contact I had with her before was because of our son. The son
6 that I raised and I had custody of and then she took and ran off to Arizona with
7 him after being gone for nine years, and then took steps to get me deported to
8 this country, um, and then took steps to go on the news media and such and like
9 say all this stuff about me, um, and then take further steps, uh, for me to be
10 convicted of criminal harassment et cetera, et cetera. Um, but there's, there's no
11 history of any contact between us other than, um, trying to make arrangements,
12 uh, for custody or visitation of our son.

13 M Mm-hmm.

14 F And there's some email threads that go on and on and on and on because
15 there's just back-and-forth.

16 M Mm-hmm.

17 F Um, I have no interest at all in having anything to do with her, um, but I continue
18 to be subjected to the results of her actions. I'm still in Canada. I'm still fighting
19 these stupid ridiculous, uh, criminal cases, um, that all stem from her.

20 M Mm-hmm.

21 F Um, I haven't had contact with my son since 2016. Why do you suppose that is?
22 Because of me? No, I don't think so.

23 M Yeah.

24 F It's difficult to put something behind you when you're still being subjected to it.

25 M Mm-hmm.

26 F If somebody has their boot on your head and they're holding you on the ground
27 and then tell you, why can't you just move on? Why can't you just forget about
28 this? Yeah, fuckin' hard to do when they've still got their boot on your head.

29 M Mm-hmm.

30 F Anyway, if there's any concern or if what you're getting at with that is, do I think
31 that I would ever harm her physically, no. I would never harm anybody physically
32 unless it was in self-defence or defence of another or defence of property, blah,

1 blah, blah, blah. Um, as for psychological harm, that's a ridiculous premise that
2 your justice system up here actually gives credence to, but you can't harm
3 somebody psychologically. Uh, it doesn't exist. It's like, it's an abstract concept.
4 Like you can hurt someone's feelings, oh, sure, is that what was in prison for, for
5 three years? 'Cause I hurt her feelings? Come on.

6 M Mm.

7 F Anyway, I guess we've reached that point where we've said everything that there
8 is.

9 M Yeah, I guess I just wanted clarification on that. So you will not harm her
10 physically.

11 F I will not harm her physically. I can't harm her psychologically. It's simply not
12 possible. Like, it's like saying, um, you can cause somebody to fear for their
13 safety. Well, no. A person can cause themselves to fear for their safety, but like
14 an external entity cannot cause another person to experience fear or to
15 experience emotion. I mean, emotions and sentiments are all self-induced.

16 M Okay. But creating the website caused psychological duress, whether or not you
17 wanna acknowledge it or not...

18 F (Makes gesture)

19 M ...would you continue that type of behaviour down in the US if you were to go
20 across, I guess? Or even in the future even, from up here.

21 F In the future meaning after the probation orders have expired?

22 M Well, leaving this room right now...

23 F I mean...

24 M ...do you have any intention of continuing to cause her duress?

25 F ...at this point right now, I have no intention, um, I have no intention to cause her
26 any duress. I don't believe that she is experiencing any duress because of the
27 website because, like I said, if she was, there's steps that she could take.

28 M Mm.

29 F GoDaddy is based in Arizona. She lives in Arizona.

30 M Mm-hmm.

31 F I mean, it's not that hard for her to get the website taken down in Arizona if
32 there's actually anything wrong with it, but, um, she hasn't done that.

1 M Mm-hmm.

2 F Not a single thing. Anyway, no, I have no interest or intention in causing her any
3 kind of duress. She is a psycho and a sociopath who causes enough problems
4 for herself. Um, there's nothing that I would need to do to cause her any
5 problems. And, what's more, because she's a psycho and a sociopath, there's
6 nothing that I can do that would actually affect her anyway.

7 M Mm-hmm.

8 F Like, uh, I'm trying to think, like what would be the absolute worst thing that I
9 could do to her, and would that even affect her? Would she even care. I mean,
10 she wouldn't. No matter, whatever bad circumstances might befall her, she's just
11 going to use those to get other people's pity and sympathy and such. Which is
12 probably why she hasn't actually taken any steps to get the website taken down.

13 M Mm. And if she were to take these steps or if we were to get the court order that
14 we were talking about to take these steps to get it down, if it's still being hosted
15 by GoDaddy...

16 F (Nods head)

17 M ...um, what are the instructions for this anonymous third-party to do if the website
18 is taken down?

19 F There are no instructions.

20 M So there was, do they have access to the site data as far as you know? Has it
21 been hard-driven, has it been saved? Were there any instructions to do so?

22 F Um...

23 M Will it pop up again on another serving site?

24 F ...listen, I, I can't say about that. I don't know. Um...

25 M 'Cause that's what you told us in the past.

26 F ...yes, but I said a lot of things in the past. Um, I said things that I could not have
27 possibly been involved in...

28 M Mm-hmm.

29 F ...um, because I was deliberately trying to show, or I was specifically trying to
30 show that the police and the courts and the, the prosecutors, uh, would rather
31 pursue and stick with a false admission that couldn't possibly be true, than to
32 actually investigate and get to the truth of the matter.

1 M Mm-hmm.

2 F Um, and that's exactly what happened. And even the judges. I mean, everybody

3 completely ignored the fact that it would've been impossible for me to set up the

4 website because I was at Fraser and there is no internet at Fraser. I mean I d-, I

5 couldn't possibly have access to the source material and stuff.

6 M Mm-hmm.

7 F But I admitted to that, and everybody just went with that and I'm going like, wow,

8 but...

9 M Mm-hmm (unintelligible).

10 F ...and then when I testified in court that this is ridiculous and (unintelligible) all

11 just went with that admission I gave, would have physically been impossible for

12 me to do that, but everybody just accepted it and then they tried to twist it around

13 and (unintelligible) but...

14 M Mm-hmm. And you had two websites before, is that correct?

15 F Two websi-, well, okay, um, there was one website, but the original website went

16 offline at some point in 2018, and then it was put back online under a different,

17 uh, domain name.

18 M Yeah.

19 F Um, but a website refers to the content. Not the URL.

20 M Okay.

21 F Like...

22 M So you had two URLs.

23 F Right.

24 M (Unintelligible)

25 F A URL is like a telephone number. I mean...

26 M Okay.

27 F ...it's disassociated from the device itself.

28 M So the bo-, two URLs had the same content, just building on it as time

29 progressed.

30 F For the most part, yes.

31 M Okay, and then why the one, um, URL go offline?

1 F This was already discussed. I testified about it at the trial. Um, oh, you guys
2 really should be more, better informed, and I would think that since it took you
3 four weeks before you came and arrested me, which based on what you're
4 saying...

5 M Mm-hmm.

6 F ...based on this claim that as far as the Crown is concerned, the website's been,
7 uh, online all this time and...

8 M Mm.

9 F ...I failed to report four weeks ago, seems strange to me that you're coming and
10 arresting me on this now. I think it's something happened recently and I suspect
11 it's, like you're saying, the, the password thing went away on the weekend or
12 something? And I s-, I'm pretty sure that's why I've been arrest-, arrested now.
13 Like I'm quite confident, if th-, if what you're saying is true, um, and the password
14 that was on the website remained there, we probably would not be sitting here
15 right now.

16 M I don't know that that's true. I think that we thought you were leaving the Belkin
17 House this week is probably more accurate.

18 F I mean...

19 M And where were you gonna go? A lot harder target to find.

20 F But why would you think that I would stay at the Belkin House all this time
21 anyway? I mean it's no secret that I hate it here. I despise this country and I
22 hope you all just...

23 M Yeah.

24 F ...well, I won't say that. I m-, um, I'm sick of this country and the politics and the
25 raging feminism and all this, I m-, um, what was my point? Oh, yeah. Well, we
26 can choose to disagree on that. I'm, I'm choosing to believe that something went
27 wrong with the password or something over the weekend and (makes gesture).

28 M That's fine. It'll come o-, in trial anyways.

29 F No it won't.

30 M Uh, so you, the one URL went down, you were explaining that to me and then
31 you talked to me about how...

32 F (Nods head)

1 M ...it means you're better informed. Is that something you wanna continue? Or
2 are we just gonna leave that at that?

3 F Um, better informed meaning we've already covered all this ground. Like...

4 M At previous trials. Yeah.

5 F ...I testified about it and from the previous interrogations and...

6 M Okay.

7 F ...it (unintelligible) me as getting kinda repetitive (makes gesture).

8 M I get that. Yeah. Um, all right, so just so I summarize what you've been telling
9 me 'cause I wanna get it right.

10 F (Nods head)

11 M Uh, you haven't had the control of the website for years. Can you tell me like
12 how many years? Can I just have a ne-, a number on that?

13 F The current version of the website and I'm not saying the current...

14 M Desicapuano?

15 F Yes. The one accessible through that, uh, domain name.

16 M Mm-hmm.

17 F Um, went online in, sometime in 2018. I don't know exactly when because I was
18 in custody. I became aware of it in November or December of 2018. Um, and so
19 from that time until now, I have had no involvement in the website and I've had
20 no, uh, administrative access or authority or control over it.

21 M Okay, so i-, if I'm understanding correctly then, that's not your (phonetic) URL.
22 You didn't even create that URL?

23 F That is correct.

24 M But the content was transferred from your website that you had ownership of
25 onto this website.

26 F Yes because when I was arrested in 2016, I made arrangements with my friend,
27 Liz Munos...

28 M Mm-hmm.

29 F ...to, um, look after the website while I was in custody.

30 M Okay.

31 F Um, apparently she slipped up at some point and forget to renew the hosting
32 plan or something. That's why the original website went offline.

1 M Okay.

2 F Because she was responsible for looking after it. I guess she felt bad or

3 something and that's why she made the arrangements to have it put back online,

4 but the original domain name was no longer available, hence desicapuano.com.

5 M Okay. Thank you. So, and then further to that, Liz is the person who's arranging

6 for things. You don't have any access to the person who actually has control of

7 the site outside of the editor@desicapuano.com email.

8 F Um, to be a little bit more specific, I cannot say that Liz is currently or has

9 continued to arrange anything. Um, I know that she made the, uh, the original

10 arrangements for the site to be put back online...

11 M Mm-hmm.

12 F ...and then when I became aware of the site, I told her I don't want anything to

13 know, I do-, I don't want anything to do with it or anything to know about it. I

14 don't, sorry, my grammar's getting jumbled up. I don't want anything to do with it

15 or, and I don't want to know anything about it because of the probation conditions

16 and as long as I don't know who's running it or who's involved in it, then I can't be

17 compelled, um, to disclose that information. So, whether she continued to have

18 any involvement beyond that point or not, I couldn't say.

19 M And that was in 2016 when you initially gave her control of it? Or in 2018 when

20 the new website popped up.

21 F 2018.

22 M 2018. 'Kay. Um, and then you've just been sending your disclosure stuff through

23 to the editor email so that they had access to it through that?

24 F That's an inference that you're making, that you seem like you're trying to get me

25 to admit to, but I haven't actually said that I sent any disclosure to anybody.

26 M Okay.

27 F I said, um, for the sake of argument, if I had done that...

28 M Okay.

29 F ...it wouldn't violate any probation conditions. Um, but I did not state that I did or

30 didn't send any disclosure material to anybody. For that matter, I haven't even

31 stated that I've had any of that disclosure material in my possession.

32 M Okay.

1 F I can say that, uh, that disclosure material has been put onto the internet. I'm not
2 saying onto the website. I'm saying onto the internet in general, um, and that
3 occurred while I was in custody. So, again, couldn't've been me that done it
4 because I've been in custody.

5 M Mm-hmm. So you're saying the disclosure information from your court cases
6 have been on the internet, not necessarily this site, in other locations?

7 F Um, that's fair and reasonable to say, sure.

8 M Okay. Do you want to tell me any of those potential websites?

9 F No. Well, wait, wait. I'm not saying that it's on a website. I'm saying on the
10 internet.

11 M Mm.

12 F Um, a website is just a particular protocol or, uh, segment of the internet. The
13 internet is the actual network of computers.

14 M Mm-hmm.

15 F The World Wide Web or the, um, websites if you will, uh, that's just one part of
16 the internet.

17 M Okay. So information can be stored not necessarily connected to a URL is what
18 you're saying or (unintelligible)?

19 F Right, like there could be servers, um, that don't have a website or (unintelligible)
20 don't have, uh, a web server running on them and they're just used for storage or
21 something.

22 M Mm-hmm.

23 F So when I say that as far as I know, that disclosure material and other material
24 related to my cases, like transcripts and other interviews and videos and stuff,
25 um, when I say that as far as I know, it's on the internet, I mean it's on a
26 computer somewhere in the world that is connected to an accessible, via the
27 internet.

28 M So not necessarily retrievable by a Goggle short search.

29 F Oh, it absolutely wouldn't be...

30 M No. 'Kay.

31 F ...uh, accessible through Google.

32 M So like a personal computer that has access to the internet.

1 F Or a server.

2 M Or a server.

3 F Like any huge data centre in Phoenix Arizona with...

4 M Mm-hmm.

5 F ...a big GoDaddy sign on the front, for example.

6 M Okay. Right. And no idea how that would've gotten there.

7 F Even if I did, I wouldn't say.

8 M Yeah. Okay.

9 F And even if, even if I did have any idea how it got there, it has no bearing on the

10 probation conditions because, again, there is nothing in the probation conditions

11 that prohibits me from publishing or sharing or disseminating any information

12 about the cases.

13 M Mm-hmm. I guess except if that information hypothetically sent by you to this

14 GoDaddy big server ended...

15 F Mm-hmm.

16 M ...up on the desicapuano website.

17 F (Makes gesture)

18 M There's a bit of a nexus there.

19 F Um, well then there would be the issue of it being, um, how do they say, it being

20 associated with that particular domain name.

21 M Mm.

22 F Um, but, hm, like, I mean, the probation condition is so poorly written because

23 there's so many technical questions that come up from it, like exactly this one.

24 Um...

25 M Mm-hmm.

26 F ...like, okay, let's say if there's the domain name desicapuano.com, but the

27 website, all the content of the website gets deleted, so it's no longer there, but

28 the domain name is still there because you can't delete a domain name. I

29 mean...

30 M Mm.

31 F ...that, you just have to wait for it to, for the registration to expire. Um, so would

32 that mean that the condition has been complied with, if all the content of the

1 website is gone? Even though the domain name still remains? But if you try to
2 go to the site, you'll just get a, a 403 or a 401 error message...

3 M Mm-hmm.

4 F ...saying that the file doesn't exist. Well that would be a 404.

5 M Okay.

6 F Um...

7 M Are you asking me?

8 F Yes.

9 M Okay. Um, you know what? That's, that's debatable and I think we would go to
10 Crown for their guidance on that one.

11 F Mm. All right. So, let's say if the Crown then agrees that, okay, all the content is
12 gone, it's understandable that the domain name exists until it's, until the
13 registration is done and...

14 M Mm.

15 F ...I don't know how long it's registered for right now, but let's say a year or five
16 years or whatever.

17 M Mm-hmm.

18 F Um, but all the content is gone so they're satisfied with that. So then if
19 somebody uploads new completely different, unrelated content that has nothing
20 at all to do with Capuano, um, I mean, that's not a desicapuano or
21 desireecapuano website. It's still, but it's using that domain name.

22 M Mm-hmm.

23 F So is that violating the probation conditions?

24 M I think the challenge was it was created as a hate website, but if it's no longer
25 being used as...

26 F Please define the term hate website.

27 M Ah...

28 F You guys have used this a number of times and nobody can give any definition
29 for it, so...

30 M ...I guess harassment, targeting one particular person.

1 F Is telling the truth about somebody, is telling the truth about the bad conduct that
2 a person has engaged in that has harmed other people, is that considered
3 harassment?
4 M I think so, in a...
5 F Huh.
6 M ...public forum or...
7 F So...
8 M ...you're engaging with media and you're drawing attention to it.
9 F She's engaging with media. So let's say if a pedophile moves in next door...
10 M Mm-hmm.
11 F ...and there's people that live in my apartment building that have children and so
12 I put up a sign letting those people know, hey, watch your kids around him. He's
13 been convicted in the past of, uh, what do you call it, sexual interference or
14 something here?
15 M Mm-hmm.
16 F Um, so based on what you just said, that also would be harassment, wouldn't it?
17 M So are you comparing your ex-wife to a pedophile?
18 F I think my ex-wife is a lot worse than a pedophile, but...
19 M Yeah.
20 F ...that's just my opinion.
21 M Has she been convicted of anything?
22 F Please.
23 M Yeah.
24 F So if a person hasn't been convicted of something, does that mean that they
25 haven't done it?
26 M I just don't think you're comparing apples to apples, right?
27 F (Makes gesture).
28 M So i-, it has been determined by the courts...
29 F Mm-hmm.
30 M ...in Canada that it is a website used for harassment and victimization of your
31 wife, your ex-wife.
32 F Mm-hmm.

1 M Um, so I don't know...

2 F Well, if that's the case...

3 M Mm-hmm.

4 F ...then why do they insist on not prosecuting me for criminal harassment?

5 M Mm-hmm.

6 F I mean, I'm sure you've seen that aspect of my background that I've been

7 amending.

8 M That was the initial, that was the initial charge.

9 F Right.

10 M And so subsequently, it's, uh, sufficient to just keep running the breaches if you

11 continue to breach your conditions. There's no need to bring back another

12 harassment charge for that.

13 F Really.

14 M Mm-hmm.

15 F Okay. Kinda seems like prosecuting somebody for, um, trespassing when really

16 they committed a home invasion, but...

17 M It's about re-victimization, and I think that's probably been explained to you.

18 F Well, no, it hasn't because every time somebody brings up something like that,

19 then I point out, well, if the goal is to protect Capuano, then why is it that you

20 guys are focusing all your efforts on putting me in jail rather than focusing your

21 efforts on a US court order to take the website down...

22 M Mm-hmm.

23 F ...because...

24 M 'Cause you have openly stated that it doesn't matter where it gets hosted. You're

25 gonna keep poppin' it back up on the internet, or someone's gonna keep popping

26 it back on the internet. So is that the most valid use of our resources to

27 continue...

28 F Clearly (unintelligible) isn't accomplishing anything.

29 M ...to continue writing MLATs to get these websites taken down if they keep

30 poppin' up on different servers.

31 F It seems to me...

32 M Mm.

1 F ...that the tactic that you guys are taking...

2 M Mm-hmm.

3 F ...locking me up, is accomplishing absolutely nothing.

4 M Mm.

5 F The website is still there. Um, it seems to me that getting the US court order,

6 um, to take down the website, which I know part of the reason you won't do it is

7 because there's no way a US court would (unintelligible) order, but, um, it would

8 seem to me that that would probably be a much more effective route to go,

9 though.

10 M Mm-hmm.

11 F I mean, clearly locking me up is not accomplishing anything.

12 M No, and I think there is a theory that you, you like to be inside. I mean it's

13 interesting it's your last week at the Belkin House and all of a sudden the

14 passwords come off the website and you were expecting us.

15 F Of course I was expecting you.

16 M Mm-hmm.

17 F I was expecting you from the day that I was released, I mean...

18 M Yes, we, we were a bit tardy, weren't we.

19 F ...I was wondering what, what's...

20 M And so (unintelligible) a little bit more of, uh, incentive to get you...

21 F Uh-huh.

22 M ...quicker?

23 F Sure, okay.

24 M That's...

25 F Um, if my time was running out, okay, well...

26 M And you had no plans to go wer-, anywhere else.

27 F Mm, but let's say if my time at the Belkin House was running out...

28 M Mm-hmm.

29 F ...and what is the theory then that I was concerned that I was gonna be sleeping

30 on the streets?

31 M Yeah.

32 F Oh, okay, um...

1 M Did you have another plan?

2 F Yes.

3 M Okay, so you do have somewhere to go.

4 F Well, of course I've got places I can go. I can go back to Los Angeles. I've got
5 friends and family in Los Angeles. I'm sure I'll be okay when I get there.

6 M Mm.

7 F Of course it takes money to get there, but...

8 M Yeah. So not a, not a short-term solution. More of a long-term solution.

9 F (Nods head) (unintelligible)

10 M Yeah.

11 F Mm, anyway...

12 M Okay.

13 F ...yeah.

14 M Um, I'm gonna go pop out to my partner, see if there's anything that I missed
15 asking you.

16 F (Nods head)

17 M Um, and then if not, then I guess we can wrap this up.

18 F Great.

19 M Okay.

20 **Det. McElroy exits room**

21 **Long pause (ends at 14:18:51 video time stamp)**

22 **Det. McElroy enters room**

23 M All right, um, it looks like we're pretty much ready to wrap it up. Is there anything
24 that you wanted to say that you haven't said, any questions that you might have
25 or anything...

26 F Yes.

27 M ...okay.

28 F I would love for you guys to show me some proof, uh, to support this claim that
29 the website became publicly accessible over the weekend.

30 M Mm.

31 F Because it seems strange to me that we're going through all of this, yet there's
32 no actual proof of it. I mean, how do I know that any of this is even true?

1 M So what do you want, uh, like a screenshot? A captured screenshot?

2 F I would like you t-, I would like to see you pull up the website and show me right

3 now that it's actually accessible. Because a screenshot could've been taken at

4 anytime. It could've been doctored or something...

5 M Mm-hmm.

6 F ...and that doesn't prove anything.

7 M Okay. I won't be doing it on my personal device, but there is a computer next

8 door that we can pull it up on...

9 F Okay.

10 M ...and get that set, okay?

11 F (Nods head)

12 M Other than that, is there anything else?

13 F I don't believe that there is anything else that you would be able or willing to

14 assist me with at this time.

15 M Okay. All right. Um, I'll get that ready and then we'll, we'll wrap it up in here and

16 then go...

17 F Get that ready?

18 M ...well I'll just get it loaded up on the computer for you.

19 F Open a web browser and you just (unintelligible) (makes gesture) the URL.

20 M Yeah, I understand, but it's not a place that we typically let people who are in

21 custody in, so...

22 F Mm.

23 M ...we're gonna prepare the room...

24 F I see.

25 M ...and then get you into it. This is an interview room where it's prepared.

26 F Yeah, I understand. Um, seems suspicious to me, but okay.

27 M Okay.

28 F I don't know.

29 M All right. You've asked and I'm willing to comply with that request.

30 F (Nods head)

31 M But it's, it's nothing something that we do typically, so it will take a couple...

32 F (Nods head)

1 M ...minutes to prepare.

2 F Okay.

3 M If you'd like us to search it in front of you, I have no problem doing that, but I'm

4 not gonna bring you into the room without prepping my partner first and getting

5 everything out that we need to get out.

6 F Sure, course. Yeah, it just seems strange that you don't have like a device or

7 something that you could just put on the table here and go, you know, here's the

8 website. Here's proof that it's up and running.

9 M Yeah, no, I need to prepare that. We don't have a laptop.

10 F Maybe you should let me go and come arrest me again later when you're ready.

11 M Yeah? When, when works for you.

12 F Um, tomorrow morning works for me.

13 M Tomorrow morning? All right. I might have a conflict. We'll see if we can get this

14 set up today.

15 **Det. McElroy exits room**

16 **Long pause (ends at 14:27:53 video time stamp)**

17 **Det. McElroy enters room**

18 M Okay, so I did my best to try to get you access to it. Unfortunately, my work

19 firewall is not letting me into your site, so...

20 F Yeah.

21 M ...I can't provide you that at this point.

22 F Sure.

23 M Okay? Um, but...

24 F This, this sure is, yeah, I don't believe you.

25 M ...and that's fine.

26 F Um...

27 M That's fine. Um, I know that I've seen it. Our analyst has seen it. Crown has

28 seen it. So, um...

29 F (Nods head)

30 M ...if you need to see it at some point, I'm sure that will be allowed to you, but I

31 just can't operate, I can't give you that option right now.

32 F Uh-huh.

1 M Okay?

2 F (Nods head)

3 M Um, so if there's nothing else, I'll end the interview.

4 F Sh-, mm, wait, okay.

5 M Sure.

6 F So I just wanna make sure that this is clearly stated on the record...

7 M Okay.

8 F ...that I have been arrested and detained now based on an allegation that the

9 website became publicly accessible again within the past few days, yet for some

10 reason the VPD is not able to actually show me that the website is actually

11 online. That's...

12 M Okay. That's on the record.

13 F ...okay.

14 M Just to clarify that you are being arrested because it has been live since your,

15 um, release from custody and it hasn't been taken down, so...

16 F You've already admitted that you have absolutely no evidence to support that

17 whatsoever.

18 M Okay, but it's, it's, we-, your argument against what Crown is saying and so in

19 Crown's opinion, like we've discussed already...

20 F Mm-hmm.

21 M ...it has been live this whole time. We agree to disagree on that.

22 F Okay.

23 M But yes, you're right, I wasn't able to show you today.

24 F Right. Even though you have other devices that don't go through your firewall,

25 but now, well, okay, whatever. I, I think the whole thing is just a load of crap. I

26 think that...

27 M Yeah.

28 F ...you guys for whatever reason, or probably the Crown, for whatever reason, is

29 just tryin' to give me a hard time. Um, and that's why you're bringing up this thing

30 about like this reporting thing. I mean, the Crown himself stated that I was only

31 required to report one time.

32 M Mm-hmm.

1 F And I think you guys probably figured that I was gonna screw up or do something
2 wrong at some point and like it's been four weeks and I haven't done anything
3 wrong and so I think you just came and arrested me just for this n-, you'll find
4 something while I'm in custody for the next, well you will try anyway. I don't
5 believe you about this website, about it being online and stuff. I think this is just
6 nonsense that you guys are making up so you can justify bringing me down here,
7 so...

8 M Okay, I'm sorry you feel that way.

9 F Mm.

10 M Um...

11 F I mean, your inability to, like you guys didn't print out any pages from it? You
12 didn't like, it was online at some point (unintelligible)?

13 M Will you accept a printout? I can get my analyst to send me something and I can
14 print it.

15 F That would be something...

16 M Okay.

17 F ...at least.

18 M That's fine. I'm just not gonna search it on my personal phone because...

19 F Search.

20 M ...I believe that you still have, um, access to the website and likely might be able
21 to have access to that information, so we are gonna disagree about that, but...

22 F Oh.

23 M ...I can get you a printout if...

24 F Sure.

25 M ...you would like.

26 F Um, I mean, sure, that's fine, but like I said, a printout doesn't really prove
27 anything because it's (unintelligible).

28 M Okay, so what do you want me to do here, Mr. Fox? I can, I tried to do what you
29 asked me.

30 F Yes, and you're not able to.

1 M I'm not able to. I won't be doing it on my personal phone. That's the only other
2 option I have right now. I can send you a d-, a stamp of what the analyst will be
3 giving in court. I can get that printed out.

4 F (Nods head)

5 M They can send that to me right now and I can print it out and show you. What
6 would you like?

7 F Um, none of that would prove anything, so there's no point.

8 M There's no point. Okay. All right. So then I'm gonna end this interview.

9 F Okay.

10 M Okay, so it's 12, or sorry, 2:31. Uh, we'll end, uh, the interview. Uh, we're gonna
11 keep this recording live, though, but the audio-video in here will stop.

12 F (Nods head)

13 M Okay? And we'll be ready to go in just a minute.

14 **Det. McElroy exits room**

15 F (Shakes head)

16 **RECORDING ENDS**

17 **Transcribed By: VA5430 / 2022-09-14**

18 **Transcript Proofed By: Detective 2343 Amber MCELROY/October 12, 2022**



Recorded Transport from Interview Room to Jail with Patrick FOX

May 16, 2022

Incident #22-66177

M – Detective Constable 2343 Amber MCELROY

K – Constable 3284 Jin KIM

F – Patrick FOX

Transcript begins at E.T. 01:38:50

Long pause (ends at E.T. 01:39:30)

F (Unintelligible)

Long pause (ends at E.T. 01:44:03)

M Okay, Mr. Fox. I'm gonna get you to stand up. I'm gonna put you in cuffs again.

F Front or back?

M Um, we're gonna do back, but I'll double-...

F Mm.

M ...lock 'em. Were they closing on you last time?

F No, it's just, you know, I'm such a big security risk.

M Yeah, I know. We don't typically do front except for pregnant people.

F Really?

M Yeah.

F The last time you guys handcuffed me in the front. In fact, most of the time I wasn't even handcuffed at, at all.

M Oh, really?

F Yes, when we were outside smoking cigarettes and s-, well, I was smoking.

M You were...

F Dent and Roberts were just kind of standing around.

M Okay. That's fair. Different, uh, strokes. Let me double-lock them here for you.

They're not too tight so they should be fine. You're not gonna be in them very

long. There we go. Thank you. Alright, there we go.

F So, um...

M Thanks for that. Mm-hmm.

1 F ... (unintelligible) to point out that the allegation is that I have something to do with
2 the website, and the website is back online, so now, over here?

3 M Yeah.

4 F And now the Crown is going to seek my detention where I'll be in custody and
5 physically incapable of taking the website down. Nice.

6 M Well, the argument would have been that you had four weeks to take it down.

7 F But regardless, so now if I go to custody for nine...

8 M Mm.

9 F ...months...

10 M Mm-hmm.

11 F ...that's nine months that, uh, even if I had the ability to take it down, um, I
12 wouldn't have to because I'm in custody. Can simply say that, 'cause I'm in
13 custody, I don't have access to the Internet and therefore I can't take it down.

14 M But you still have access to the phone. And you've said that other people have
15 access to the Internet and they can do that for you, right?

16 F No, I never once said that...

17 M (Unintelligible)

18 F ...other people could do that for me.

19 M Well...

20 F What I said was that I have no idea who is running the website.

21 M Yeah. So even if you had access to the Internet, your argument is that you can't
22 take the website down. So...

23 F That's (unintelligible).

24 M ...when you're in custody...

25 F Yes.

26 M ...yes...

27 F Um, (unintelligible)...

28 M So it wouldn't matter whether you had Internet access or not while you're in
29 custody, 'cause you don't have power over the Internet, or the website.

30 F Yes. Based on my argument, yeah.

31 M (Unintelligible)

32 F But the Crown and the police are (unintelligible) control over it.

1 M Mm-hmm.

2 F Which is why it seems retarded then to detain me, because by doing that they're

3 just ensuring that I wouldn't be able to, uh, do anything with it.

4 M Mm-hmm.

5 F This came up at the previous bail hearing before.

6 M Yeah?

7 **Short pause**

8 F Down here?

9 M Yeah. 2:39, arrived at the jail. We're just gonna go, actually we'll wand you first

10 (unintelligible).

11 F Uh, is there any property you guys are seizing at this time or...?

12 M Just your, uh, the two USBs...

13 F (Unintelligible)

14 M ...the two SD cards, your phone, and your tablet.

15 F So all the electronic stuff.

16 M Yeah.

17 F Why do you guys keep seizing my electronic stuff, not getting any evidence from

18 it, and then you'll hold it for like three years? Like I just got those things back a

19 few days ago. I mean literally a few days ago.

20 M Yeah. It takes a while to get into them, especially when we don't have the

21 passwords. Did you want to provide the passwords?

22 F No.

23 M Okay.

24 F But they're also encrypted, so passwords...

25 M Yeah.

26 F ...are not (unintelligible).

27 M So it's gonna take a while. So that slows down our process, right?

28 F It's not that it's gonna take a while. It's not...

29 M Mm-hmm.

30 F ...gonna be possible.

31 M Oh, okay.

32 F Um, USB drives aren't encrypted.... Is this (unintelligible) female?

1 M No. It's female. Go to the next one.

2 F There's nothing significant (unintelligible).

3 M Oh.

4 K I'm pretty sure they said female (unintelligible).

5 M Oh. They said female. Sorry. 'Kay. So you, we can't get into anything, you're

6 saying?

7 F You'll be able to get into the USB drives. But like I said, there's nothing of

8 interest on there. There's scanned transcripts and scanned legal documents

9 because I have all this legal material that's been given to me in paper format...

10 M Yeah.

11 F ...that I've been scanning...

12 M Okay.

13 F ...um, into PDFs.

14 K Right.

15 M Okay.

16 F That's all you'll find on those. The phone and the tablet, those are encrypted, so

17 you won't find anything on there.

18 M Okay. Good to know, thank you. Uh, 2:40. Uh, Mr. Fox is in holding cells. End

19 of recording.

20 F (Unintelligible)

21 **RECORDING ENDS**

22 **Transcribed By: VA5338/2022-09-13**

23 **Transcript Proofed By: Detective 2343 Amber MCELROY/October 12, 2022**

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