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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**PETER SANTILLI,**

**Defendant.**

**Case No. 3:16-cr-00051-BR**

**MEMORANDUM IN SUPPORT OF  
MOTION TO DISMISS – VAGUE  
AS-APPLIED**

**I. The Issues**

The issues here are whether 18 U.S.C. § 372 is so vague that it failed to put Santilli on notice that his conduct was unlawful and whether the statute failed to set forth sufficient standards to guard him from arbitrary enforcement. Section 372 reads:

If two or more persons ... conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined under this title or imprisoned not more than six years, or both.

For purposes of this motion, Santilli accepts as true the factual allegations in the Complaint.<sup>1</sup> A copy of the relevant part of the Complaint is attached as Exhibit A. In sum, the Complaint alleges that Santilli put out several rally calls via his public Internet broadcasts for a “hundred thousand people” to come to Oregon lawfully and constitutionally. One time, he called for people to “staff up” and come exercising their Second Amendment right to bear arms. The questions here are whether the law is clear enough to put a person on notice that this conduct was in violation of the law and was it so vague that it allows arbitrary enforcement.

## **II. Applicable Law**

“Vagueness doctrine is an outgrowth ... of the Due Process Clause of the Fifth Amendment.” *United States v. Williams*, 553 U.S. 285 (2008). “It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined.” *United States v. Kim*, 449 F.3d 933, 941 (9th Cir. 2006). To be clearly defined, a penal statute must give persons of “common intelligence” fair notice about “what the State commands or forbids.” *Lanzetta v. New Jersey*, 306 U.S. 451, 453 (1939). “A criminal statute is void for vagueness if it is not sufficiently clear to provide guidance to citizens concerning how they can avoid violating it and to provide authorities with principles governing enforcement.” *United States v. Harris*, 705 F.3d 929, 932 (9th Cir. 2013); *see also Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972) (A statute is impermissibly vague if it does not provide fair warning of the prohibited conduct and creates a risk of arbitrary enforcement.). “Vague statutes are invalidated for three reasons: (1) to avoid

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<sup>1</sup> Under FRCrP Rule 12, a “party may raise by pretrial motion any defense, objection or request that the court can determine without a trial on the merits.”

punishing people for behavior that they could not have known was illegal; (2) to avoid subjective enforcement of laws based on ‘arbitrary and discriminatory enforcement’ by government officers; and (3) to avoid any chilling effect on the exercise of First Amendment freedoms.” *Humanitarian Law Project v. Mukasey*, 552 F.3d 916, 928 (9th Cir. 2009).

Importantly, when criminal sanctions are involved, “the requirement for clarity is enhanced.” *United States v. Harris*, 705 F.3d 929, 932 (9th Cir. 2013). Additionally, when a statute “interferes with the right of free speech or of association, a more stringent vagueness test should apply.” *Holder v. Humanitarian Law Project*, 561 U.S. 1, 18–19 (2010).

### **III. Section 372 provided insufficient notice that Santilli’s actions were criminalized.**

In an as-applied challenge, the court must consider “whether [the] statute is vague as applied to the particular facts at issue . . . .” *Id.* Santilli has a constitutional right to speak his mind and to broadcast his speech, even if the substance of the speech and broadcast is critical of the government. “Indeed, a citizen’s right to be critical of government and government officials lies at the core of the principle of free speech.” *Casey v. City of Cabool, Mo.*, 12 F.3d 799, 803 (8th Cir. 1993). His actions in Burns were pure speech. Unlike many of the defendants, he never armed himself, never patrolled the Malheur National Wildlife Refuge (MNWR), and never “occupied” the MNWR. Santilli came to Oregon to report and broadcast the actions of others, and in doing so exercised his right to express his own opinions. His presence in Burns was directed at covering—

through interviews, videos, and his own reporting—the occupation occurring there. As reported by the Huffington Post,<sup>2</sup>

Santilli was often seen at the wildlife refuge brandishing a camera on a pole, and wearing a bright vest that said press. When the occupiers held one of their morning press conferences, he wasn't behind the podium — he was in the pool asking questions and heckling reporters. "I'm here acting as a reporter," Santilli told The Huffington Post in an interview in the refuge parking lot on Jan. 3, well before the confrontation that ended in his arrest.

The New York Times reported that "Pete Santilli, a radio host, is also on site: he roves the refuge (and the city) with a camera rig on a stick, streaming video. He also heckles journalists and locals."<sup>3</sup>

In addition to exercising his First Amendment rights to speak and publish information, Santilli also exercised his right to peaceful assembly. During his time in the Burns area, Santilli called for others to come to Oregon. He called for them to come and witness the event, to come peacefully, to come lawfully, and to come constitutionally. On January 5, 2016, Santilli posted a video saying, "Here is what we need.... I'm not armed. I'm armed with my mouth. I'm armed with my live stream. I'm armed with a coalition of like-minded individuals who sit at home and on YouTube and watch this." On January 6, 2016, Santilli made a similar call in a video published on the Internet: "We need to join together, one hundred thousand, unarmed men and women, one hundred thousand of them, whether they be from the outside or they be from here in this local county." He made a

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<sup>2</sup> Dana Liebelson et al., *One Of The Men Arrested In Oregon Occupation Says He's A Journalist*. Huffington Post, Mar. 3, 2016. Available at [www.huffingtonpost.com/entry/pete-santilli-oregon-occupation-fbi\\_us\\_56b2469ce4b04f9b57d8173f](http://www.huffingtonpost.com/entry/pete-santilli-oregon-occupation-fbi_us_56b2469ce4b04f9b57d8173f).

<sup>3</sup> Julie Turkewitz, *Inside the Armed Standoff in Oregon: Reporter's Notebook*. N.Y. Times Jan. 14, 2016. Available at [www.cnn.com/2016/01/07/us/oregon-armed-protest-monte-kingen-ryan-bundy-interview/index.html](http://www.cnn.com/2016/01/07/us/oregon-armed-protest-monte-kingen-ryan-bundy-interview/index.html).

similar call on January 7. On January 12, 2016, Santilli published another call for others to come stand with him at a town hall meeting in Burns, asking them to stand “shoulder to shoulder with [him] with flowers and determination ... Please join me at this meeting.” And on January 21, 2016, while live-stream broadcasting his drive to Burns after covering a meeting between Ammon Bundy and the FBI and learning that law enforcement agencies were building up a large triage area at the hospital, Santilli broadcast another call for patriots to come to Burns and lawfully and constitutionally exercise their right to bear arms under the Second Amendment. He says, “Good patriots will do good things. ... All you patriots out there, it’s time to staff up.” Santilli goes on to broadcast the following:

I’m gonna say this right now, loud and clear, and I want to put it out to every one of you patriots out there right now. This is to provoke constitutionality, okay, only! ... If you’re a patriot, ok, and you believe in what we’re doing here as to ah protecting our god given rights, okay, you need to get in your car and come out here ok. Good patriots will do good things. Now’s the time, time to staff up, okay. Time to staff up. I, I saw a compound that is so [video skips] ... alright, that’s what I’m calling for, that’s what I’m provoking here, alright! Uh, we have a Second Amendment right uh to do that, to keep and bear arms. So those patriots that do keep and bear arms lawfully and constitutionally, it’s time to staff up now! Right now.

Santilli never called for people to occupy the MNWR, to harass or impeded government workers, or to use force, intimidation, or threats. Review of his actions and the text of Section 372 demonstrates that Section 372 does not provide notice that it might be invoked to criminalize these acts of speech and assembly.

As noted in co-defendant O’Shaughnessy’s memorandum of law regarding the vagueness of § 372, the statute is a long, convoluted sentence that fails to define its terms or articulate a necessary mental state. Nothing in the perplexity of § 372 fairly notifies Santilli, or anyone else, that broadcasting an oratorical call for people to legally travel to Oregon is proscribed. Specifically, § 372 gives no guidance in determining whether a

public encouragement to others to come to Oregon with their legal firearms was a “force, intimidation, or threat” that would prevent unknown persons from beginning to discharge their unknown duties.

Additionally, the lack of notice provided by § 372 is reflected by law enforcement never indicating that Santilli’s rally calls violated any laws. As set out in the Complaint, Santilli was making these rallying calls from the day he started his drive out to Oregon from Cincinnati. After his broadcasts changed from covering people supporting the Hammonds in Burns to covering the protest at the MNWR, Santilli continued to make rally calls for lawful assembly. All of his calls were broadcast publicly over the Internet. Law enforcement officers were aware of his rally calls; Santilli was live-streaming unfiltered coverage, and law enforcement officers were viewing the coverage like many others who were interested in what was occurring. Not once during the time he was in Harney County did any law enforcement officer tell him that his calls violated the law in any way, so he continued to rally people to the area.

The lack of notice and risk of arbitrary enforcement is highlighted by the fact that Santilli has used his Internet broadcasts to make similar rally calls for people to join other protests. In April 2015, he made a call for people to join him in Baltimore when people were protesting in the streets over a police officer killing Freddie Gray.<sup>4</sup> A year prior, he made rally calls at Bundy Ranch standoff in Nevada where he broadcast the standoff over the Internet. The Indictment in that case alleges Santilli made similar calls to have people travel to the area. Paragraph 62 of the Indictment alleges Santilli used his broadcast to encourage people to travel to Bundy Ranch, “telling listeners, among other things, that:

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<sup>4</sup> “Baltimore Beatdown: Everyone Who Can Needs To Get To Baltimore.” Available at <https://youtu.be/XBDPLfhxYWE> (published Apr. 24, 2015).

if this is not the issue right now where we stand and fight to the absolute death there is no other option; the federal government must get out of the State of Nevada ... if they don't want it to be peaceful it is by their choice ... I'm calling on all Americans anywhere in the vicinity of Clark County, Nevada ... if you're in Nevada and can legally carry, get weapons out there, o.k .... we are going to stand and fight in Clark County, Nevada ... they will leave or else.

The government further alleges, *inter alia*, that in Nevada Santilli broadcast online recruiting calls for gunmen and followers. The statements include, for example, “we need strength in numbers,” “now is the time to show up,” “it’s time to make a stand against tyranny,” “we need to disperse them [BLM agents] with tens of thousands . . . we can win with numbers,” “we need a show of force . . . get out here no matter where you are . . .” and called on “all Americans anywhere in the vicinity of Clark County, Nevada . . . if you’re in Nevada and can legally carry, get weapons out there, o.k. . . we are going to stand and fight in Clark County, Nevada . . . they will leave or else.” *Superseding Indictment* at 22–28 (2:16-cr-00046-MGN-PAL Document 27).

If those allegations are true, Santilli played a far more active role in the Nevada standoff than he did in Oregon. However, he was not arrested nor charged with any crime—let alone § 372—for his actions in Nevada at that time. He was not given any notice that what he was doing was unlawful. No law enforcement officer ever told him that his calls were in violation of the law. In fact, no one involved in that standoff was arrested or charged at the time. No meaningful action was taken against anyone involved until after the MNWR protests were underway.<sup>5</sup> Until he was indicted in this case in January 2016, there was no reason to believe that his rally calls violated the law.

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<sup>5</sup> Mr. Santilli was not charged for his actions in Nevada until February 17, 2016, after his Oregon arrest on January 26, 2016.

Santilli was not emboldened to continue his broadcasting because he had “gotten away” with it in Nevada. He continued his broadcasting and his calls for constitutional assembly because he had no notice that it was proscribed conduct. Section 372 is not a clearly written law, and while there may be conduct that is clearly within its proscriptions, Santilli’s conduct is not. He was exercising fundamental constitutional rights of speech, press, and assembly. Given the heightened need for clarity when it comes to criminalized constitutionally protected conduct, this statute is too vague to fairly apply to Santilli in this case.

**IV. Section 372 is unconstitutionally vague because it allows arbitrary enforcement.**

Section 372 is also void for vagueness as applied to Santilli because it is so standardless that it permits arbitrary enforcement. Here, the “discriminatory enforcement of a speech restriction amounts to viewpoint discrimination in violation of the First Amendment.” *Foti v. City of Menlo Park*, 146 F.3d 629, 635 (9th Cir.1998). Santilli was one of many members of the press on location covering the MNWR protests.<sup>6</sup> Mr. Santilli

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<sup>6</sup> Jeremy Lott, *Occupy Burns doesn’t lack for reporters*. Washington Examiner Jan. 7, 2016. Available at [www.washingtonexaminer.com/occupy-burns-doesnt-lack-for-reporters/article/2579851](http://www.washingtonexaminer.com/occupy-burns-doesnt-lack-for-reporters/article/2579851); see also Julie Turkewitz, *Inside the Armed Standoff in Oregon: Reporter’s Notebook*. N.Y. Times Jan. 14, 2016. Available at <http://www.cnn.com/2016/01/07/us/oregon-armed-protest-monte-kingen-ryan-bundy-interview/index.html>; Carissa Wolf, *Reporters and gawkers outnumber occupiers at Oregon site*. Washington Post Jan. 5, 2016. Available at [https://www.washingtonpost.com/national/visitors-find-more-reporters-than-occupiers-at-oregon-site/2016/01/05/f804f13c-b407-11e5-a842-0feb51d1d124\\_story.html](https://www.washingtonpost.com/national/visitors-find-more-reporters-than-occupiers-at-oregon-site/2016/01/05/f804f13c-b407-11e5-a842-0feb51d1d124_story.html)



did not stay a single night on the refuge, but two Reuters reporters did.<sup>7</sup> He was not affiliated with a mainstream news organization, but nor was an eleven year-old who did an interview with the Bundys.<sup>8</sup> He was welcomed into the refuge and given access to the Bundys, but so were other reporters.<sup>9</sup> He was, however, the most outspoken and critical member of the media, and he was the only reporter arrested and charged in this case. It appears the Government selected Santilli for prosecution because his views were aligned with the protesters who occupied the MNWR or because he was critical of the government in his coverage.

There were other people who made similar rallying calls for people to come to the area, and they were not charged or arrested. BJ Soper, a founding member of the Pacific Patriot Group and the president of Oregon 3%, called for thousands of people to converge on Burns to tell the FBI to leave. (MNWR\_0001248, 0001296). Operation Mutual Defense board member Gary Hunt issued a call on its website for people to come directly to the Refuge to help, which Santilli never did. Hunt wrote, “You have an obligation to proceed to the Harney County Resource Center (the wildlife refuge) immediately. If you fail to arrive, you will demonstrate by your own actions that your previous statements to defend life, liberty and property were false.” (MNWR\_00001288).

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<sup>7</sup> Jonathon Allen & Jim Urquhart, *Pizza, rifles, and tensions: A night inside the Oregon protest*. Reuters Jan. 7, 2016 Available at [www.reuters.com/article/us-oregon-militia-refuge-insight-idUSKBN0UL0DW20160107](http://www.reuters.com/article/us-oregon-militia-refuge-insight-idUSKBN0UL0DW20160107)

<sup>8</sup> Paul Vercammen & Michael Martinez, *Cub Reporter Lands Interview with Leaders of Oregon Occupation*. CNN Jan. 7, 2016. Available at [www.cnn.com/2016/01/07/us/oregon-armed-protest-monte-kingen-ryan-bundy-interview/index.html](http://www.cnn.com/2016/01/07/us/oregon-armed-protest-monte-kingen-ryan-bundy-interview/index.html).

<sup>9</sup> Julie Turkewitz, *Inside the Armed Standoff in Oregon: Reporter's Notebook*. N.Y. Times Jan. 14, 2016. Available at [www.cnn.com/2016/01/07/us/oregon-armed-protest-monte-kingen-ryan-bundy-interview/index.html](http://www.cnn.com/2016/01/07/us/oregon-armed-protest-monte-kingen-ryan-bundy-interview/index.html).

**V. Conclusion**

18 U.S.C. § 372 both failed to give adequate notice that Santilli's actions were prohibited and is so unclear that it allows arbitrary, view-point focused enforcement. Thus, § 372 is unconstitutionally vague as applied to Santilli.

Dated this 27<sup>th</sup> day of April 2016.

Thomas K. Coan

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Attorney for Defendant<sup>10</sup>

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<sup>10</sup> Attorney Emily Elison provided substantial assistance in preparing this memorandum.



**SANTILLI**

42. Law enforcement became aware SANTILLI has been in Harney County, Oregon, since January 2, 2016, but the exact date of his arrival in the area is unknown. SANTILLI operates a channel on YouTube called “Pete Santilli Show.” Details of the channel indicate it is categorized as entertainment under a standard license for YouTube. SANTILLI has posted video to the channel concerning the Hammond family and has been calling for people to come to Oregon since at least December 27, 2015. SANTILLI often streams live video from his YouTube channel. All video referred to in this affidavit has been preserved by law enforcement agents. In the referenced videos, SANTILLI often wears a vest which says “PRESS” with his name below it. SANTILLI has identified himself as a member of the Oath Keepers and wears insignia which indicates his affiliation with the III% group, detailed below. According to open source information, the Oath Keepers and III%ers have been identified as organizations associated with the anti-government patriot movement.

43. On December 27, 2015, a video was posted on SANTILLI’s YouTube channel “Pete Santilli Show” titled “Operation Hammond Ranch – Patriot ALL-CALL Deployment to

Oregon.” In the video, SANTILLI mentions known armed occupiers RITZHEIMER and O’SHAUGHNESSY and states they have “put out an all call for all patriots to respond. It was a call to action, all patriots to respond no later than January 2 to Oregon.” SANTILLI also states:

There’s going to be a lot of updates coming, ok. Ah, a lot of stuff that’s going to be happening out there, I can’t go into the exact details, because a, I don’t have all the details. I ah, I, let’s call it, um, I’m not a, I need to be on a need to know basis. I’m going to be, as a member of the media, ah, exercising my First Amendment rights to cover this stuff for the American public cause the main stream media is not going to be bringing you what we are going to be bring to, bringing you as to what’s happening, ah, at Hammond Ranch. So, ah, we are calling it initially here Operation Hammond Ranch. That may change, ah, but we want to bring awareness to Hammond Ranch.

SANTILLI continued in the video by stating:

What it’s about, it’s in Oregon, ah, and we need you to get out there, ah, this is an all call, ah, it’s been green lighted, for all patriots to respond to Oregon on or before January 2, ah there’s going to be a patriot convoy on January 2. You’ll be getting those exact details. So I’m Pete Santilli. Be sure to like, comment, subscribe, and share the heck outta this thing. Get the word out, ah, to all patriots that can get out there, especially in the Pacific Northwest. Ah, you must get out there, ah what is happening here . . . .

SANTILLI continues:

Ok, ah, we got the Federal government running around as if they’re trying to protect us from terrorism. No, they’re trying to shut down patriots like me, Schuyler Barbeau, throw them in jail, throw the Hammonds in jail, call them terrorists, and, ah, let all the Syrian refugees come in. We’re not going to let it happen. We’re going to take a stand . . . . Ok, I’m sure they had original intentions to be extremely peaceful. Ah, of course, ah, we, ah, we must get the Federal government to comply with our peaceful demands, ah, otherwise we have to explore all opportunities that we have made available to us through our founding fathers. So, ah, um, be prepared, be alert, um, and definitely respond to this call of action, call to action folks, all call, all patriots get out there. Thank you. Alright, here we are.

44. On January 2, 2016, a video was posted on YouTube channel “Pete Santilli Show” titled “[Live feed 2] Operation Hammond Ranch.” The video appeared to be filmed in the parking lot of the Safeway grocery store in Burns, Oregon, prior to a scheduled protest at

noon the same day. In the video, SANTILLI states, "Hey ladies and gentlemen, I just want you guys to know, I want it stated for the record here on the Pete Santilli Show." SANTILLI then turns and faces the camera directly and states: "Hey Stewart Rhodes, I tore up my membership card. I'm still an Oath Keeper, homey, huh, how does that work? I don't need your card. I don't need to pay your membership dues." SANTILLI then turns away from camera and addresses others and says: "I tore up my card. I tore up my card. I tore up my card. I'm still an Oath Keeper. See how that works?" SANTILLI then turns back to camera and says: "You know what, sue me. I got nothing. I got a freaking, I got an ash tray and a freaking pocket a hole. That's it. Sue me. Sue me. I'm an Oath Keeper. Can you imagine that? I tore up my card. I didn't blow up. It's amazing."

45. On January 2, 2016, a video was posted to YouTube channel "Pete Santilli Show" titled "Live feed Hammond ranch." The following conversation was heard on video but took place off-camera:

Ammon BUNDY: Hey we're continuing the stand. We're continuing the stand [at/out] the MNWR.

SANTILLI: Ok.

Ammon BUNDY: Let everybody know that.

SANTILLI: Ok.

Ammon BUNDY: They're to go to the MNWR . . . [inaudible] . . . after the rally . . . MNWR right after.

SANTILLI: [Coming back on microphone]: Ok, here we go . . . . [Returns to protest].

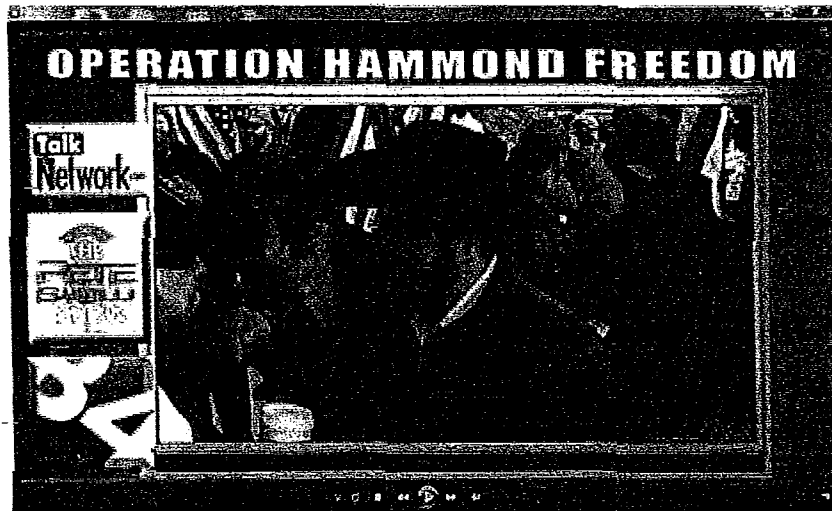
Also captured in the same video, an unidentified male greets A. BUNDY, and states he was with A. BUNDY in Nevada. The following conversation was then captured on video:

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Ammon BUNDY: We're continue the stand . . . [becomes inaudible as SANTILLI's cameraman moves away, and bumps into someone].

Cameraman: I was trying to get away from that conversation.

Below is a still frame shot from the above conversation as A. BUNDY speaks to the unidentified man.



46. Later, on the same video, the camera pans back as A. BUNDY leans in to SANTILLI and says, "Malheur, Malheur." The below still shot captures the moment A. BUNDY is talking to SANTILLI (SANTILLI is facing away from camera with mesh vest and black baseball cap). SANTILLI appears to acknowledge A. BUNDY and then pulls A. BUNDY in for a public speech on SANTILLI's live stream.



47. On January 5, 2016, a video was posted on YouTube channel “Pete Santilli Show” titled “Live update Burns Oregon #aslongasittakes.” In the video, SANTILLI states: “We want a constitutional sheriff, constitutional peace officers, but here is what we need, most importantly, ok, this is what we need, now I’m gonna say this and I am going to be talking about it throughout the day: one hundred thousand, unarmed, men and women, to stand together. It is the most powerful weapon in our arsenal, those guns that we were talking about, those that were carrying guns . . . .” SANTILLI then talks to a gas station attendant and repeats the same call for one hundred thousand people.

48. Also on January 5, 2016, a video entitled “#aslongasittakes” was live-streamed for several hours. The video started on January 5, 2016, continued into January 6, 2016, and was posted on YouTube channel “Pete Santilli Show.” The video is filmed at or just outside the MNWR. The location of the video outside the MNWR was confirmed by a Federal Wildlife Officer of the U.S. Fish and Wildlife Service. During the video, SANTILLI stated, “We’re not fucking going nowhere.” SANTILLI later stated, “Here is what we need. I’m gonna tell you something right now. Captain Joe, myself, I’m not armed. I am armed with my mouth. I’m armed with my live stream. I’m armed with a coalition of like-minded individuals who sit at home and on YouTube and watch this.”

49. On January 6, 2016, a video was posted on YouTube channel “Pete Santilli Show” titled “press conference.” In the video, SANTILLI states, “We need to join together, one hundred thousand, unarmed men and women, one hundred thousand of them, whether they be from the outside, or they be from here in this local county.”

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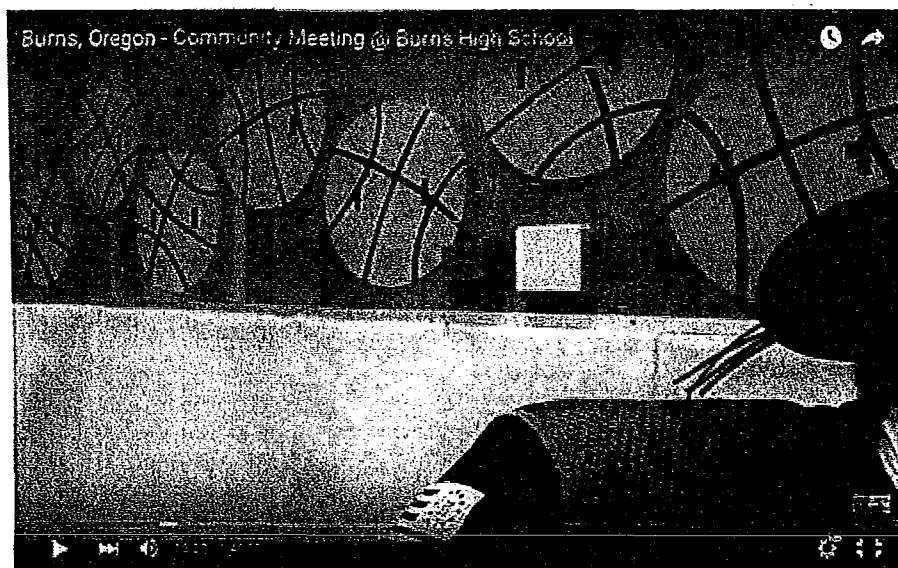
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50. On January 7, 2016, a video was posted on YouTube channel "Pete Santilli Show" titled "Live From Burns, Oregon - #aslongasittakesoregon." In the video, SANTILLI states:

I want one hundred thousand people out here, shoulder to shoulder, uh, unarmed. That's what I am calling for. Out here, between, and and to learn, ok, and to also protect the good souls that are inside, uh, if the Sheriff's department is telling you not to come out here, ok, uh, that means that they are trying to keep you away from the truth. . . . Ok, this learning experience that is going to take place here in the coming days, you guys are going to be blown away as this thing starts to unravel, uh, but you need to come out here, ok, you need to come out and not cower in fear . . . .

51. On January 11, 2016, a video was posted on YouTube channel "Pete Santilli Show" titled "Burns, Oregon – Community Meeting @ Burns High School." In the video, SANTILLI can be seen wearing III% on the sleeve of his shirt, shown below.



52. On January 12, 2016, a video was posted to YouTube channel "Pete Santilli Show" titled "1/12/16 Day 11 – Update [1] from Malheur Wildlife Refuge in Burns, Oregon - #OregonFront." In the video, SANTILLI states:

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I give you my word from this point forward, I will be lawful, I will be constitutional, ok, but I want to stand with you shoulder to shoulder, in opposition to what is happening here in Burns, and I want to crush communism here in Burns, and I want to crush socialism here in Burns, and I want to call upon everyone, if we can get one hundred thousand people standing shoulder to shoulder with me with flowers and determination, to take a stand against what's happening here in Burns. I want you to join me at this meeting. Please join me at this next meeting. Please. I'm going to go . . . .

53. On January 17, 2016, a video was posted to an Internet video sharing website by user "Veritas 13 Fox" titled "Press Brief, FBI Cam#, & Calling BS on ABC News." In the video SANTILLI can be seen standing behind Finicum, with RITZHEIMER and another occupier, at the main entrance to the MNWR. The vest SANTILLI is wearing has a clearly visible Oath Keeper patch on front. The vest also reads "PRESS" on the back. The video depicts that just prior to the press conference, SANTILLI whispered something in Finicum's ear and patted him on the back. After Finicum stated that the property does not go back to the BLM and then stated, "It does not return to the federal government," SANTILLI put his arm around the individual standing next to him. After Finicum spoke, SANTILLI addressed the media and said:

LaVoy's ah, offered me the opportunity to come up and speak to the members of the press. Uh, my name is Pete Santilli, uh for those of you that don't know me, uh I've accumulated approximately fifteen million uh minutes of viewing time, on the stream total combined uh worldwide, and I want to uh let the main stream media know uh that those that are not watching the stream or haven't been tuned in to my show, shame on each and every one of you. For those people that have been following the main stream media . . . [inaudible] . . . still asking the question. After twelve, thirteen days of being out here people are still wondering what the core issues are here, on this land. Shame on each and every one of you, millions of dollars being spent, you have an obligation to communicate to the public, and unfortunately your filtering [inaudible] . . . the public is not well informed.

A screen shot of the video is shown below:

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54. On January 21, 2016, a video was posted to YouTube channel "Pete Santilli Show" titled "BREAKING: Ammon Bundy Meets & Negotiates With FBI [EXCLUSIVE]." In the video, A. BUNDY can be seen and heard speaking with FBI personnel over a speaker on a cell phone. CAVALIER is standing beside A. BUNDY. SANTILLI introduced himself to several people as he filmed what was going on. Approximately thirteen minutes after leaving the meeting and while driving away, SANTILLI had the following conversation with a second person in his vehicle, who is off-screen, operating the video camera:

Camera person: They're amping up their uh little camp there. You know they are building, they have built a uh very large triage in the hospital. We have, we've confirmed that, we have, and we've also noticed in the last week that they're starting to uh get closer and closer to the refuge.

SANTILLI: Can I say something? Can I add something?

Camera person: Well of course.

SANTILLI: This is what I wanna tell, and good patriots will do good things, that's what I'm calling for. All you good patriots out there, it's time to staff up. Ok.

Camera person: Staff up? Yes.


SANTILLI: I'm gonna say this right now, loud and clear, and I want to put it out to every one of you patriots out there right now. This is to provoke constitutionality, ok, only! That's it. So don't say 'oh my goodness lo lo lo, shut your cake hole!' If you're a patriot, ok, and and you believe in what we're doing here as to ah protecting our god given rights, ok, you need to get in your car and come out here ok. Good patriots will do good things. Now's the time, time to staff up, ok. Time to staff up. I, I saw a compound that is so [video skips] . . . alright, that's what I'm calling for, that's what I'm provoking here, alright! Uh, we have a Second Amendment right uh to do that, to keep and bear arms. So those patriots that do keep and bear arms lawfully and constitutionally, it's time to staff up now! Right now.

55. In addition to social media posts made by individuals noted above, multiple news reports, interviews, and videos have reported or shown the occupiers of the MNWR to be armed with pistols and long guns.

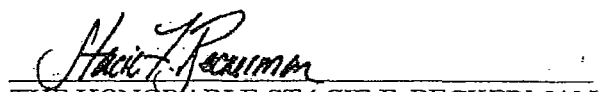
56. On January 26, 2016, A. BUNDY, O'SHAUGHNESSY, PAYNE, R. BUNDY, CAVALIER, COX, and SANTILLI were taken into custody.

### Conclusion

57. This affidavit and the requested arrest warrants were all reviewed by two Assistant United States Attorneys (AUSAs) prior to being submitted to the Court. The AUSAs informed me that in their opinion, the affidavit is legally and factually sufficient to establish probable cause to support the issuance of the requested warrants. I respectfully request the Court to authorize the proposed arrest warrants based on this complaint.

  
KATHERINE ARMSTRONG  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me this 26<sup>th</sup> day of January 2016.

  
THE HONORABLE STACIE F. BECKERMAN  
U.S. Magistrate Judge, District of Oregon