

1 STATEMENT OF

2 **RAFAEL ANTONIO PEREZ,**

3 TAKEN AT THE METRO TRANSPORTATION AUTHORITY (MTA) BUILDING, LOS
4 ANGELES, CALIFORNIA.

5 IN RE: CASE NO. BA109900
6 People vs. Rafael Antonio Perez

7 APPEARANCES BY:

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REPORTED BY:

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MR. ROSENTHAL: Okay. It's 10:25 on Wednesday, -- somebody help me with the date here.

DET. HANSON: 22nd.

MR. ROSENTHAL: September 22nd, 1999. Continuing interview of Rafael Perez. Uh, although you should consider yourself still under oath, at all times, I'll put you under oath again. Uh, raise your right hand.

"Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

THE WITNESS: I do.

MR. ROSENTHAL: Okay. Thank you. Uhm, we've got here, uh, Detectives Michael Hanson, uh, Bill or Wilber --

DET. COX: William Cox.

MR. ROSENTHAL: William Cox. I'm Deputy District Attorney Richard Rosenthal. These are the continuing interviews of Rafael Perez. And he has here Mr. Kevin McKesson with him, as

counsel.

RAFAEL ANTONIO PEREZ,

duly sworn and called as a witness, testified as follows:

EXAMINATION BY MR. ROSENTHAL:

Q Uhm, let's start off, though, apparently -- before we started, you told one of the detectives that there was some additional information that you needed to let us know about relating to other officers that may have been involved in misconduct. So why don't you just tell us about that?

A There's two things that I need to bring up immediately. The detectives may need to hear it. I don't know if you just relay the information.

Firstly, the, uhm, -- the weapon that we were talking about on the Lake Street shooting.

Q And that's the Ovando incident?

A Mmnh-mmnh. The Ovando incident. Uh, we had talked about where the gun had come from.

Q Right.

A And I couldn't remember exactly where it came from, if it came from a gang sweep or wherever. Uhm, that gun came from an informant. Uh, it came from an informant named [CI #6].

Q Okay.

A Uhm, I believe [CI #6] had -- from what my recollection was -- [CI #6] had given us -- [CI #6] had told me that there was a -- a Tech .22 machine gun in the neighborhood. Uh, and [CI #6] knew where it was stored. I asked [CI#6] to get it. And [CI#6], uhm -- [CI#6] placed it somewhere where we could find it. And we recovered it.

1 Q Okay. How long before the Ovando shooting was that?

2 A I want to say maybe a week and-a-half, maybe two
3 weeks.

4 Q Okay.

5 A No more than two weeks. No more. Uhm, [CI#6], uh -
6 - [CI#6]'s an informant that we had used. I don't think
7 [CI#6]'s a righteously signed-up informant, but [CI#6] was an
8 informant that we were using in C.R.A.S.H. Uh, [CI#6]'s name
9 -- I think [CI#6]'s documented in some other incidents that,
10 uh, RHD handled. Uh, [CI#6] was the informant -- RHD -- Robbery
11 Homicide Division -- Detective Luper had used [CI#6]. Detective
12 Luper had used [CI#6], uh, in a Conspiracy to, uh, to Commit
13 Murder on a Police Officer. [CI#6] was one of the informants
14 that they used. Uh, and, so I'm sure they have [CI#6]
15 documented.

16 [

17 *****

18 ***** CI #6 description redacted *****

19 *****].

20 Q Okay.

21 Q BY MR. HANSON: Ray, how did you get that gun, though?

22 A If I remember correctly, [CI#6], uh -- we met [CI#6]
23 on -- we go northbound on Hoover from Bellevue. Once you get
24 past -- before you get to Santa Monica. What's that little
25 street that veers to the right? There's a small street.

26 Q Are you talking right past, uh, Temple or Sunset where
27 Hoover veers -- or the street off Hoover veers off?

28 A Hoover veers off to the right a little bit. The small
street. Uh, do we still have no maps here, or anything like

that?

1 MR. ROSENTHAL: No. We've got to bring a map of Rampart.

2 Q BY DET. HANSON: Well, is there an -- is there an
3 apartment building with a market across the street from it? A
4 little, uh, market?

5 A Not a market. Where the street continues to be
6 Hoover. Myra.

7 Q Myra Street?

8 A Myra. Yeah. The street -- the little street that
9 veers off to the right.

10 Q Okay.

11 A Hoover goes straight. And just before you get to
12 Santa Monica, there's a little street named Myra.

13 Q Okay.

14 A Uh, right there, [CI#6] drove up. Uh, had it, uh, in
15 something, placed it on the floor, and drove off.

16 And Officer Durden -- uh, we pulled up next to it.
17 Officer Durden picked it up and pulled it into the car.

18 Q Placed it on the floor, or the ground?

19 A On the -- on the ground of the grassy area by a tree,
20 uh, on the floor. The ground, uh, outside of [CI#6]'s car, and
21 [CI#6] left.

22 DET. HANSON: When we, uh -- we need more on that when we
23 go into the Ovando shooting again?

24 MR. ROSENTHAL: We can deal with it. Yeah, we'll deal
25 with -- so we'll go back to that when they discuss the Ovando
26 shooting with you.

27 THE WITNESS: I wanted to get that right away.

28 MR. ROSENTHAL: Okay.

1 THE WITNESS: Because I didn't know if they need to jump
2 on it or whatever.

3 MR. ROSENTHAL: Okay.

4 THE WITNESS: Uh, the second issue was -- uhm, I don't
5 have any direct, uh, knowledge -- or other than I'm aware of
6 some of the parties involved, all right, as far as the civilian
7 way it goes. Uhm, someone brought to my attention of a thing
8 that's been going on in West Traffic Division. And it has to
9 do with the tow truck drivers. You know, the bandit tow truck
10 drivers that have been going on.

11 Apparently, they have this, uh -- this deal that
12 they're doing. Officers are taking pay-offs. All the West
13 Traffic traffic officers are taking pay-offs. What happens is
14 -- before, you know how it was what was happening that they, uh
15 -- these tow truck drivers would listen to the scanner, show up
16 at a scene, the officers would cite them for, uh, showing up
17 without being called to the scene, things like that.

18 Uh, well, what's happening now is these officers are
19 showing up. And, uh, these tow truck drivers are there. What
20 happens is the officer doesn't cite them. They tell the
21 civilian person, who was in the accident, yeah, these people
22 will tow you.

23 The tow truck drivers are paying the officers between
24 two and three hundred dollars per car. The tow truck driver,
25 of course, is going to get his commission from the auto body
26 shop that they're going to take that car to, as well as, if
27 the person was injured, they get a commission from the attorney
28 that they're going to refer this person to. It's a thing that's
been going for a long time.

1 Q BY DET. HANSON: How did you hear about it?

2 A Someone brought it to my attention.

3 Q Recently, or a long time ago?

4 A Recently.

5 Q Recently. Outside jail or inside?

6 A I'll tell you this.

7 MR. ROSENTHAL: You need to tell us who.

8 THE WITNESS: Yeah. I'll -- I'll -- I'll say this. Someone
9 wrote a letter, sent it to one of the commissions or something
10 saying that this was going on.

11 MR. ROSENTHAL: Mmnh-mmnh.

12 THE WITNESS: This person, uh, relayed some information to
13 my wife. My wife relayed it to me. So, there is somewhere
14 documented along the lines, someone sent a letter saying, I'm
15 tired of these officers having to -- you know, taking pay-offs,
16 you know, with these guys -- you know, these tow truck drivers.

17 And it doesn't just go there. Uhm, some of the
18 instances that I was given, small instances where all these
19 traffic officers are going to the body shop. I believe it's
20 called the West Side Body Shop. And the tow truck company is
21 called the West Side Tow Truck Company.

22 Uh, officers are going to the auto body shop and
23 getting free paint jobs. I mean, \$2500 paint jobs. They're
24 getting their cars painted. They're getting, uh, rims for free,
25 uhm, things of this nature.

26 But the -- I guess, the deal is that for every car
27 that -- and it's even gone this far where O.P.G. Tow would lift
28 a car, getting ready to take it off, the tow truck company shows
up, -- the private tow truck company -- and they even negotiate

1 with O.P.G., "Hey, let me take it. Tell the civilian it's okay
2 for me to take it." O.P.G. is going to get their part of the
3 money, 'cause they're gonna pay them off. Here. Here's a 150,
4 \$200.

5 And the civilian -- or the civilian tow truck driver
6 now says, "We're going to handle your car." They take it. They
7 take it to the auto body shop. The auto body shop is, obviously,
8 going to have an inflated price for the repairs that are done
9 on the car. They're going to get a commission from the auto
10 body. Plus, if the person is, uh, -- that they referred to the
11 auto body goes with the attorney that they use, they also get
12 a commission from them.

13 Q Who are the officers?

14 A The officers? I have no idea. From what I understand
15 is all the West Traffic officers that are -- that work, uh,
16 West Traffic.

17 Q BY MR. ROSENTHAL: The person that gave the
18 information to your wife, do you know who that is?

19 A Yes.

20 Q Okay. You got to tell us.

21 A Uh, Gina Adler.

22 Q Okay. Do you know what her position is, or --

23 A Gina Adler, uh, was seeing one of the tow truck
24 drivers. She had a relationship with one of them.

25 Q She's a civilian?

26 A She's no longer -- yeah, she's a civilian. She no
27 longer is seeing him. I mean, she talks to him. She's friendly
28 with him. But she's no longer involved with him. But, I mean,
she's aware of it. She -- she even was working, you know, with

1 them. And it was her boyfriend. So she knew what the working
2 thing was with them. Uh, she had seen officers.

3 In fact, she had mentioned that some of the officers,
4 this weekend, are going with one of the tow truck drivers bike
5 riding, motor-cross riding or something, with some of the tow
6 truck drivers. They're going with officers, uh, motorcycle
7 riding and stuff like that.

8 Q And this is all information you heard from your wife?

9 A Information that was given from Gina Adler to my wife
10 to me. Uh, with the incident that I said about rims, a couple
11 officers came over to pick up some rims from one of the tow
12 truck drivers to where she was staying -- you know, they were
13 staying together. And one of the officers came up to pick up
14 some rims.

15 Q BY MR. HANSON: Where Gina was staying? Or your wife?

16 A Where -- no. Where Gina was staying. Gina and the
17 -- one of the tow truck drivers.

18 Q Okay.

19 Q BY MR. ROSENTHAL: What's the relationship between
20 your wife and Gina?

21 A My wife's father is married to Gina's sister. So,
22 it's my wife's stepmother's sister. So, it would be, I guess,
23 technically, my wife's stepmom.

24 Q Let's, uhm, -- let's step beyond that a little bit -

25 - A Okay.

26 Q -- and ask you, are you aware of any officers, any
27 police officers, uh, that are employed by any agency other than
28 the Los Angeles Police Department that were involved in any
type of official misconduct?

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A No.

Q Okay. Uhm, the incidents involving -- you gave us a list of officers who you believed were involved in planting narcotics and planting guns on suspects.

A Mmnh-mmnh.

Q First of all, other than the Ovando incident, did you ever personally plant any gun or any narcotics on any -- any arrestee?

A I would have to look at -- remember the book I told you need to be looked at?

Q Right.

A I'd have to review that, uh, because I believe there is. Where exactly? 'Cause we're not talking about this, you know -- we're talking maybe two years, three years ago. I have to look at the book. I have to look the -- at some reports for the -- to remind me. But I believe there is.

Q Okay. So, you're saying you did it, you're just not certain on how many occasions?

A Right. And I have to look at the -- I mean, I can't even come up with a name like that off the top of my head for something that happened three years ago. It would be very difficult.

Q Okay. So, these -- in order to show you arrest reports or booking photos, we need -- what type of arrests would we need to pull? Would they be 11350's? 11351's?

A All arrests. Uh, all of my arrests.

Q Okay.

A I would go as far as saying my arrests from the time I was in C.R.A.S.H. 'til now. I would pull them just because

1 we can go through them and things will -- you know, uh,
2 packages, photos in the packages, will remind me of certain
3 things. Uhm, I believe the detectives already pulled all of
4 the narcotics packages. All of those have been pulled. And
5 we're going to go through them, I believe, later on this
6 afternoon.

7 Q They're going to do some things today regarding --
8 regarding that. Names and some other things.

9 A Okay. Yeah. But the -- the thing that will help me
10 the most is the packages, uh, the photos, and the reports that
11 are in there.

12 Q Now, should we be paying attention to the period --
13 not only that you were in C.R.A.S.H., but also in F.E.S.?

14 A Well, we need the reports from F.E.S. because a lot
15 of the money, uh, skimming was from F.E.S.

16 Q Okay.

17 A I would say nothing before Rampart C.R.A.S.H.

18 Q All right.

19 A Nothing ever happened before. In other words, from
20 the time I got to Rampart C.R.A.S.H. on.

21 Q Now, with respect to the other officers that you
22 named, uhm, and, again, we, obviously, have to look through
23 their reports and booking photos like you asked before, were
24 you ever personally present when any of these officers planted
25 narcotics or guns on a suspect?

26 MR. MCKESSON: I'm -- I'm not following. Could you read
27 the question back?

28 (Reporter read the question back.)

MR. MCKESSON: The only question I have, Richard. I don't

1 know. I mean are you talking about -- the only question I have,
2 are you talking about -- because he's talked about numerous
3 incidents. Are you talking about each incident? It's a kind
4 of open-ended question. And it seems like it maybe a yes to
5 some and no to the others. So, I don't -- I don't understand.

6 MR. ROSENTHAL: Right. Well, what I'm trying to get at,
7 and it's a general question, but what I need to know --

8 MR. MCKESSON: It's a general question. But what I'm
9 saying is his answer may be yes and no, 'cause he's described
10 numerous incidents. And some he may have been present. Some
11 he may not have been present.

12 Q BY MR. ROSENTHAL: Well, the question is were there
13 any incidents where he was actually present when another officer
14 -- and other than Ovando -- uh, where another officer planted
15 narcotics or guns on a suspect?

16 MR. MCKESSON: The problem is, Richard, I think when you
17 were out of the office he talked about several incidents when
18 other officers planted guns. I'm not trying to jump on you.
19 But yest- -- the last time you were here we talked about
20 numerous incidents.

21 MR. ROSENTHAL: Right.

22 MR. MCKESSON: And one involving, I think, a sergeant,
23 Sgt. Ruiz.

24 THE WITNESS: Ortiz.

25 MR. MCKESSON: Ortiz. Another involving an incident where
26 something was next to a tire. And I'm not trying to jump on
27 you, but I'm worried that we're going to go back through.
28 Because we spent about an hour talking about different incidents
where things were planted.

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Q BY MR. ROSENTHAL: Right. Well, let's -- let's just -- this is -- I'm not going too far on this. I just want to know the allegations that he made, are they based solely upon hearsay statements that other people told him, or admissions by other people, or was he actually there to see some of these --

A All of the above.

Q -- plants take place.

A All of the above. Some are going to be -- some things that I've witnesses. I'm going to need reports. A lot of the things were get to the station, somebody has a body that got thumped on. And it's like, hey, anybody got anything? That type of thing.

Q Okay.

A So, we know what's going to happen. It's just a matter of who's gonna give who what to, you know. Uh, other things are, you know, people talking about it. So, everything that you just mentioned.

Q All of the above?

A All of it, yeah.

DET. HANSON: They'll come this afternoon, too, when we're done with ours.

MR. ROSENTHAL: Right. Okay. Do you want to move, uh, on to discuss Ovando, specifically?

MR. MCKESSON: Yes.

DET. HANSON: Yes. If you're done with, uh --

MR. ROSENTHAL: Yeah. We're -- we're fine. And what we'll do is we'll -- they -- these detectives will ask you about the Ovando incident. When we're done with that we'll move onto -- uh, go back into this issue.

1 Q BY DET. HANSON: Ray, me and my partner have been
2 investigating Ovando since it came to light a couple weeks ago.
3 And I know that you're under oath here. But I want to stress
4 to you, you have to be honest about everything. Okay?

5 Uh, we have the transcripts and read a little bit
6 about what you said last time. And we've done our own
7 investigation.

8 What we want to do, first, is just have you run us
9 through those two days -- October 11th and October 12th, of
10 '96, the days that you did the O.P. Those two days.

11 A Okay. Right.

12 Q And if you can just kind of run us through it, uh --
13 uh, briefly. Uh, giving us as much information, and then we'll
14 go into specifics, uhm, after you tell us what happened those
15 two days. If you -- like I said -- you don't have to tell us
16 every little thing. Just maybe a brief overlay. And then,
17 like I say, we're going to get into specifics anyway about, uh,
18 what happened.

19 MR. MCKESSON: Let me say this, Detective. And I'm not
20 trying to be a jerk. But the only question, in my mind, is,
21 obviously, -- and I've said this before on the record -- he's
22 testifying here today, and throughout these sessions, without
23 the benefit of reports and things like that. And I know, as a
24 lawyer, often times when people testify from memory, things are
25 left out.

26 DET. HANSON: Sure.

27 MR. MCKESSON: And, uh, I am here, even though, he has
28 immunity, and he's testifying and being truthful. And,
honestly, I'm here to kind of protect him.

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DET. HANSON: Right.

MR. MCKESSON: And I will add, just for two reasons. I mean, first of all, for -- for brevity. I mean, if there's any questions you have, since you have reviewed the -- what he said before -- if you can ask those specific questions now. Because my worry is asking him to go over it again. Inevitably, he's not gonna be able to repeat it word-for-word like he did the first time.

DET. COX: I understand that.

MR. MCKESSON: I'm not saying you're trying to trick him. But I'm saying one could look back at two different transcripts, and say wait a minute, that last time you testified he told us this and he left this out. I just don't see the purpose, if you know what he said the last time, to ask him to repeat exactly what he said the last time.

DET. COX: Well, the last time, I don't know how much -- he didn't go into a whole lot last time.

MR. ROSENTHAL: Well, let me take this.

MR. MCKESSON: And I'm not being accusatory.

MR. ROSENTHAL: Here's the problem. Is the last time what we did, I, basically, conducted the interview, got the information I needed to get for the Writ of Habeas Corpus. Now, since that time, the detectives have had an opportunity to go through and conduct an investigation. And, now, they need to sort of, uhm, sort of start from square one, get the information he's got, and then ask follow-up questions.

And I think it is necessary. We, obviously, all recognize, and everyone always recognizes that nobody tells the same story the exact same way two times. It's impossible.

1 And certain things that are said before might be left
2 out, or certain things that were left out before might come up.
3 That does not mean that he's necessarily not telling the truth.
4 It's simply -- uhm, it's life. And we're all coming in here
5 using our reason, our logic, and our common sense. Uhm, but I
6 think it makes sense to kind of get -- get it flowing -- get
7 the information out for him to tell the story again with these
8 two detectives. And they'll ask their questions as he goes on.

9 MR. MCKESSON: No, I agree. I agree with that. But, also,
10 I'd like to point out, too, that he hasn't the opportunities
11 like everybody else, except for me, to review prior transcripts,
12 review prior documents. So, he's kind of at a disadvantage.

13 MR. ROSENTHAL: He is. But it's been a couple of years.
14 And we expect his memory would have been fresher back when it
15 occurred than now.

16 MR. MCKESSON: Well, if he had some documents to review
17 then --

18 MR. ROSENTHAL: I mean, the -- the problem, of course, is
19 the O.I.S. report was not prepared by him. So, most of the
20 reports --

21 MR. MCKESSON: And -- and I'm not -- the only thing that
22 caused me concern is when the detective said they reviewed some
23 things before now. They wanted him to tell the story again.
24 That's the only thing that -- and that's why I wanted to put
25 this on the record.

26 MR. ROSENTHAL: All right. Well, let's -- let's go ahead.
27 Why don't you go ahead and --

28 Q BY DET. COX: Go ahead. I'm -- I'm sorry. I'm not
out to trick you or anything.

1 A No. Your last question was -- start with, uh --

2 Q The O.P., uh, --

3 A The O.P. the day before?

4 Q Yes.

5 A Okay. Because I, actually had forgotten about the
6 O.P. the day before.

7 Q Okay.

8 A I, actually, -- I actually had forgotten why we were
9 there. And I read it in the newspaper. I don't know how they
10 got it. Must have come from the O.I.S. report. I think we had
11 gotten some information. And I have to slow down from time-
12 to-time, 'cause I talk fast. And I forget. Uh, we had gotten
13 some type of information that it was a burglary or something.
14 And a bunch of guns were stolen.

15 And we went to the location for that purpose, to do
16 an O.P. Uhm, March 11th -- or October 11th, I think you said
17 the date was?

18 Q Yes. Yes.

19 A That was the day before the -- the shooting?

20 Q Yes.

21 Q Uh, I believe, we had went there and did the same
22 thing we did the day -- day after. We went to, uh, you want
23 every step-by-step?

24 Q No, just go ahead. You're doing fine.

25 A We went to the -- uhm, we went through the building
26 quickly. Uh, there was some people in there. Uh, we scooted
27 everything out that -- that we might have saw in there. We
28 went up to, I believe, it's Apartment 407. The apartment we
had said. Uh, and we stayed there for hours, uh, monitoring

what was going on down there.

1 Q Okay.

2 A I don't know if we said in the O.I.S. report that we
3 had a chase car, uh, monitoring. And we were relaying. We
4 didn't.

5 Q Yes.

6 A We were just there.

7 Q Okay.

8 A Uhm, I don't know what time we ended the O.P. and how
9 long total we were there, how many hours. But nothing --
10 nothing came of it. And we left.

11 Q Okay.

12 Q BY MR. ROSENTHAL: Would you actually have checked
13 every apartment in the entire building?

14 A I doubt it. We checked some. Some doors were locked
15 -- you know, they had padlocks. Some doors were -- I mean, it
16 was just so smelly that it wasn't -- we couldn't believe
17 somebody would be in there. You could tell which apartments
18 somebody might have been coming in and out of. 'Cause they
19 were the least trashed-up ones. Uh, but we did walk through
20 the floors, you know, the hallways. And some doors were open.
21 We'd look it. But we didn't check every single door, no.

22 I think we did say that in the O.I.S. report. But we
23 didn't.

24 Q Right.

25 A Uhm, where was I? The next day?

26 Q BY DET. COX: Mmnh-mmnh.

27 A Uh, the next day, we, uhm, -- I believe it was a late
28 roll call, you know, five or six o'clock roll call. And we

1 decided we'll do it one more time. Let's go back to this, uhm,
2 -- to the O.P. Uh, we were at the O.P., I would say probably
3 from eight o'clock. What time did the shooting occur, again?

4 Q About 11:45 or 11:40.

5 A Then probably like 8:00, uh, 8:30 is probably --
6 'cause I would say we were two or three hours in the O.P. So,
7 we probably got there. We probably went to dinner. Uh, got at
8 the O.P. maybe at like 8:00, 8:30. Uhm, we're up there, like
9 I said, 'til whenever the shooting occurred. Uh, do you want
10 me to get into the specifics of the shooting now?

11 Q You can go ahead and just say how the shooting -- uh,
12 without being real specific. I know a shooting occurred --

13 A Right. Uhm --

14 Q Just briefly, how that went down.

15 A We were, uhm, -- pretty much everything that was on
16 the diagram that you had showed me before. You meaning Mr.
17 Rosenthal. Uhm, the diagram of where we were standing is
18 accurate. Uh, the location of where we were doing the O.P.,
19 the room itself, is accurate. The window that I was looking
20 out of was accurate. Uhm, the -- the -- the positioning in
21 where the diagram shows where the shooting occurred by each
22 officer is also accurate. That's exactly where we were
23 standing. Uhm, I was looking out the window.

24 Uh, we were -- by the way, we were alternating back
25 and forth. I would look out the window for about a half hour.
26 And Durden would stand in the room, walk around, and watching
27 my back, basically.

28 Q Okay.

A And then, we'd rotate. He would look and I would

watch.

1 On this occasion, I'm looking out the window. Uhm,
2 I have my earpiece on, uh, for my radio. We always wore
3 earpieces. Uhm, minutes -- uhm, minutes -- obviously, minutes
4 before the actual radio call that we put out of the shooting,
5 uhm, I hear, uh, Durden talking. I know, on the report, it
6 says that we heard a bang and somebody ran through the door or
7 whatever. That didn't occur.

8 Uh, but I heard Durden saying -- voices. And that's
9 what took my attention. And then, I hear like a "fuck". I
10 don't mean to curse. But it was like a -- you know, what the
11 -- I don't know exactly what was said. But it was like -- there
12 was "fuck" in there, you know, and some other words. That's
13 when I turned around and started walked to where Durden was.

14 Uhm, if you -- I don't know if you -- obviously,
15 you've seen the diagram. Uh, the rooms -- I believe there's a
16 kitchen on this side. Then, a threshold to a door -- or where
17 would be a door. And then, the living room. And then there's
18 a chair -- overturned chair.

19 DET. HANSON: Yes.

20 THE WITNESS: Okay. From where I was at, at the window,
21 and I started walking towards, uh, Durden.

22 Q BY DET. COX: Which window were you at?

23 A If I had the diagram -- okay. The threshold that
24 separates the two rooms.

25 Q Okay.

26 A The first window right there.

27 Q Okay.

28 A Right there. The --

1 DET. HANSON: The kitchen window.

2 DET. COX: Okay.

3 THE WITNESS: Yeah, it's the kitchen window.

4 DET. COX: Okay.

5 THE WITNESS: And I don't know if there's more than one
6 window. But it's the first window from the threshold.

7 DET. COX: Okay.

8 THE WITNESS: As I walked back towards where Durden was,
9 and his voice, uh, talking, is where I see Durden. As I'm
10 walking towards Durden is when I see him pulling his gun out.
11 And he's left-handed. So, I could see him -- I could see his
12 left side. I could see him like reaching -- coming up with his
13 weapon. I come up with my weapon. Durden points out. I'm
14 watching him. I'm coming up. Durden fires one round. I fire
15 what I thought was one round. One round. But it turns out to
16 be, I think I fired three rounds.

17 DET. COX: Yes.

18 THE WITNESS: In fact, I told the shooting team that I
19 fired one. And they counted my rounds. It was, uh -- I think
20 they said three or four.

21 Q BY DET. COX: I'm sorry?

22 A Three.

23 Q Okay.

24 A Uhm, right after that occurs, Mr. Ovando is laying on
25 the floor. His head was closest to the door. The entrance to
26 the actual door.

27 Q Okay.

28 A I stay covering down on the -- uh, Mr. Ovando. Uh,
Officer Durden, uh, walks out the door and is looking around

1 seeing if there's anybody else or whatever. Uhm, a few minutes
2 pass. He comes back and produces -- and if my mind serves me
3 absolutely correct, and I -- I believe it does -- it was a red
4 very dirty shirt, uhm, that was, uh -- had the weapon wrapped
5 in.

6 Uh, he stands right next to -- and very little words
7 are said. And very few words. I mean, I don't even remember
8 what was said.

9 Q Between you and him?

10 A Myself and Durden. Uh, Durden stands right where the
11 defendant would have been standing. Uh, takes the weapon --
12 holding the rag and the weapon, and drops it from chest level
13 down to the ground and let's it fall.

14 Uhm, this is the one thing that doesn't -- I don't
15 remember exactly sure whether we called. No, I'm positive that
16 we called, uh, the C.R.A.S.H. units first, before we called an
17 ambulance. I know we had talked about that before. I'm almost
18 positive that we called the C.R.A.S.H. units. And the first
19 unit that showed up was Rios and Montoya. Uh, I believe it
20 was, uh, Officer Rios who handcuffed the, uh -- the defendant.

21 Uhm, Officer Durden, uh, was also the one who called
22 the R.A.

23 Q Okay.

24 A Officer Durden, during this -- this whole thing, I
25 guess maybe assumed more of the responsibility because he was
26 doing everything. I don't know if you can tell in the O.I.S.
27 report, he did all the talking. When they first go there, he
28 wanted to do all the talking. He wanted to do all the -- even
though I was the senior officer. This is one of those few times

1 where he wanted to get everything out, you know, first.

2 And we just went with the story. Or I just went with
3 the story.

4 Q Okay. Uhm, that was general. And, now, we're going
5 to back up and just get into some specifics.

6 A Mmnh-mmnh.

7 Q And I understand it was three years ago.

8 A Mmnh-mmnh.

9 Q And we're gonna probably bring up some stuff that you
10 may have left out, that you forgot. Uhm, and it may refresh
11 your memory when I tell you something.

12 A Mmnh-mmnh.

13 Q Uh, as best as you recollect, I think your roll call
14 started at five o'clock, that night on Friday, October 11th.

15 A That's the time it normally starts But I -- I can't
16 be positive.

17 Q Okay. Normally, what kind of car did you guys drive
18 when you were working?

19 A Back then, I believe we were driving the Taurus back
20 then, still.

21 Q And what color was that?

22 A Light blue.

23 Q A light blue car? A Taurus?

24 A Geez. You know what the problem is? We were driving
25 a light -- I believe we were driving the light blue Taurus. I
26 also drove a gray car. But the person that dropped us off --
27 and -- and this is coming back to me now. Uh, Officer Montoya
28 -- either Montoya or Rios dropped us off there.

1 In other words, we didn't just park our -- our Taurus
2 or whatever car we were using and left it there. Somebody
3 dropped us off. We hopped over the fence and went in.

4 Q Okay. We're at the first day. We're at the first
5 day.

6 A I'm sorry?

7 Q We're talking the first day, October 11th.

8 A October 11th?

9 Q BY DET. HANSON: Yeah. We're going to start all over
10 and start from the day before the shooting.

11 A Okay.

12 Q Okay. Just --

13 Q BY DET. COX: Well, you did the O.P. on that day, you
14 said. Did -- did Rios and Montoya drop you off on that day?
15 Let me -- let me refresh your memory a little bit. Is the
16 O.I.S. report -- is it completely false when you talked to the
17 Homicide -- or the detectives from Robbery/Homicide?

18 MR. MCKESSON: The only problem I have with the question,
19 detective, is saying "completely false" is kind of difficult
20 for him. He doesn't have it in front of him to say everything
21 is false. Because part of what I assume was included in the
22 O.I.S. report was a diagram that was brought here last time.

23 DET. COX: Right.

24 MR. MCKESSON: Which Officer Perez testified was accurate.

25 Q BY DET. COX: Okay. Yeah, that was kind of a general
26 statement. Uhm, In the O.I.S. report, you said -- well, I think
27 all of you said that, uh, you had driven your car there.

28 A I'm sure we drove it there.

Q Okay. Do you remember? I'm sorry.

1 A If we drove it there, we didn't park it in front of
2 the location. I'm -- if I'm remembering correctly, we drove
3 there. Uh, maybe parked a few blocks away. I want to say off
4 one of the main streets, uh, which would be maybe Alvarado.

5 Q It might refresh your memory the fact that you parked
6 your car. And you parked it on 12th Street, just west of Lake,
7 and you're doing an O.P. -- which doesn't sound like that would
8 be --

9 A Mmnh, yeah.

10 Q -- what you'd call really sharp police work, if you're
11 parking your police car right at the O.P.

12 A No. I think I remember somebody dropping us off.

13 Q But that's the O.I.S. report. And that's what Rios
14 and Montoya, you, and Durden said, --

15 A Mmnh-mmnh.

16 Q -- that you parked your car there. And you went
17 upstairs.

18 A I remember being dropped off. I remember parking, I
19 believe, somewhere several blocks away and someone just kind of
20 driving us up. And we jumped out. 'Cause, in order to get
21 into the building, you have to hop a big fence on the 12th
22 Street side -- on the south side of the street.

23 Q Correct.

24 A Uh, and we definitely -- I don't -- I don't believe
25 we parked our car right there where everybody can walk by and
26 see it.

27 Q Okay.

28 A That wouldn't be, uh, --

Q Let me -- let me ask my partner something here.

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A Okay.

Q Okay. Uhm, we'll get to the car thing more specifically on the day after. Okay. 'Cause the day before seems -- it's a little bit, uh, hazy, since it actually wasn't part of the officer-involved shooting report.

A That was uneventful. There was really nothing that stood out.

Q Okay. On that day, on that Friday -- and I know you said that you now remember that you may have done an O.P. on that Friday, the day before the shooting.

A No, I know we did.

Q Okay. Do you remember being up there for -- as you said, you searched the rooms, or the floors?

A Mmnh-mmnh.

Q But you didn't search every floor -- I mean, every room?

A Right.

Q Because there's probably --

A A bunch of rooms up there.

Q A bunch of rooms?

A Right.

Q And the building, was it undergoing renovation?

A It was abandoned. I don't think it was undergoing renovation, at that time. It was completely, uh, boarded-up. All the windows were boarded-up. Uh, all the first floor windows, I believe, were boarded-up. Uh, you know, chained down. The doors were chained down.

Q Do you remember your O.P. at all on that day -- Friday?

1 A Do I remember it?

2 Q Yes.

3 A I mean, something specific about it, or --

4 Q Yes. Does anything stand out that day that you can
5 remember today?

6 Q BY DET. HANSON: Where you might have parked, how you
7 might have gotten into the building, if it was the same way you
8 got it in just from the day before? Uhm, you mentioned
9 something about letting people -- uh, kicking people out prior
10 to you doing the O.P. Do you remember what rooms they were in,
11 or if they were near the room you were doing the O.P. in, those
12 kind of things.

13 A Okay.

14 Q That's what we're trying to get.

15 A Okay. As far as how we got inside the building, uh,
16 yes. We got in the building the same way. We had to hop a
17 fence. And I believe towards the back of the building, on the
18 south side of the building, there was a door that open. Uh, if
19 you hop the fence on the 12th Street side and walked south,
20 across that little small like parking lot -- the cemented area
21 and made left turn, like an eastbound turn, on the south side
22 of the building, on the -- as soon as you made that left -- on
23 the left side -- there's a door open.

24 You following me so far?

25 DET. HANSON: Yes.

26 THE WITNESS: Right there is how we got in. There's some
27 stairs -- uh, some small stairs that lead up to the first
28 landing. And then you can walk in, whichever way the building
goes. Uhm, but that is the way we got in the building.

1 Q BY DET. HANSON: Where would your car have been
2 parked?

3 A I'm a little confused now. When you say that my car
4 was parked right there. Because I remember.

5 Q No. Your car -- we confused you a little bit. The
6 car parking, uh, we don't know where your car was parked on --

7 A Okay.

8 Q -- the day before the shooting.

9 A Okay.

10 Q We know where your car was parked on the day of the
11 shooting, according to the officer-involved shooting team, --

12 A Okay.

13 Q -- but we don't know about the car on the 11th. And
14 that's -- that's what we're wondering if you can remember that.

15 A Yeah, I -- I remember being dropped off. So, I'm
16 assuming, if we would have parked right there, we wouldn't need
17 to be dropped off. You see what I'm saying? But I remember
18 being dropped off. Now, am I confusing it with the 12th? It's
19 a possibility. But, for some reason, I remember -- I remember
20 -- mmnh.

21 Q Well, once we get into the 11th, and my partner gets
22 into the day of the shooting --

23 A Mmnh-mmnh.

24 Q -- and we might have to tell you what we know about
25 the car thing. Maybe that will refresh your memory on the
26 difference between the two days.

27 A Okay.

28 Q But, at this point, you don't remember where your car
was, or how you got to there on the day before?

1 A On the day before, no.

2 Q Okay.

3 A On the day of, I'm positive that we were dropped off.

4 Q Okay.

5 A I'm a little bit confused now on the day before.

6 Q Okay. So, go on with --

7 A Uh, the other -- the other question was, uhm, how we
8 got in the building, uhm, searching the building.

9 Q What you did -- yes. What you did in the building.

10 A We searched, uh, the building. Uhm, we didn't go
11 through every door. I know we had, uh, found, or we had, uhm,
12 encountered, uhm, maybe two groups of people.

13 Uhm, I believe one group was, uh, some females and -
14 - well, maybe three females and a couple of males. Uhm, --

15 Q Do you know what floor that was on?

16 A I couldn't tell you.

17 Q Okay.

18 A I know we encountered them, told them to get out of
19 the building. And they got out of the building. Uhm, and --

20 Q BY DET. COX: Did you door-knock that location, or
21 the door was just open, or do you remember?

22 A You know, to be even honest, I don't know if I found
23 them in an apartment or in the hallway. I know we encountered
24 some people. But it wasn't --

25 Q Were lights on in the building, or was it completely
26 dark?

27 A And this is the day before, right?

28 Q Yeah, we're still talking the 11th. Yes.

DET. HANSON: Yeah. We'll let you know when we switch.

It gets a little confusing.

1 THE WITNESS: I almost want to say that I think in the
2 hallways there were lights. But I'm not positive. But I think
3 there was actually lights in the hallway.
4

5 Q BY DET. COX: Okay. This other group of people, you
6 may have confronted two groups of people inside. Three females
7 and two males, in one --

8 A That's one group. That's all one group.

9 Q Did you ever knock on any doors, test them?

10 A If I went into any of the rooms, I didn't knock on
11 any of them. I just went in.

12 Q You just went in?

13 A They were all supposed to be abandoned. They were
14 all -- do you know what? There may be even more people. I
15 think I remember we found like a female Black, uh -- uh, drug
16 addict, or something. I remember shooing out of there. Now
17 that comes to mind. Uh, and she was just like laying on the
18 couch inside one of the apartments. We just told her, "Get out
19 of the building." And I'm assuming she knew how to get
20 out of the building, because she got in the building.

21 Q Is that a 18th Street hangout?

22 A That building?

23 Q Yes.

24 A Oh, yeah. That's 18th Street corner right there.

25 Q Okay.

26 A That's as big as you get.

27 Q Uhm, nothing else comes to mind, as far as you door-
28 knocking and telling some, uh, gang members to leave?

A I want to say that there was a -- a older -- I don't

1 know if I'm confusing it with something else. I think there
2 was a manager to that building. An older maybe White or male
3 Hispanic that looked kind of White -- maybe grayish hair.

4 But I don't know if I encountered him before or after
5 the shooting had occurred. You know what I mean? Because I
6 know we went back to the location a couple of times. And he
7 was there. But, now, I can't recall whether we had encountered
8 him on those particular days or not. I'm not sure.

9 But I think there was a -- someone who was staying up
10 there who was calling himself the manager, or the -- who was
11 watching the building or something like that.

12 I don't know if he was the manager or wasn't. But
13 that's what he was telling -- saying that that's what he was.

14 Q Okay. Uhm, did you do the O.P. in the same room both
15 days?

16 A Yes, I believe so.

17 Q 407 from what you remember?

18 A I believe so. Yes, sir.

19 Q Okay. Nothing happened that night that stands out in
20 your mind?

21 A On the 11th?

22 Q The day before.

23 A I want to say that we might have left and came back
24 on that day. In other words, we did an O.P. for a couple of
25 hours, left, and may have come back. But I -- I -- the 11th is
26 kind of -- it was just an uneventful thing. You know what I
27 mean. It's not standing out in my mind.

28 But, for some reason, I think that we were there,
left, and came back on that same day -- on the 11th.

1 Q And I know I'm trying to make you go back several
2 years, when you say you left, were you gone an hour? Two hours?
3 Would you reflect it on your log if you did something like that?

4 A Probably not.

5 Q Okay.

6 A I -- I doubt it. It'd be interesting to look at it
7 and see if we did that. But I doubt it. I doubt it.

8 Q There's a possibility that you did leave and maybe
9 come back and continue the O.P.?

10 A Yeah. Something like that just kind of stands out in
11 my mind that we left maybe to go either assist somebody, or
12 somebody had something going on. And we went to go see what
13 they had going. And maybe it was like nothing, or -- in other
14 words, if a Rampart C.R.A.S.H. unit says, "Hey, I'm 415 -- uh,
15 I'm Code 6 on a 415 group, uh, Code 6 George" or whatever, we're
16 going to say, well, forget the O.P. We'll go see what they got
17 going and help them out.

18 Q How would you get there?

19 A Get back out of the building and walk, or have
20 somebody pick us up, or something like that.

21 Q You couldn't walk if it was across town. Obviously,
22 you're --

23 A No, no. Walk to wherever our car was.

24 Q Oh, okay. So, you don't know. You may have parked
25 your car. Still we don't know on that day. Or someone may
26 have dropped you off.

27 A If, -- when we were -- if -- on either day when we go
28 to the location, we're not parking our car. We're not -- we're
not like leaving it at the station and have somebody drop us

off.

1 Q Okay.

2 A We're driving to the location, maybe parking two
3 blocks away, or -- or parking in a driveway we know no one's
4 gonna look into, or something like that, and then have somebody
5 come and just drop us off real quick. And we run in the
6 building.

7 That's what we do. So, I'm thinking that on the 11th,
8 we were there, stayed awhile, left. And then, came back.
9 That's what I'm thinking.

10 Q And the part about the chase car with Rios and
11 Montoya?

12 A That was all made up.

13 Q The whole thing was made up?

14 A Yes.

15 Q On both days, 11th and 12th, both days with Rios and
16 Montoya?

17 A Yes. The only reason we -- uh, we said it was Montoya
18 and Rios is 'cause that was their area. And they were
19 patrolling it. You know, they were doing their thing in that
20 area.

21 Q This was their gang?

22 A That was their gang, uh, assignment. So, I believe,
23 it was them who had dropped us off. Uh, and they were still -
24 - so, you know, they're doing their thing in that area, driving
25 around, or doing whatever.

26 Q BY DET. HANSON: So, they knew you were there?

27 A Oh, yeah, they knew I was in the building, yeah.

28 Q On both days?

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A Yes.

MR. ROSENTHAL: Let's stop for a second and give the reporter a chance to catch up.

THE WITNESS: And I just wanted to answer your question. You had asked if, uh, they knew we were in the building? Yes, they knew we were in the building. Montoya and Rios knew we were in the building. And Sgt. Ortiz always knew we were in the building.

Q BY DET. HANSON: On both days?

A Yes. Yes, he did know.

Q But they weren't cruising the nearby blocks?

A No, not the way we described it to the officer-involved shooting team, as far as them --

Q They were doing their own thing? They were doing their own --

A Sgt. Ortiz was probably at the office, or doing whatever. And Montoya and Rios were doing their own thing, whatever it was.

Q BY DET. COX: Let's go to the next day.

A Okay.

Q October 12th, do you remember that day fairly clearly because of the shooting?

A I remember the events. Uhm, I remember some of the events clearly, because they stand out. Certain things stand out.

Q Uhm, that evening, you went to roll call again. I'm just letting you know that's what you did.

A Right.

Q Normal things. And going back to -- uh, going back

to the location, 1209 Lake.

1 A Mmnh-mmnh.

2 Q Just so we can go over it again. You don't remember
3 how you got there. You could have been dropped off?

4 A No, I remember how we got there on the 12th.

5 Q Okay.

6 A I'm almost positive that we drove there. We drove
7 our car, whichever car we were driving, whether it was the
8 Taurus or the gray, uh -- uh, Crown Vic. Because I -- I was
9 driving both cars. I was driving both cars. Uh, but I am
10 certain that we parked probably somewhere over -- you know,
11 over by the convalescent hospital around the corner?

12 There is a convalescent, uh, elderly place. That's
13 where we normally would park at any time we were gonna walk
14 into the neighborhood or something.

15 Q And where would that be? The convalescent hospital.
16 What street?

17 A What street is that, uh, just, uhm, --

18 Q I understand it's Grandview, then Hoover.

19 A Somewhere over, uhm, -- okay. That's Lake Street and
20 12th Street. And we're going west from there. That's
21 Grandview?

22 Q That's what I was told, yes.

23 A And then the next one is, uh, Hoover.

24 Q Hoover.

25 A On Hoover, if you go south a little bit, uh, is there
26 a convalescent hospital right there?

27 Q I'm not that familiar with it.

28 A Oh, I thought you guys have been out to it. Uhm,

1 there should -- uh, I believe that's the street. Hoover. And
2 there should be a convalescent hospital right there.

3 Q Okay.

4 A And I believe that's where we would have parked.

5 Q Okay.

6 A Uh, and I'm almost positive that we got dropped off.

7 Q Let me back up. Or let me stop you there. On the
8 O.I.S. report it indicates that you parked your car there on
9 12th just west of Lake, and that there was no activity going
10 on. And you thought maybe it was because of your car being
11 parked there?

12 A This is on the 12th?

13 Q On the 12th. And that you decided it's a good idea
14 to move your car because your police car was outside. Maybe
15 that's why there was no activity. So, I believe it was Officer
16 Durden that went down to the second floor and threw his keys
17 out to Officer Rios and Montoya?

18 A You're absolutely right.

19 Q Is that what happened?

20 A That's true. That's true. On the 12th?

21 Q Yes.

22 A That is true.

23 Q Okay.

24 A That is true.

25 Q So, did you walk with Officer Durden to the second
26 floor? Or did you stay at the O.P.?

27 A No, I stayed at the O.P. I remember that.

28 Q So, he went by himself?

A He went by himself, yes.

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Q Okay.

Q BY DET. HANSON: And that's -- that's the story that was given to the shooting team? Or that's the truth?

A No, that is actually what occurred. Yeah, that -- that part about, uh, somebody coming over to move our car.

Q Okay.

A I mean, you just refreshed our memory. Yeah.

Q Okay.

A Durden left where I was -- 407. I'm assuming he had to walk several flights of stairs. Somehow he had to get the keys to Montoya -- whoever it was that moved our car. I do remember that now, because we're thinking why is it so quiet? And then, we thought, our car is down there. I do remember that now. That does refresh my memory.

Q BY DET. COX: To refresh your memory a little bit more, uhm, do you remember a burglary occurring, where all these guns were taken? Now, whether that was the reason that you really went to 1209 Lake Street, I don't know. Other than it was an 18th Street hangout?

A Mmnh-mmnh.

Q But there were a lot of guns that were missing out of Pomona from a bunch of guns being stolen?

A I don't know where exactly the information came from, but it was said to us in roll call. So, the idea of, you know, go do an O.P. out there was a good idea. So, they go, yeah, go do it. Uhm, but I don't know where this information came from.

Q Do you remember when you went to the O.P. that day, what was in your mind at the O.P.? Why did you do the O.P. on 18th Street, at that location, on that day? Did it have

1 anything to do with the guns, because the guns were stolen out
2 of Pomona and was 18th Street. They didn't know which 18th
3 Street gang it was, or which clique it was.

4 So, I mean, sitting here today, can you say that you
5 went to that 18th Street location just because you -- there was
6 a lot of gang activity there, or you went there specifically
7 for the guns?

8 A Well, firstly, I don't even know why they said for us
9 to do it. Because Montoya and whoever else was handling 18th
10 Street, that would have been their assignment. My assignment
11 is up in the north end, Temple Street and -- and La Mirada
12 gangs, things like that. I know that we had gotten information
13 in roll call that, I guess, there was some Pomona place that
14 got burglarized and some 18th Street members were involved.

15 Whether they said a clique or not, I don't know. I
16 know that we said in the roll call was what are we going to do
17 about it? Well, you know, what game plan do we have? What's
18 going on with this?

19 And, I believe, that's why we did it two days in a
20 row. Because, you know, they wanted us to look at the place.
21 So, I believe, we agreed, "Yeah, okay. We'll -- we'll go O.P.
22 it. And we'll let, uh, you know, let you guys know if we come
23 up with something."

24 Uh, so I know, for a fact, that our -- our reason for
25 going there was because of this information regarding guns
26 stolen from Pomona by 18th Street gang members. Because,
27 normally, -- in fact, if I look back now, there's very few, uh,
28 O.P.'s that I've ever done in 18th Street. That's not my gang.
That's not the gang I'm assigned to.

1 So, I mean, I don't even know why they, uh, told us
2 to do it, or why we got assigned, you know, to do it. I don't
3 know why Montoya didn't get it.

4 But, at any rate, we were told, -- you know, we did
5 it. We vol- -- we either volunteered to go O.P. it for awhile,
6 or --

7 Q Was there an ulterior motive why you would volunteer
8 yourself to do it?

9 A No, not really. No.

10 Q No?

11 A Not that I can think of, no.

12 Q Do you remember door-knocking a location on -- I'm
13 going to step back to the 11th, the day before --

14 A Mmnh-mmnh.

15 Q -- door-knocking an apartment on the same floor you
16 were at right down the hallway from where you were located?

17 A On our floor?

18 Q On your -- on your floor.

19 Q BY DET. HANSON: Ray, what we're going to show you is
20 a, uh, -- a diagram of the 4th floor in the general area of,
21 uh, Room 407. Okay. Have you look at it and see if that's the
22 way you remember it? And then, we'll ask some questions on
23 that.

24 A Okay.

25 Q BY DET COX: Let me walk around and just show you
26 this, Ray. Obviously, not to scale. At the top of the page is
27 12th Street. We're looking north, the top of the page. Okay.
28 This is, uh, Lake Street.

A Mmnh-mmnh.

1 Q It runs north and south. This is the apartment
2 building.

3 A Okay.

4 Q This part here -- it's an H-type of location. And
5 it's an H-shape. You have an apartment building back here.
6 Apartment building up here. And then, you have a long hallway
7 that connects these two buildings with two courtyards.

8 A Okay.

9 Q Do you remember that, at all? Vaguely?

10 A Vaguely.

11 Q Okay. Right here, about the center of the page, on
12 the right-hand side, is Apartment 407.

13 A Okay.

14 Q And that's where your O.P. was at. Between -- on to
15 Lake Street.

16 A Okay.

17 Q BY MR. ROSENTHAL: Just for the record, what we're
18 going to do is let's mark this as Exhibit 1 for the transcript.
19 We'll give a copy to the court reporter and ask her to place it
20 at the back of the transcript.

21 Go ahead.

22 Q BY DET. COX: Okay. Exhibit No. 1.

23 aA Okay.

24 Q Okay. Here's 407.

25 A Mmnh-mmnh.

26 Q The elevator is right across the hallway from it.
27 But you may not remember that or not.

28 A I'm sorry. No, I don't remember an elevator at all.

Q Okay. You were door-knocking this location here,

410?

1
2 MR. MCKESSON: Was the question, does he remember door-
3 knocking?

4 Q BY DET. COX: Do you remember door-knocking the
5 location 410 or 411?

6 A No, I --

7 Q There were actual people living in 411.

8 A There was people living there?

9 Q Living there.

10 A I don't remember. Uh, like I said, some doors were
11 like locked. So, we wouldn't get in it.

12 Q Right.

13 A Uhm, so --

14 Q No. 410 -- someone knocking on 410 and someone
15 answering the door, and you telling them that they had to leave?

16 A Was it an old female?

17 Q Two male -- two male Hispanics --

18 A Males?

19 Q -- young, 16 to 19 years old. One of them being
20 Javier Ovando.

21 Q BY DET. HANSON: The day before.

22 A The day before? Now, the day before, were there
23 females there, too?

24 DET. COX: Possibly.

25 DET HANSON: Possibly.

26 THE WITNESS: Well, that might have been the day before
27 that we had -- the people that we had run out.

28 Q BY DET. COX: One female. Possibly just one female?

A No, because I -- I felt that there was like a

boyfriend/girlfriend thing going on.

1
2 Q Okay.

3 A 'Cause there was probably two or three females and a
4 couple of males.

5 Q Do you remember that you saw them in that apartment
6 building and ordered them out? And that's right down the hall
7 from where your O.P. is at. That's why I thought it would
8 really trigger your mind.

9 A No.

10 Q It doesn't?

11 A Not -- not on this floor. Not right here.

12 Q Okay. Javier Ovando and another person in that
13 location, and a third person, says that you came to the door
14 with Officer Durden and told them to leave.

15 A On the 11th? On the day before?

16 Q On the 11th.

17 A On this floor?

18 Q Right there.

19 A It's possible. But I don't think it was on this
20 floor. This -- that would have been awfully close to our --
21 our O.P.

22 Q Right.

23 Q BY DET. HANSON: But that would have been a place you
24 would have checked, though.

25 A Sure.

26 Q Checked the doors, maybe looked inside.

27 A Yeah.

28 Q So --

A Now, it's possible that they were there the day

before, like I said, and we ran out a few people.

1 Q BY DET. COX: On the 11th?

2 A But I don't think it was on the same floor. Because,
3 I mean, we could have easily gone down to the 3rd floor and
4 even been closer to the people.

5 Q All three people we interviewed separately. And they
6 all said the same thing.

7 A On the this floor?

8 Q The 4th floor. Yeah. Now, some of these people
9 haven't seen each other in three years.

10 A Yeah. I don't -- I -- and this was the day before?
11 This is the, uh -- on the 11th?

12 Q This is the day before.

13 Q BY DET. HANSON: The people you did kick out of the
14 building, did you walk them down?

15 A I think we just told them to leave.

16 Q You just told them to leave?

17 A Yeah.

18 Q You don't remember walking them down a little ways,
19 and then --

20 A I couldn't even tell you. I -- I remember there was
21 a couple of males and some females. But I couldn't tell you
22 what they even look like right now. I couldn't tell you -- I
23 could tell you they were Hispanics. But I couldn't tell you
24 anything more than that.

25 Q BY DET. COX: But if you saw 18th Street gang members,
26 that you thought were 18th Street gang members, uhm, down the
27 hall from you, you'd probably kick them out?

28 A Well, yeah.

1 Q Right?

2 A You're talking down here at 410?

3 Q Yeah, at 410. Yes.

4 A Oh, sure.

5 Q Since your O.P. is there at 407.

6 A Absolutely.

7 Q Okay. Getting back to the 12th, that same day, did
8 you door-knock that same location, run into the same people,
9 you and Officer Durden, and one of you was visibly upset saying,
10 hey, I told you guys to leave yesterday, and you're back here
11 today?

12 A No.

13 Q You don't remember that?

14 A I remember the day before, uhm, on the 11th. Let me
15 think if on the next day we even kicked anybody out.

16 Q Okay. Do you know what Javier looks like?

17 A Well, I've seen his picture. I mean, I know -- I
18 remember seeing him in court. Uhm, but I guess he has hair,
19 now, or something, or --

20 Q Well, he's growing -- his hair is short. But this is
21 not Javier. That's a picture of, uh, Mousey, who is Alex
22 Macias, or Jose Lara.

23 A Okay.

24 Q He was also in that -- in the same room and said that
25 you came in that room two days in a row, and said that you
26 kicked him out on the 12th. But only him. You kept Javier
27 Ovando in the room.

28 A No. I did kick out some people, or we kicked out
some people the day before. We kicked out several people. For

1 some reason, I keep remembering a female Black transient-type.

2 Q That's a possibility.

3 A A drug user. Uh, I don't remember this guy at all.
4 But I know there -- like I said, there was about five people.
5 And I don't know whether they were in a room or like in the
6 hallway or something. And I remember seeing them. I remember
7 telling them, "Get out of the building."

8 Q BY MR. ROSENTHAL: Do you remember whether they were
9 gang members, or appeared to be gang members or drug addicts?

10 A I want to say that if they were gang members, we
11 probably would have detained them for a long time. If we just
12 told them to get out of the building, -- I mean, females, it's
13 hard to tell whether they're -- you know, you're a gang member.
14 But the male -- if this guy -- if this guy -- I mean, just we
15 saw -- uh, I'm sure we would have talked to him for awhile. I
16 mean, he would have been --

17 Q BY DET. COX: Well, you had talked to him the day
18 before, on the 11th, and -- excuse me -- wrote an F.I. on them.

19 A We did? Okay. That --

20 Q That's what they claim.

21 A Oh, I thought you were saying that we had an F.I.
22 Obviously, then -- then it was him. And, obviously, the next
23 day, I don't remember. I don't even remember him, you know,
24 the first day. I know we stopped like five people. Five, uh,
25 people that were together. And I'm saying three females, two
26 males. That's what I remember. Were they these people? I
27 don't know.

28 Q Okay.

Q BY MR. ROSENTHAL: They would have been separate from

the Black female?

1 A Yeah, the Black female was like sleeping on a couch.
2 She was just like a -- a drug-user. She was sleeping on a couch
3 by herself totally separate. And I definitely don't remember
4 being on the 4th floor. I definitely don't. I mean, that would
5 have been -- in fact, I know that we picked this 407 because it
6 was the quietest little area. I mean, because we could have
7 just went to 307, or 107, right at ground level and looked out.

8 But I remember going up there and thinking -- we
9 looked around, and I think -- and I thought we said that this
10 was the best -- best place.

11 Q BY DET. COX: So, I mean, it's -- it's probably a
12 moot point for me to even bring up on the 12th, since you don't
13 remember them on the 11th, then you don't remember them on the
14 12th.

15 A No. So, you're saying we stopped them on the 11th
16 and on the 12th?

17 Q BY MR. MCKESSON: He's asking if you recall stopping
18 this guy at all.

19 A No, I don't -- I don't remember stopping this guy at
20 all. Uh, I do remember stopping some guys on the 11th.

21 Q BY DET. COX: Okay. But on the 12th, no?

22 A On the 12th? Oh. On the 12th? Not really.

23 Q On the 12th, this gentleman?

24 A No. I'm sorry.

25 Q Go ahead.

26 A No, I was going to say -- no. I just -- I was -- I
27 was thinking maybe, you know, I just don't -- I don't remember
28 him. That I -- on the -- I do remember the first day. But on

1 the second day, especially not right there, right where our
2 O.P. is. Definitely not.

3 Q Right. One of them drove us by the location and
4 showed us, uhm, where the location was at. And it was -- they,
5 initially, said it was 409, uh, which is at the front of the
6 building. But before we knew where 409 was, they said it was
7 on the opposite side of 407, back against that back wall, which
8 is where 410 is.

9 And I'm sure that they probably mean 410. They just
10 didn't have their numbers correct at 409. Because they said
11 that it did not -- the window did not look over Lake Street.
12 And they said it was opposite of 407. So that would be 410.

13 And there was someone living in 411 because the O.I.S.
14 team did F.I.'s on the people on the night of the shooting.
15 And they were not home that night. Uh, they were out until
16 three o'clock in the morning. So, we know that these people
17 weren't living in 411.

18 A Okay.

19 Q It had to be 410. This guy here, Jose, the photograph
20 --

21 A Mmnh-mmnh.

22 Q -- says that on the 12th, probably a half hour or so
23 before the shooting, you and Durden door-knocked on the
24 location. He had the door barred because they had been smoking
25 cocoa puffs. Do you know what cocoa puffs are?

26 A Uh, like rock cocaine mixed with, uh, some other --
27 or marijuana.

28 Q Cigarettes or marijuana, yes.

A Okay.

1 Q And it makes them paranoid. So, they put a bar across
the door. They were squatters there, for the most part.

2 A Okay.

3 Q And they had mattresses in -- inside that location.
4 Do you remember going into a place that, uh --

5 A Well, a lot of the rooms had mattresses. That doesn't
6 stand out.

7 Q Okay. Doesn't trigger your mind?

8 A No.

9 Q He opens the door. One of you is -- is upset. Whether
10 it's you or Durden upset at the fact that now it's two days in
11 a row that you told these guys they can't be there. And you
12 told them they had to leave.

13 DET. HANSON: They recognize you from the day before.

14 THE WITNESS: The only thing I was getting ready to say,
15 that I was thinking, was that on the day before -- the first
16 day --

17 DET. COX: The 11th?

18 THE WITNESS: The 11th. Remember when we said we were
19 there -- and, actually, some things are starting to come to me
20 here. When we said that, uh -- well, when I said that we did
21 the O.P., we were there for awhile, but we left, I think one of
22 the reasons we left was because there was people around. And
23 we just said they're, obviously, gonna know we're in here, or
24 something like that. We were thinking, obviously, somebody is
25 going to know that we're in here. So, we left.

26 And I think we made it real obvious that we left like
27 in the -- in the clear open, in other words. We just left.
28 And then we came back. That's probably why we left and came

back. I'm thinking that on the 11th some things went on.

In other words, we went there. We found some people -- too many people We told everybody to get out of the building. And we left the building like we just came there to empty the building, and left. And then, came back later on.

Q BY DET. COX: Because your log shows you were there for about three hours.

A Three hours?

Q On the 11th.

A From like 8:30 'til like --

Q Something like that.

A Yeah.

Q BY DET. HANSON: But what you're saying, you're accurate.

A What's that? That I left and came back?

Q Yes.

A Yeah, I -- I -- it is vague.

Q Uh, your memory is correct.

A I believe that we went in the building. And some of it is starting to come to me. We went in the building. Uh, we -- like I said, we found like five people all together in one area. We found a female. We might have found an older White or maybe Hispanic male who looks White.

In other words, there was a lot of people seeing us. So, it would be difficult for us to do an O.P. because everybody's leaving out of the building. And they're gonna go, "Hey, there's cops in the building." We knew nothing was going to happen. So, we left and made it real clear to them that we were leaving. But then, when came back later that evening.

1 Q BY DET. COX: What's later, though?

2 A Maybe an hour or so, I'm thinking.

3 Q Okay. What -- what did you do for that hour that you
4 don't indicate -- show on your log?

5 A I have no idea.

6 Q Well, what I'm -- what I'm asking you, Ray, is did
7 you -- were you doing stuff that's -- you couldn't put on the
8 log?

9 A No. You know, our log -- if you look at our log, it
10 was very generic.

11 Q I know. I saw it.

12 A We have very -- just blocks of time in the area of
13 this area.

14 Q Well, that's what I'm wondering. So, what do you
15 guys do in that block of time, where it says, "I'm patrolling
16 this gang area for 30 minutes, 45 minutes, or an hour. And no
17 gang activity. Checked area -- no gang activity."

18 A Mmnh-mmnh.

19 Q 'Cause that's almost every line. Checked area. And
20 there's no -- I mean, what do you guys like when you leave
21 there?

22 A Mmnh-mmnh.

23 Q Where do you go?

24 A I have no idea where we went.

25 Q Is it common practice, though?

26 A What do you mean "common practice"?

27 Q As far as you set up and do something and then go --
28 see, you guys weren't on the air. You, basically, weren't on
the air.

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A Right.

Q You didn't have --

A Well, we used different frequencies.

Q You used 181 Boy?

A Right.

Q Right?

A Right.

Q BY DET. HANSON: 181 Boy Simplex?

A Right.

Q BY DET. COX: It's a C.R.A.S.H. frequency?

A Well, it's not a C.R.A.S.H. frequency. But we used it.

Q That's what you guys used?

A Right.

Q Okay. You can't recall, like when you left, what you did that night, if you were up there for an hour on the 11th?

A I can't even say -- well, let me back up a little bit and make it more clear.

Q Okay.

A I can't even say there was an exact hour that we were gone. As I'm talking to you, some things are starting to come to my mind, that we had left, because we felt it was heated. They're gonna -- whoever's leaving the building they're gonna, say, "Hey, the cops are up there."

And, so we left. We came back again later. How long did it take us to get back later? I don't know. Where did we go during that 45 minutes, an hour, hour and 15 minutes? I can't tell you. I just don't remember. It doesn't stand out.

We might have just got back in our car, okay, let's

1 just drive up -- back up north around our area for a while.
2 And then we'll come back and -- and hit it later and see what's
3 going on -- if anything's going on.

4 Q And if anything was to happen in that time where it
5 shows that you're on your O.P., and you get in a shooting, two
6 miles from you're O.P. --

7 A Well, the -- the log would reflect that -- 'cause we
8 don't do the log as we go.

9 Q I know.

10 A Most of the time the logs done at the end of the
11 night, uh, as best you can remember the night, that's when the
12 log is done, you know.

13 Q Okay. This guy here, Jose --

14 A Mmnh-mmnh.

15 Q -- on the photograph, he's seen you before --

16 A He looks real familiar, though.

17 Q -- uh, driving around. His nickname is, uh, -- was
18 Nene.

19 MR. MCKESSON: I thought you said Mousey?

20 DET. COX: We said Mousey. He goes by Nene and Mousey.
21 N-e-n-e.

22 Q BY DET. COX: Uhm, which, I guess, stands for baby?

23 A Kid.

24 Q Kid?

25 A Mmnh-mmnh.

26 Q He also goes by Mousey. His new name is Mugsy. So,
27 but he's seen you before driving a gray unmarked vehicle.

28 A Gray? Like a Crown Vic?

Q Well, he didn't -- we didn't ask him. I didn't know

1 what kind of car you drove. He just said he's seen you before
2 driving around. Didn't know who you were. But saw you on the
3 night of the 11th. And again saw you on the night of the 12th.

4 So, I mean, he -- he knows who you are. He knew that
5 you drove a gray -- a gray car, which me and my partner didn't
6 even know that until you told us today.

7 A Yeah, we -- we do have a -- well, I've used it.
8 Because I think back then, I was using the Taurus. But I do
9 have a Crown Vic that I was using. But, actually, no. If you
10 look at the logs --

11 Q Hold on one second. Let her catch up.

12 A If you check up -- these things are just popping in
13 my head as I go. If you guys have the log for that day, Officer
14 Cohan and Officer Brehm, I had given them that car. The only
15 time I used that car was -- and they're in charge of 18th
16 Street. Uh, the only time I would have used that car, if they
17 weren't working that night.

18 Q Okay. I --

19 A But during that time, I was mostly using my, uhm,
20 Taurus. The blue Taurus.

21 Q Okay. He didn't say he saw you in the car that night.
22 Actually --

23 A Oh.

24 Q -- Javier Ovando sees you in the light blue car on
25 the night of the 11th.

26 A Okay.

27 Q He does see you in that car. He's -- Javier says
28 that you came in the, uh, place. You kicked them out. They
left. They go across the street to another building. They

watch you leave -- you and Durden leave --

1
2 A Through the front?

3 Q -- a half hour later. He didn't say -- 'cause your
4 car was parked on 12th Street. He sees you leave a half hour
5 later. We asked what kind of kind did you get in, 'cause we
6 didn't know what type of car it was. And he says it was a light
7 blue car.

8 A Okay.

9 Q So, uhm, Javier also saw you on the night of the 11th
10 after you kicked him out of the apartment. They went across
11 and watched you leave. And they went back in after you had
12 left.

13 A Which is probably when we got back.

14 Q Which is -- I don't know if you ever came back that
15 night.

16 A Yeah.

17 Q I don't know if it was the first or second time, or
18 whatever, since everyone's memory is a little unclear.

19 A We came back -- I'm sorry. We came back the second
20 -- uh, after we left, and we made it real -- in other words, we
21 didn't sneak out of the building through the back like we did
22 going in. We made it real obvious and just left like right
23 through the front. Because we wanted people to think, they're
24 gone. They've left, or whatever.

25 Q BY DET. HANSON: That's what -- why they saw you then?

26 A That's -- of course. Uh, I let him -- you know, we
27 let them see us. No problem. Okay, the officers are leaving.
28 They can get back to their activity. We came back later that
night. I know that. We were there for some time.

1 Q BY DET. COX: Any time that you -- it clicks back
2 into your mind that you think that you may have knocked on the
3 door, and kicked somebody out, just let me know.

4 A Okay.

5 Q I'm not gonna continue to ask you that.

6 A Okay.

7 Q Because I figure if it clicks in your mind, you may
8 tell me.

9 A Mmnh-mmnh.

10 Q Okay?

11 A Right.

12 Q The night of the 12th, after you kick Mousey out, you
13 hold on to Javier.

14 A I never said I --

15 Q No, I know you didn't.

16 A Okay.

17 DET. HANSON: We're telling you --

18 THE WITNESS: Okay.

19 DET. HANSON: -- what we have been told and have learned.

20 THE WITNESS: Okay.

21 DET. HANSON: So, see, if that --

22 Q BY MR. ROSENTHAL: Well, let me just stop and ask one
23 question. Am I understanding you correctly that you're saying
24 that the night before the shooting --

25 A Right.

26 Q -- it is possible that there were two male Hispanics,
27 a female Hispanic, that you would have kicked out of 410. And
28 you don't remember or are you saying that it definitely didn't
happen?

1 A Well, the 410 I don't remember. I do remember kicking
2 out some males and some females early when we first got in the
3 building.

4 Q Right.

5 A -- as we're cleaning everyone out. We left. And
6 then, a few -- or I don't know how many minutes, we returned
7 later. Uh, now, did we see them again in the building that day
8 again? I don't remember. I really don't.

9 Q So, it could have happened but you just don't
10 remember?

11 A I don't. But I -- I have a real problem saying that
12 it was 410. That I have a real problem with. I -- they --
13 yeah, they were in there. Some -- uh, some people were in
14 there. I just don't remember being here. I don't.

15 Q BY MR. MCKESSON: And here being 410?

16 A 410, I'm sorry.

17 Q BY MR. ROSENTHAL: I'm sorry.

18 Q BY DET. HANSON: But you -- since your O.P., though,
19 was at 407, though, it doesn't make sense that you would have
20 checked those apartments right next to where you are doing your
21 O.P.?

22 A Well, I'm not saying that I didn't check them.

23 Q Okay.

24 A Uhm, there's a possibility that -- I couldn't tell
25 you which apartments -- absolutely each one that I checked.
26 That's impossible. Uhm, I'm -- I'm sure -- you know, when we
27 got up to this landing -- or to this certain area here, uh,
28 Durden would maybe check a couple over here. Say this doors
knocked, and I would look over here.

1 In other words, we just kind of browsed through each
2 apartment real quickly, mainly looking at the hallways. Uh,
3 but I can't tell you what was in each apartment.

4 Uhm, if I heard them talking and there was some voices
5 or he was talking to somebody, I would go over there and see
6 who he had or what was going on. But this close, I mean, right
7 across from each other?

8 DET. HANSON: It's down a ways.

9 THE WITNESS: I don't remember that. I don't remember.
10 I don't remember the elevator either. But --

11 Q BY DET. COX: And you don't remember making any F.I.'s
12 that night on anybody inside that building, specifically, that
13 night on the 11th?

14 A If there was, Officer Durden would have written it.

15 Q Officer Durden claims he didn't -- he writes F.I.'s,
16 but doesn't turn them in.

17 A I don't know. I'm just saying that, uhm, he usually
18 fills out the F.I.'s.

19 MR. MCKESSON: You guys interviewed Officer Durden on this?

20 DET. COX: On this specific shooting, no.

21 DET. HANSON: On prior things we've talked to Officer
22 Durden and have a feel on the way he -- he conducted things.
23 And that's why he was asking that.

24 THE WITNESS: Yeah, but most of the time Durden would, you
25 know, do the F.I.'s and stuff like that.

26 Q BY DET. COX: Javier Ovando, you remember what he
27 looks like because you've seen him on the news?

28 A Mmnh-mmnh. I've seen him in court as well.

Q And you saw him in court.

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A Mmnh-mmnh.

Q Uhm, and you remember him once you saw him, you recall back to that night? You remember him being there on the night of the shooting?

A Right.

Q Okay. Do you remember stopping and holding him in Room 410 that night?

A No. On the 12th?

Q On the 12th. I'm sorry. On the night of the 12th after you told Mousey to go downstairs and you were going to let Javier go in a little bit.

MR. MCKESSON: The only problem I'm having with the question, officer, is the question is suggesting the answer. Because -- because I think my client has said several times he doesn't remember Mousey being there.

DET. COX: Correct.

MR. MCKESSON: He doesn't remember this incident happened.

DET. COX: Right.

MR. MCKESSON: And the way you're asking the question, do you remember after you did this, you did that, you did this? And I mean, I don't know how he can answer that if he doesn't agree with it.

DET. COX: Well, what I -- but the thing is once we start talking to him, he starts to remember a little -- he starts remembering some things.

So, like we told him about the car a while ago, and that's -- and that kicked -- and that kicked in. That's all I'm trying to do. This stuff, from what I've -- from what me and my partner have uncovered, is the way that it happened.

And --

1 MR. MCKESSON: I'm sorry. You said -- okay. Now, I really
2 disagree. You're saying the way that it happened is that he
3 kicked out Mouse and then Ovando was there?

4 DET. COX: Yes.

5 MR. MCKESSON: And if he doesn't agree with that?

6 DET. COX: And that's -- uh, that's fine. He doesn't --
7 I don't have a videotape of what happened that night. I only
8 have witnesses that I've talked to.

9 MR. MCKESSON: Yeah.

10 Q BY DET. COX: That's it. So, I mean, if you can't
11 recall, or you're saying that's not the way it happened, I can't
12 do anything about that.

13 A Right.

14 Q I mean, but I'm just giving you the opportunity. I'm
15 not trying to trick you. I'm telling you --

16 DET. HANSON: We have had a different version of this,
17 basically.

18 THE WITNESS: Well, I've read some of the versions in the
19 newspapers already.

20 MR. ROSENTHAL: And it seems clear that all the detectives
21 are doing is saying that, uhm, according to other witnesses,
22 this is what happened, and trying to determine whether Mr. Perez
23 remembers if it happened that way or another way.

24 MR. MCKESSON: The only problem I have is, is the way the
25 detective characterizes the way it happened.

26 MR. ROSENTHAL: Well, but it's not court. So, yes, it's
27 a leading -- potentially leading question. But --

28 MR. MCKESSON: No, I know we're not in court. But I'm

1 trying to make sure he's clear on that -- he understands what
2 he's being questioned what do your remember happened. And he's
3 telling us what happened.

4 DET. COX: Okay.

5 MR. ROSENTHAL: I think it's pretty clear he understands.

6 DET. HANSON: We want to make sure he knows that we have
7 a different version. Okay.

8 THE WITNESS: Like I said, I've read the versions in the
9 newspapers.

10 DET. HANSON: All I want is to make sure that he knows we
11 have a different version from other witnesses. We weren't
12 there. And to see if it changes the way -- it changes his
13 story, or maybe it refreshes his memory on what happened.
14 Because we, definitely, have two different stories.

15 MR. ROSENTHAL: All right. So, why don't we go on?

16 DET. HANSON: We're not trying to trick anybody. We want
17 to make sure that -- because when you tell us your story, that's
18 going to be your story. And we have another story.

19 MR. ROSENTHAL: Okay.

20 DET. COX: We want to make sure. Okay.

21 THE WITNESS: All right.

22 Q BY DET. COX: All right. Obviously, we have two
23 stories -- yours and the other witness's -- victim.

24 A Mmnh-mmnh.

25 Q The other victim's -- the victim claims he was in
26 410. And was there for a period of time. When you went into
27 the apartment, and you hand- -- or you searched both Mousey and
28 Ovando -- Javier.

DET. HANSON: We're telling our version.

THE WITNESS: Yeah.

1 Q BY DET. COX: I'm telling my version.

2 A Okay.

3 Q I'm not telling you -- I'm --

4 A Okay.

5 Q -- telling you what the victim/witness said.

6 A Okay.

7 Q Okay. And if any of this clicks in, just let me know.
8 Or part of it clicks in, let me know. Uhm, Mousey's released.
9 Mousey leaves the building. Javier is still in the room with
10 you and Officer Durden.

11 A In 410?

12 Q In 410.

13 A Okay.

14 Q He's in handcuffs, taken out of Room 410. Taken down
15 to Room 407, led by you, and then, Javier, and then Officer
16 Durden.

17 A Mmnh-mmnh.

18 Q You enter into Room 407 where you search the room
19 quickly with your flashlight because it's dark.

20 DET. HANSON: Let me stop for a minute. At that point,
21 this kind of, uh, -- this story he's telling you, kind of
22 indicates now that you might have not have been in 407, prior
23 to this.

24 THE WITNESS: No, we were definitely in 407.

25 DET. HANSON: Okay.

26 THE WITNESS: Uh, and -- well, go ahead.

27 Q BY DET. COX: Nothing's -- nothing's clicking in right
28 now? Okay.

1 A Uhn-uhn. I'm sorry. No.

2 Q And once you clear the -- once you clear the
3 apartment, Officer Durden takes the handcuffs off of Mr. Ovando,
4 who is now standing. And I'm going to show you this. This is
5 the diagram of the apartment of 407.

6 A Okay.

7 Q I think you saw it last week. I've taken out, uh,
8 where I think in the original drawing last week it showed where
9 you were standing, where Officer Durden was standing. There
10 was an overturned chair. And where Ovando was standing.

11 A Right.

12 Q Okay. I'm going to show that to you. And let you
13 just familiarize yourself with it.

14 A Okay. This is the entrance?

15 Q That's the entrance into the hallway.

16 A Okay.

17 Q Okay. Now, if on that, uh, -- on that diagram, where
18 your little finger is, on your left-hand, uhm, that's 410, is
19 right down in that area, except opposite -- exactly.

20 A Uh-huh.

21 Q Where you're pointing at the bottom of the page.

22 MR. ROSENTHAL: We'll mark this as No. 2.

23 Q BY DET. COX: Okay. Uhm, you guys walk into that
24 hallway. And Mr. O- -- I'm sorry. You walk into the hallway
25 of Apartment 407.

26 A Okay. Here?

27 Q Yes.

28 A Okay.

Q You walk in through that front door of 407. After

1 you've cleared it, both rooms, both the kitchen area and the -
2 - and the living room area, Mr. Ovando is standing -- I'll put
3 an "O" where Mr. Ovando was standing.

4 Mr. Ovando is standing approximately in this location
5 here. I'm putting an "O" right next to the wall of the entryway.

6 Is that where you remember the shooting occurring,
7 where Mr. Ovando --

8 A Yes.

9 Q Okay.

10 A Mmnh-mmnh.

11 Q And where you were standing when you -- when you got
12 involved in the shooting was where? You can just go ahead and
13 put your initial there.

14 A My initial?

15 Q Yeah. "P".

16 A "P"?

17 Q Yes. And where Durden was standing, approximately.

18 A Well, there was a chair right here.

19 Q Go ahead and mark -- put something there. Put a box
20 or something.

21 A At the chair?

22 Q Yeah.

23 MR. ROSENTHAL: Just a "C", or a rectangle.

24 (Witness complied.)

25 DET. COX: He drew a chair.

26 THE WITNESS: Well --

27 MR. ROSENTHAL: That's fine.

28 THE WITNESS: And Durden -- put a "D" for Durden?

Q BY DET. COX: Yes. So, he was standing on the other

side of the chair, not using the chair as cover?

1 A That's right.

2 Q Mr. Ovando says that he was standing there. And you
3 and Officer Durden were standing closer together. Not where
4 you have it indicated there.

5 A Okay.

6 Q And you were whispering to each other.

7 A Okay.

8 Q And shining your lights on his face -- both you and
9 Officer Durden.

10 A Okay.

11 Q Do you remember that?

12 A No.

13 Q Okay. Then, at that point --

14 A At one point, -- I mean, at some point, when the
15 shooting occurred, yeah, I had my light on him, yes.

16 Q Okay. It was dark in that room?

17 A Yeah. Uh, yeah, the room was dark. I mean, there
18 was some light coming out from the street, 'cause it's a --
19 there's an apartment facing Lake side. So, there's some light.

20 Q The front door was closed on that?

21 A I really didn't pay attention whether it was open or
22 closed. I don't remember exactly.

23 Q Do you remember if there was -- do you remember if
24 there was light in the hallway?

25 A For some reason, I remember some light being in the
26 hallways to some of the floors. I can't tell you if all the
27 floors had, uh, lights. I mean, some of the light bulbs were
28 busted or something. Or I believe there was power to the

hallways. In other words, some of them were functioning.

1 Q Okay. This is what we heard also, that there was
2 some power still -- actually, there was power still to the
3 building. And there was quite a few lights on throughout the
4 whole building, maybe sporadically. I don't -- I don't know.
5 I wasn't there.

6 A Okay.

7 Q At some point in time, you and Officer Durden drew
8 your guns out and then shot Mr. Ovando?

9 A Right.

10 Q As he's just standing there. He hasn't done anything.
11 He's just standing there next to the wall.

12 A Okay.

13 Q As Mr. Ovando starts to fall, you come over to him
14 and grab him by his shirt and hold him up, without letting him
15 fall. And then, you put the gun to his head. And then, he
16 tells you, "Don't shoot me. I don't want to die."

17 And then, you shoot him in the head. And then, you
18 let go of him and he falls.

19 A No.

20 Q No? All right. So, uhm, I know you haven't had the
21 chance to talk to Javier, which me and my partner have. And I
22 can tell you, by us talking to him, he is not a hardcore gang
23 member.

24 I mean, he's actually very humble for being in prison
25 for three years. Uh, he's very believable. Uh, he's not saying
26 anything more than really what he thought happened that night.

27 A Mmnh-mmnh.

28 Q In fact, he said he was marched down the hallway

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handcuffed until he got in 407, where he was then taken into 407. Uh, he was actually asleep in 410 when you knocked on the door with Mousey. He was asleep in there. Because they were sleeping. They had smoked some cocaine. And you guys were clearing the building.

Uh, and then you guys -- Mousey says he waited 25 minutes for, uh, Javier to come downstairs. He had actually talked to Monique, his girlfriend, who had shown up. And she had asked where Javier was.

A Mmnh-mmnh.

Q And Mousey told her, "Well, the police have him upstairs. But they're letting us go one-by-one." And they waited about five or ten minutes downstairs. And then, they heard the gunshots.

So, Mousey says, uh, that you had him for a period, he thinks, of 25 minutes before they hear the gunshots. And that's after you kick him out. And there was additional witnesses across the street who were outside when the shooting occurred. Now, I'm not going to sit here and -- and tell you that, uh, there were other people that watched this thing go down. Because you told us that you wanted to be -- come forward and tell us everything.

A Mmnh-mmnh.

Q And, uh, so, I'm not going to sit here and tell you that we have witnesses that saw something, uh, different than what you're telling, other than we have a victim who was there, at the time, and a witness who was also -- well, actually, two other witnesses who were there, who tell us a very similar story about you coming to that apartment, and door-knocking, and being

1 very nice the first day, on the 11th. Very nice officers,
writing F.I.'s., refusing to speak Spanish to them.

2 A Refusing to speak Spanish to them? I'm a fluent
3 Spanish-speaker. So, I don't know.

4 Q I -- I know. Well, all of them said the same thing,
5 that the, uh, -- Officer Perez didn't speak Spanish. And they
6 don't -- they don't think that you do speak Spanish. They think
7 that you're a Black officer who doesn't, uh, speak Spanish.

8 So, I mean, I'm just telling you what they say.

9 A Right.

10 Q Okay. Uh, but these people haven't talked to each
11 other for three years. None of them. Because they haven't
12 seen each other. And it's just amazing that their story is
13 fairly consistent. Yours is kind of way off.

14 A No, my --

15 Q And you admit to putting the gun there, which is the
16 serious part -- planting the gun.

17 A Right.

18 Q But -- and I want to get into the gun part.

19 A Yeah, I've, uh -- I've explained it exactly as -- I
20 mean that I grabbed his collar and put a gun to his head and --
21 -- and I read this already in the paper, by the way. I -- I
22 don't know if you know it's in the paper.

23 Q No.

24 A Yeah. It was -- all of this was already in the paper.

25 Q Okay.

26 A And I've read it already.

27 Q Mmnh-mmnh.

28 A I mean, it's --

1 MR. ROSENTHAL: Mr. -- just for the record, Mr. Ovando's
2 statement was put in the Declaration for Writ of Habeas Corpus,
3 which became a public document.

4 DET. COX: Okay.

5 MR. ROSENTHAL: So, there were some quotations in the
6 papers about it.

7 THE WITNESS: Yeah. Yeah. I mean, and I've read them.

8 Q BY DET. COX: And none of what Javier says and -- has
9 any truth to it, other than the fact of the gun? And he said
10 he didn't have a gun?

11 A Well, yes.

12 Q He did not have a gun?

13 A He did not have a gun.

14 Q Okay. But the part about him being in Apartment 410,
15 and Mousey saying the same thing -- we were down the hall and
16 officers came there on the 12th, told me to leave. And Javier's
17 saying the same thing.

18 You know, I mean, like I said, you have to understand
19 Javier and Mousey haven't talked to each other since the night
20 of the shooting. They never talked to each other again. And
21 they still haven't talked to each other to this day.

22 A Well, I mean, I don't know whether they talked to
23 each other or not. But I know this is a -- in fact, we even
24 received death threats. I mean, I don't know if it was even
25 documented. But they talked about, uh, that they were going to
26 hit me and Durden regarding this shooting. I don't know if you
27 guys heard that.

28 Q No, I did not.

A We had done so many walk-throughs in here. Everybody

1 was there. I mean, everybody knew what was going on here, as
2 far as, you know, where everything took place, and stuff like
3 that. Because we had done several walk-throughs. Uhm, we had
4 even got rumors -- I mean, I had known -- I think I told the
5 D.A. that his girlfriend went up there and talked to him. And
6 that he was okay. And that she had talked to some of the
7 homeboys.

8 He -- she started seeing some other guy, and got
9 pregnant by another guy. This is just stuff that --

10 MR. ROSENTHAL: Hold on a second.

11 THE WITNESS: -- they told me.

12 MR. ROSENTHAL: Hold on a second. Slow down. Off the
13 record for a break at 11:46 a.m.

14 (Off the record at 11:46 a.m.)

15 (Back on the record at 1:07 p.m.)

16 MR. ROSENTHAL: Okay. We're back on the record. It is
17 1:07 p.m. And Mr. Perez, you're still under oath.

18 THE WITNESS: Yes, sir.

19 Q BY DET. COX: Okay. I think, Ray, when we left off,
20 I'd given you the scenario of what I was told by witness and
21 victim. Uhm, and nothing like that comes to mind about what -
22 - that that's what happened?

23 A The only thing that you refreshed my memory about was
24 that we had left and come back, and gotten some people out of
25 the building. But, no, the other parts that you've told me
26 about, no.

27 The only thing I can say on what you had told me that
28 the person said that the person didn't speak English.

Q Yes.

1 A Uh, the only thing I can think of, in my mind, that,
2 you know, made me think was that, uhm, I did not have -- in
3 other words, I wasn't with Durden the entire time. There was
4 times that I was watching and he was walking around.

5 So -- and believe me when I say, that if I stopped
6 someone who was a Spanish-speaker, I would speak Spanish,
7 because I'm a Spanish-speaker. You know, I'm not gonna just
8 keep speaking English if they're not talking to me. But what
9 I'm saying -- well, the reason I'm saying this is because Durden
10 doesn't speak English -- and I wouldn't --

11 Q He doesn't speak Spanish.

12 A He doesn't speak Spanish. So, I -- I wasn't
13 accounting -- or I didn't account for every moment -- where he
14 was, every moment. Like I remembered that you said that he
15 left, uh, to go, uhm, take some keys or do something. That's
16 something -- I didn't account for every moment where he was.

17 Q Yeah, but that time that he left to take the keys is
18 -- you stayed in 407 during that time and didn't -- as far as
19 you can remember, you stayed in 407?

20 A Yes.

21 Q You didn't leave, and you didn't confront anybody or
22 run into anybody --

23 A No.

24 Q -- when he was passing the keys?

25 A No, I didn't.

26 Q Let's go to the part about the gun. After the
27 shooting, and I may -- well, hold on one second. Tell me,
28 again, your version of -- of the shooting, how it happened, of
what happened when you guys were inside Apartment 407. Tell me

what happened.

1 A Okay. Uhm, can I use that diagram again?

2 Q Sure.

3 MR. ROSENTHAL: And this is Diagram 2.

4 DET. COX: Yes.

5 THE WITNESS: Exhibit 2, yes.

6 MR. ROSENTHAL: Yeah.

7 THE WITNESS: Uh, everything that's on here is correct.
8 Everything that I had drawn earlier. That it also reflects,
9 uhm, what the shooting team had the sketch -- the, uh, scale
10 that I had prior on -- on a prior interview. Uhm, where the
11 "O" is is where Mr. Ovando -- where I saw him. The "D" is where
12 Mr. Durden -- or Officer Durden was. And the "P" is where my
13 last steps that I took, where I ended up.

14 Q Okay.

15 A The "P". Uh, like I said, I walked from where the
16 window was here.

17 Q In the kitchen?

18 A I'm sorry. Yes.

19 Q Okay.

20 A Where the window was in the kitchen area. Where it
21 says, "Window", uh, in this scale. I had walked from there to
22 where the "P" is positioned now. Uhm, from this position, I
23 believe I had a flashlight in my hand.

24 Q Why did you walk from the window to where the "P" is
25 at?

26 A I heard Officer Durden talking.

27 Q Loud?

28 A Yeah, loud enough for me to hear through the earpiece

1 and everything else. And I also heard, like -- like I said
2 before, and I've said it several times, you know, the "F" word.
3 And then there was some talking. And the "F" word was in the
4 middle of it. And it was like a loud voice.

5 Uh, the closest I -- I got to, uh, Mr. Ovando, before
6 I fired a round, was where this position -- where this "P" is.

7 Q BY MR. ROSENTHAL: And how far is that, about?

8 Q BY DET. COX: Could you say in the room here, as far
9 as where you're sitting?

10 A From here to about the wall. Is that 15, 20 feet?

11 Q Something -- probably around 15 feet or so.

12 A Something like that. About 15 feet.

13 Q BY MR. ROSENTHAL: That's about somewhere between 15
14 to 20 feet?

15 A About that. Uh, from here. Uh, this is where I fired
16 my rounds from.

17 Q BY DET. COX: Okay.

18 A And where this chair was and where the -- the -- Mr.
19 Durden -- the "D" is, that's where he was standing. Uh, like
20 I said, when I walked from window, uh, in the kitchen to where
21 this "P" is, uh, I had already seen Mr. -- I seen Mr. Ovando.
22 I seen Mr. Durden -- or Officer Durden with his gun out -- or
23 taking his gun out, pointing it, uh, firing a round. And I,
24 then, fired a round.

25 I -- well, I fired three rounds off. You know, I
26 know we keep saying three, but was it three or four rounds?
27 'Cause there was some confusion.

28 Q It was four rounds.

A Four rounds?

1 Q Four rounds fired total.

2 A Total. Okay. Well, I fired, then, three rounds from
3 here. From this position where this "P" is, I fired three
4 rounds.

5 Q Okay. Uhm, when Mr. Ovando walked in, where -- where
6 the "O" is, what was he doing when you fired at him?

7 A Just standing there.

8 Q Looking towards, in your direction, or in Officer
9 Durden's direction?

10 A No. Officer Durden's direction.

11 Q Okay.

12 Q BY MR. ROSENTHAL: Do you know whether he was armed
13 or not -- Ovando -- at the time that you fired your shots?

14 A Like I told you before, I did not see a weapon on
15 him. Q BY DET HANSON: Could you see his hands?

16 A And to be very honest, I -- I'm assuming that I saw
17 his hands. I just don't remember. I don't -- I can't say that
18 I looked right into his hands, you know what I mean? Because
19 -- because that would be lying. But I remember being able to
20 see him. And I know that he didn't have no weapon. And I can
21 see that he had no weapon.

22 Q And you -- when you're looking for somebody -- when
23 you're looking at something, --

24 A Yeah, you kind of give a quick like visual cursory
25 search.

26 Q You look at hands to see what's up, --

27 A Right.

28 Q -- with most people.

A Right.

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Q BY MR. ROSENTHAL: So why did you shoot?

A Like I said before, I was feeding off of my partner. My partner had fired a round. And I just went and I fired it myself.

Q BY MR. MCKESSON: You're saying you maybe thought your partner might have seen something you didn't see?

A Well, like I -- like I told, I believe, it's on the first interview, I fed off my partner. When he fired, I fired right after that.

Q Do you feel your partner was in a better position to see than you were?

A He was only maybe five feet away from him. Uhm, I mean, they were like, I would say, from here to there. Right to where you're at. From where I'm sitting to Detective Hanson's sitting, which is maybe five feet.

Q BY MR. COX: Six feet or so.

A Six feet. I was another ten feet or so behind and to the right of -- of Officer Durden.

Q BY MR. ROSENTHAL: It actually sounds like what you're saying is the reason you shot is not because necessarily you thought Officer Durden could see something you didn't, but you just reacted?

A I reacted.

Q You shot without thinking.

A Yes.

Q Okay.

Q BY DET. HANSON: And I'm not -- I'm not questioning that. But, have you been taught, though, that you're supposed to see the threat? Also, you don't just fire because your

1 partner fires. I know you're backing your partner up, but you
2 also as an individual, you know, to justify your shooting, you
3 also have to see some kind of threat also.

4 Is that something that you've --

5 A Well, certainly, you're trained to see the threat.
6 But sometimes you have to go on other instincts, too. I mean,
7 if my partner's wrestling with someone, and I don't see a gun,
8 but he says, "Shoot him," I'm going to shoot him. Not because
9 I saw a gun, because I'm backing my partner, and I'm -- I'm
10 feeding off him. 'Cause I'm thinking maybe he sees something
11 I don't.

12 So, I don't know if I answered your question.

13 Q That's okay. That's all right.

14 Q BY DET. COX: At no time you made physical contact
15 with Mr. Ovando?

16 A At no time did I -- to this day, at no time have I
17 ever even touched him, uh, physically, like even -- not even to
18 handcuff him. Because I didn't handcuff him.

19 Q Well, tell me what happened shortly -- right after
20 the shooting. What happens next?

21 A Which part?

22 Q Right after.

23 A Putting the gun down, or --

24 Q Well, right after you shoot Mr. --

25 A After the people started coming?

26 Q No. Right after you shoot Mr. Ovando, what happens
27 next?

28 A Like I said, Officer Durden -- can I keep referring
to this diagram?

1 Q Sure.

2 A 'Cause it makes it easier for me.

3 Q Okay.

4 A Can I use your pen?

5 MR. ROSENTHAL: We're still looking at, uh, Exhibit 2.

6 THE WITNESS: Where the "O" is positioned is Mr. Ovando.
7 After the rounds are fired, I move over maybe -- I wrote on it.
8 I'm sorry.

9 DET. COX: That's okay.

10 THE WITNESS: I walked over to maybe about here. Right
11 where -- a little bit to the --

12 Q BY DET. COX: Go ahead and put an "x" there where
13 you're -- or a "P". And then put, uh --

14 A Put another "P"?

15 Q Put a -- and just put, uh, 2. P2.

16 MR. MCKESSON: Three "P's"?

17 THE WITNESS: "P2" is okay? I come to about there. And
18 I'm just, uh, on the low ready. When I say "low ready" I mean
19 my -- my weapon is positioned down. And I'm covering the, uh
20 -- the defendant, who is on the ground. Officer Durden walks
21 over this way. And I put an arrow going to the left towards
22 the exit. He walks out here, and runs around here. And is
23 gone for a little while.

24 Q BY DET. COX: Okay. When you say he runs around, do
25 you see him leave out the door?

26 A Mmnh-mmnh. The --

27 Q Out the front door?

28 A Yes.

Q You see him exit out the front door of Apartment 407.

1 Do you lose sight of him then for a period of time?

2 A Yes.

3 Q How long approximately?

4 A I'll say maybe no more than five minutes.

5 Q For a period of five minutes, uh, he was gone?

6 A No -- no more than five minutes.

7 Q Okay. What's the least amount of time? Because five
8 minutes is a long time to be guarding someone after a shooting.

9 A Okay. I'm gonna say probably somewhere in between
10 three and five minutes. Somewhere in there.

11 Q Do you know where he went?

12 A He went out the door. I don't know what he -- I was
13 still here. I was still in -- inside.

14 Q Did he say anything to you when he was leaving?

15 A No.

16 Q He just leaves, walks out the door?

17 A Yeah. I -- I think I might have said, "I got him."
18 In other words, I'm covering him. And he walks out here.

19 Q What was he going to do out there?

20 A I'm assuming that he was seeing if there was anybody
21 else around, or whatever.

22 Q But I mean three minutes, uh, that's the minimum.
23 Three minutes to go out and see if someone else is around, is
24 -- I mean, it's a long time, especially when you just shot
25 somebody.

26 A I'm telling you exactly how long he was gone.

27 Q Okay. All right. I just want to make sure. I just
28 want to make sure.

A And I'm trying to -- I'm guesstimating at the time.

1 Q I understand that, too.

2 A Somewhere between three and five minutes. And -- and
3 I believe we even told the shooting team this, that he went
4 out. And -- and he did. This is true. He did go out and look
5 around. I mean, that's --

6 Q Okay.

7 A If it wasn't -- in other words, if we had lied on the
8 officer-involved shooting team that he didn't go out there and
9 all that, I would tell you, no, he didn't go out there. But he
10 did.

11 Q BY DET. HANSON: Did he ever -- from the hallway, did
12 he ever say, Ray, the hallway is clear. It doesn't look --

13 A No.

14 Q -- like anybody's coming.

15 A No. He never said that.

16 Q Nothing like that?

17 A No.

18 MR. MCKESSON: Take your time. Let them ask the question.

19 Q BY DET. COX: Okay. After you -- after he comes back
20 -- while he's gone, you're guarding Mr. Ovando the whole time
21 on a low ready?

22 A Yes.

23 Q And Durden comes back?

24 A Yes.

25 Q What happens then?

26 A Uhm, we said a few words. And I -- I can't really
27 say what it was. Uh, I think it was something about notifying
28 the C.R.A.S.H. units.

Q And how did you do that?

1 A How did he notify the C.R.A.S.H. units?

2 Q Yes.

3 A Well, I think we got on 1. He did it, so I don't
4 know if we got on 181 Boy or Duplex.

5 Q Let me ask you this. Was there a certain way, when
6 C.R.A.S.H. got involved in something, that no one else would
7 know what was going on? You guys had some kind of code set up
8 through a frequency?

9 A Yes.

10 Q What was that?

11 A Uh, it was -- we would say, uhm, whatever the unit
12 designation. And, uh, we'd say, "Requesting C.R.A.S.H. 10,
13 C.R.A.S.H. 20, and C.R.A.S.H. 30, and C.R.A.S.H. 40."

14 Q What did that indicate?

15 A That there's an officer-involved shooting, and get
16 all every unit to respond to the location. Secure it, uh,
17 before anybody else gets there. And if there's already somebody
18 there, let's say a black-and-white for some reason comes by, or
19 some former C.R.A.S.H. officer, that knows our code came by,
20 get him out of there. Put the C.R.A.S.H. unit there, uh, while
21 we discuss the -- everything.

22 Q Uhm, is that what he did? And that's on 181 Boy
23 Simplex?

24 A Like I said, he did all the talking.

25 Q Normally, is that what you would do?

26 A That's what I was going to say.

27 Q Oh, I'm sorry.

28 A What we normally would do is, obviously, either get
on 181 or base, uhm, depending on if -- who's monitoring.

1 Because what usually happens -- let me. I got to give a little
2 bit of information. What usually happens is in the -- in the
3 unit, a two-man unit, one officer will always monitor base
4 frequency. The other unit will monitor 181 Boy.

5 Q Okay.

6 A So, one officer is monitoring one. The other one's
7 --and you got to communicate if something's up. Uh, so, I just
8 don't know whether he, uh, broadcast it on 181 Boy or he
9 broadcast it on, uh, Duplex. Uh, I don't know.

10 Q Okay. So, when he comes back, after a few minutes,
11 what happens next?

12 A When he comes back and he enters back in the building,
13 he says a few words.

14 Q The building, or the apartment?

15 A I'm sorry. The apartment.

16 Q Okay.

17 A He, uh -- he enters here. Now --

18 Q To the end of the hallway?

19 A Right by where Mr. Ovando's standing.

20 Q Okay.

21 A Now, I don't know if he brought it in with him, or
22 what he did -- how he got it -- but he had a red rag. It was
23 like a red T-shirt or a red shirt, or something. And it was
24 dirty.

25 Q Bright red? Dull red?

26 A Maybe about, uh -- what would this be? Scarlet maybe?

27 (Book held up.)

28 Q Yes.

A Like a scarlet, uh, red. Something like that.

1 Q Okay.

2 A Uh, it was dirty.

3 Q Okay.

4 A Uhm, and he produces the weapon. I know what the
5 weapon is. Because I've seen it. And I've seen him scratching
6 off the serial number.

7 Q And I'll get to that in a second also. So, he comes
8 walking in. Is he carrying the --

9 A That's what I was saying. I don't remember -- I don't
10 remember seeing him walking in with it. Uh, but he had it.
11 When he -- in other words, when he walks back in, I see him.
12 But I'm looking down at the defendant. I'm wondering whether
13 to handcuff him or what. We didn't handcuff him. I never
14 handcuffed him.

15 Q Okay.

16 A Uhm, and he says some words to me. And he says, "I
17 got this thing." Or something. I don't remember the exact
18 words. It would be impossible for me to remember the exact
19 words.

20 Q Okay.

21 A But what I do see is the red rag. And, you know, --
22 and the red rag has the, uh, -- the rifle in it. Uhm, or it
23 isn't -- we call it rifle, but it's not a rifle. It's a Tech.
24 .22. It's smaller than a rifle. It's compact.

25 He stands, uh, right in front of, uh, Mr. Ovando.
26 Right in front of him. Mr. Ovando's laying on the ground. And
27 he -- from about, uh, chest level drops it, uh, right where Mr.
28 Ovando would have -- if he had a weapon -- would have dropped
it. And dropped it and let it fall to the ground.

1 Q What did you say, at that point?

2 A I didn't say anything.

3 Q Because this is a pre-set plan?

4 A No. I just didn't say anything. I mean, it was --

5 MR. MCKESSON: Off the record, I'll say it again.
6 Detective wasn't here for the last round of questions. One of
7 the things -- he can restate it again -- that Mr. Perez --
8 Officer Perez has stated, is that when something like this
9 happens, there is very little talk. Something happens and
10 nobody talks about it. If you want to describe it to him, you
11 can.

12 Q BY DET. COX: When you say that something happens
13 like -- something like this, you mean, like a shooting?

14 A When something like this happens, right.

15 Q What do you mean?

16 A I had experienced something like this prior to this.

17 Q Okay.

18 A And I know what happened in that situation.

19 Q BY MR. ROSENTHAL: Are you talking about the Shatto
20 Place incident?

21 A Right.

22 Q Okay.

23 Q BY DET. COX: Okay.

24 A So, and -- I mean, everybody that was involved in
25 that one, we know what happened.

26 Q Okay.

27 A But when it was done, that was it. You didn't say,
28 uhm, okay, we're going to do this because it's the right thing
to do. It was done, obviously, because the guy had no gun. I

mean, it was a real obvious thing.

1
2 Q When he comes walking in, and he had this red rag,
3 did you see the gun at either end of the rag sticking out?

4 A You know, I saw the gun when he took the thing off.
5 Could I see part of it? I don't remember.

6 Q Okay. That's fine. Where did he get this gun from?
7 Not -- I mean, that night right then. Where did that gun come
8 from?

9 A Well, at one point, it was in our vehicle.

10 Q Right.

11 A Right.

12 Q You guys got out of the car together. You were --
13 now, how did you get the gun? You had to know about the gun
14 prior to coming into the apartment.

15 A Did I know about the gun? Or did I know that the gun
16 was in the building? I knew about the gun, yes.

17 Q I knew -- you knew about the gun. I'm sorry.

18 A Yes.

19 Q Okay. I knew you knew about the gun prior, but coming
20 into the building, you knew that he had to have the gun, because
21 you guys were in the building together. And he didn't go to
22 the car to get the gun, because the car wasn't there.

23 A Right.

24 Q Go ahead.

25 A The only thing I can remember is what I had told you
26 before was that Durden would always carry this little -- like
27 a backpack with, uh, duct tape, uh, everything that was
28 necessary, in his war bag. He'd carry -- and that's the only
thing that I can think of that he carried up.

1 Q The backpack or war bag?

2 A No, no. Not the war bag He kept the backpack in the
3 war bag.

4 Q Okay.

5 A You follow? He kept a big war bag. The ones we're
6 issued -- the big ones. But inside the smaller one, he had a
7 -- and I'm thinking he might have brought it up, simply because
8 we were using binoculars, uhm, and things like that.

9 And so that's where he kept all that little stuff
10 that we used, uh, inside that -- that bag.

11 So, but I don't remember if the weapon was in the
12 backpack or not. That I don't even -- I don't see that.

13 Q BY MR. ROSENTHAL: Would it have fit in the backpack?
14 It's a pretty big weapon, isn't it?

15 A Well, I don't know the exact diameters. But I
16 remember it being sort of like a -- like an Uzi, wasn't it?
17 Like a -- like a -- I don't know the length. I really don't.

18 DET. HANSON: It's not that long.

19 THE WITNESS: It's not that long, right? How long is it?
20 I don't know. Eighteen inches maybe?

21 DET. HANSON: Maybe a little bit longer than that.

22 Q BY DET. COX: Ray, where would he go to get that gun,
23 is what I'm asking? Where if that gun wasn't in the room? And
24 you had to be with him earlier when you guys were searching the
25 floors. You had to know about that gun in the bag.

26 A Well, I absolutely knew about the gun. Where the gun
27 was exactly, I don't know. If the gun was in the backpack --

28 Q Which it had to be, don't -- wouldn't you think?

A I'm assuming, yes. I'm assuming. But I'm -- you

1 want me to say that absolutely positively the gun was in the
2 backpack. I can't say that absolutely positively.

3 Q But -- okay.

4 Q BY MR. ROSENTHAL: Durden, at the time that he left,
5 after the shooting, would not have known where your car was;
6 right? It was moved by another officer.

7 A I don't know who moved it. I know somebody came by.
8 I think it was Rios and Montoya.

9 Q BY DET. HANSON: And we had asked you that already,
10 and you said that was a true statement.

11 A Yes.

12 Q That was not part of something that was made up.

13 A No.

14 Q The part about throwing the keys out the window,
15 moving your car, --

16 A Mmnh-mmnh.

17 Q -- is -- that was not made up? Or that was?

18 A No, that was not made up. But let me say this.
19 That's what Durden told me. I wasn't there. I was still in
20 the building, remember. I'm still in 407. From what I remember
21 now, when you said that, I remember him -- somebody saying --
22 he left. He said he's going to get a hold of, uh, a unit to
23 come and move our car and whatever else.

24 He left. He's gone for awhile. And when he gets
25 back, whenever that is, he's told me the car is moved. But I
26 wasn't there to see any keys thrown or anything like that.
27 That's something I ass- -- or not assumed.

28 Q Okay.

A But --

1 Q BY DET. HANSON: Prior to you parking the car there
2 on the north side of the building, jumping fences, going to the
3 south side, and entering, did Durden have his war bag with him?
4 When you did an O.P., do you remember if he carried this war
5 bag with him, at that time?

6 A He -- he had the war bag on a couple of occasions. I
7 don't remember on each occasion. Because I know the fact that
8 he -- I know for a fact he did have the war bag because, like
9 I said, the binoculars were in there. Uh, several other things
10 were in there. And we were using binoculars.

11 Q And those are things you would take to an O.P.?

12 A Right.

13 Q Correct?

14 A Right.

15 Q But you can't recall if he had it?

16 A It might have even been right in the room. I just
17 don't -- I don't recall. But he -- I know we brought it in
18 several -- well, he was carrying it. I wasn't carrying it. He
19 had it. He had the war bag.

20 Uh, if I had to put a percentage on it, whether he
21 brought it in that day -- I know we -- we brought it in. I
22 don't remember if we brought it in the first time, the second
23 time. On the first day, I know we brought it in. We had to
24 because we were using binoculars.

25 Q But he wouldn't have had to go out in the hallway to
26 get the gun then.

27 A No.

28 Q The gun would have been in the room.

A That's true.

1 Q So, -- so, and you're saying no, that he went out in
the hallway and then came back with the gun?

2 A No. I said he definitely went out in the hallway.

3 Q Okay.

4 A He was gone three to five minutes, and it may even
5 been shorter. But it was between three and five minutes to me
6 while I'm sitting there looking at the person who got shot.

7 When he comes back in, like I said, I didn't real --
8 realize, or didn't recognize whether he was holding it already
9 or not. But by the time I stopped looking at the defendant,
10 and I'm looking at him, talking to him again, I see that he's
11 carrying -- he's holding the red rag. When he --

12 Q I mean, did you see Durden breathing hard or anything
13 like that, like he'd been running?

14 A No.

15 Q So, he looked normal?

16 A Calm.

17 Q And he didn't --

18 A After he -- I'm sorry?

19 Q BY MR. ROSENTHAL: When he left the room, he didn't
20 take his backpack or --

21 A No.

22 Q -- war bag with him?

23 A No.

24 Q When you said you were talking into -- or the question
25 was the war bag. Are you saying the war bag was potentially in
26 the room, or the backpack was potentially in the room, or both?

27 A No, no. The backpack.

28 Q Right.

1 A Not the war bag. The backpack.

2 Q All right.

3 A Uh, I was getting ready to say something. What did
4 you say right before that?

5 Q Well, we can have the court reporter read back.

6 A I was trying to answer something he said.

7 (Last portion was read back.)

8 THE WITNESS: A little further back. I'm sorry.

9 (Portion further back was read back.)

10 THE WITNESS: Disregard. I know what it was. You had
11 said whether he came back, uh, and was excited or something, or
12 --

13 MR. ROSENTHAL: Breathing hard.

14 THE WITNESS: -- breathing hard. No, he wasn't. As a
15 matter of fact, I was getting ready to say that right after,
16 uhm, he had placed the gun, that's when he started talking on
17 the radio again. And he wanted to do -- and one thing I do
18 remember about all of it, is that he --

19 (Off the record to change paper.)

20 (Back on the record.)

21 THE WITNESS: Right. I had said that when he had gotten
22 back, uhm, he was not breathing hard. And he was not out of
23 breath or whatever. And right after that is when he got on the
24 radio. If I remember correctly, I never got on the radio at
25 all. Uh, not to request an R.A., not to do a C.R.A.S.H. 10, or
26 20, or 30, to call the units in, or anything like that.

27 Q BY DET. COX: So, it's a possibility that the gun was
28 already in Room 407?

A Yes.

1 Q Yes, it's a possibility, but you don't know a hundred
2 percent one way or the other?

3 A That's correct. Because the backpack that I'm
4 talking about was brought up. And I can assume that it was in
5 there, because this is at the same time when I told you it was
6 two, three days before we were in the car. And he was scraping
7 the serial number off. Now, I'm assuming that he probably put
8 it back in the backpack. So, --

9 Q BY MR. ROSENTHAL: What -- what I don't understand
10 is, if it was in the war bag, in the room, he leaves the room,
11 right after the shooting, he's, obviously, not carrying the
12 rifle --

13 A Right.

14 Q -- for lack of a better term. He comes back in with
15 the rag and the gun. It doesn't sound like it's possible that
16 that gun came from a bag inside the room.

17 A Mmnh-mmnh.

18 Q It had to come from inside.

19 A Uhn-uhn. You did the same thing that he did.

20 Q Okay.

21 A Saying that I saw him coming in the with the rag.
22 What I'm saying is, once he got back --

23 Q Okay.

24 A -- and he says some words to me. And I'm -- I was
25 looking at the defendant. And he comes back and said some words
26 to me.

27 Q Mmnh-mmnh.

28 A Then, I recognize that he has, uh, this rag with the
gun in it. Did he come in the room, walk into the bathroom and

1 got it out of the bathroom? 'Cause, I mean, -- can I borrow
2 your pen again? There was a bath- -- isn't there a bathroom
3 right by the front door?

4 DET. COX: I believe so.

5 THE WITNESS: I mean, he walked in this bathroom, too,
6 coming and going. So, I don't recall if maybe the rag -- or
7 the -- the backpack was in this bathroom, or -- or what. You
8 see what I'm saying?

9 Q BY DET. COX: Did he normally carry the backpack when
10 you guys would go out and do routine police work?

11 A Well, yeah, he carries -- we carry a war bag. And
12 inside --

13 Q A war bag I understand.

14 A -- inside that war bag is his backpack.

15 Q Okay.

16 A Inside that backpack is like, you know, everything
17 you might need. Just everything in police work you might need.

18 Q Okay. Okay. Like you're saying, binoculars, uh,
19 maybe things to wash your hands with?

20 A A little bit of everything.

21 Q A little bit of everything?

22 A Yes.

23 Q Uhm, but that night -- on the night of October 12th,
24 you specifically recall him having that backpack with him when
25 you guys are going from floor-to-floor?

26 A You know why I do remember most of that? Because I
27 remember us going over the fence. And his backpack got caught
28 up in the -- in the fence.

Q Okay.

1 A That just entered my mind. I remember he had it on
2 him. And as we were going over the fence, it got snagged or
3 something on the, uh -- on the fence. I remember that vaguely.
4 But I do remember that. Now, was it exactly on the 12th? Or
5 was it the day before when we went over it a couple of times?
6 I can't be positive.

7 Q Did you know he had the gun in that backpack?

8 A I probably could have assumed it. Because if he had
9 it, because I know, what, three days prior, it was in the car.
10 And that's where it was. So, I'm sure -- I probably assumed
11 that it was in there.

12 Q BY MR. ROSENTHAL: And there is no way he would have
13 kept the backpack in the bathroom, is there? I mean, the
14 location of the bathroom is such that that would seem to be a
15 tactical error being that someone could walk into the apartment,
16 go in the bathroom, without either one of you even seeing, and
17 taking the backpack.

18 A Oh, no. No, you're not going to come in this door
19 without -- I'm here. And he's, you know, just roaming around
20 here. There's -- there's no way somebody is going to open this
21 door and -- and him not know about it.

22 Q But why -- it seems to me that if he's got the
23 backpack, he's gonna leave it somewhere in the living room,
24 where he is, and not put it in the bathroom, where he's not.
25 That doesn't make much sense to me.

26 A And I didn't say absolutely, positively -- and you --
27 -- you -- and I know you're trying to like lock me down to -- to
28 something. But I'm not saying positively that it was in the
bathroom. What I'm saying is when he left, he went into the

1 bathroom, walked out, came back, and went by the bathroom, and
2 then came over.

3 Q All right. Is there any chance that the backpack was
4 somewhere in the living room, and that he -- because we know
5 right after the shooting, he goes out of the apartment, without
6 the gun.

7 A Right.

8 Q Without the rifle. He comes back in. Is there any
9 possibility he could have gone through the hallway into the
10 living room to his bag, gotten the gun, and then gone back to
11 Mr. Ovando and dropped it? Is that possible?

12 A Well, you got to remember, the living room's right
13 there. We're -- we're in the living room.

14 Q Okay.

15 A So, I mean, and that bag was definitely not in this
16 hallway area.

17 MR. MCKESSON: Can I ask a question? Uhm, is this building
18 still abandoned?

19 DET. COX: No.

20 MR. MCKESSON: People are living in this unit?

21 DET. HANSON: Yes. The place is -- you wouldn't recognize
22 the place.

23 THE WITNESS: All fixed up or something?

24 DET. HANSON: All fixed up.

25 MR. MCKESSON: Would it be possible for you guys to take
26 him and ask him to walk through it? 'Cause it seems to me that
27 there's -- there's a bit of confusion.

28 DET. COX: Well, I mean, I understand perfectly what he's
saying. I mean, I don't have a problem with what he's saying.

1 I know exactly. When he indicates the bathroom, the living
2 room, I mean, I -- I can understand.

3 DET. HANSON: He doesn't know where the gun came from.

4 DET. COX: Yeah, I mean, uh, the bottom line is, he's
5 saying the gun, the backpack, could have been in the bathroom.
6 It could have been in the living room. He doesn't know where
7 the gun came from. That's the bottom line here. He doesn't
8 know where it came from.

9 Q BY MR. ROSENTHAL: Is that correct?

10 A Well, right.

11 DET. HANSON: Yeah. I mean --

12 THE WITNESS: I know where it came from --

13 Q BY DET. HANSON: Right. But on that night, --

14 A Right.

15 Q -- do you know if it came out of the -- probably came
16 out of the backpack, but who knows where the backpack was at.

17 A Right.

18 Q Correct?

19 A Right.

20 Q It makes sense that it would be in the living room
21 like -- like the D.A. said. 'Cause that would make sense to
22 me. You're gonna keep it near you.

23 A Sure.

24 Q BY MR. ROSENTHAL: Given the amount of time that
25 passed between the time of the shooting and the time Durden
26 left the room, to the time he came back -- so the period of
27 time he was outside of your view there, is it possible that he
28 could have gone down to the first floor, over the fence --

A No way.

1 Q -- over to a car and back?

2 A No way.

3 Q Okay.

4 Q BY DET. HANSON: Could --

5 A No.

6 Q Could, uhm, -- when he threw the keys to Rios and
7 Montoya, could he have told them, grab my -- my backpack and
8 throw it up to me? Throw it up to me before you move the car.
9 And then, taken the backpack and put it into another room?

10 A You're asking me to speculate. Of course, any of
11 that's possible. Of course, he could have ran down.

12 Q 'Cause you're not sure if he had it on the -- on his
13 back jumping over the fence? You remember something like that?

14 A I remember on one instance laughing at him because
15 his -- uh, I remember laughing at him at one instance where his
16 backpack got snagged on the fence itself.

17 Uhm, your question before that was? Gee.

18 Q It was regarding maybe Rios and Montoya throwing the
19 bag up to him.

20 A Exactly.

21 Q And then you wouldn't have seen it. He might -- he
22 could have put it in the room next door.

23 A Right. Because when he left, uh, he hadn't called
24 for anybody yet. He was going to leave. Get out either to the
25 back of the building or somewhere in the building, and call for
26 a unit to come by. Uh, and he said he was going to give him
27 the keys to move the car. Or they were going to move the car.
28 So, what he did during that time that he was gone for however
long he was gone, I don't know.

1 Q But you knew he did have the gun?

2 A Did I know he had a gun?

3 Q He had the -- he had a gun --

4 A Sure.

5 Q He had this gun, though?

6 A Of course.

7 Q Okay.

8 A Yes.

9 Q Did you have a war bag yourself?

10 A I had a war bag. But it was -- it's a war bag that
11 was issued to me in '89, in the academy. It was pretty rotten.
12 But I did have one, yes.

13 Q And do you remember if you had your war bag with you?

14 A No. I had -- I wasn't carrying anything. I had no
15 war bag with me. No, -- I -- I carried nothing on me, on any
16 of the occasions coming or going, on, uh, the -- both nights.

17 Q Do you know if you had a gun in your war bag?

18 A I did not have a gun in my war bag, no.

19 Q BY DET COX: After the shooting, and after Durden
20 comes in, drops the gun, he's called on the radio. What happens
21 next?

22 A Uhm, after -- and this is a little fuzzy to me,
23 because I'm still standing by -- by Mr. Ovando here. He comes
24 out. When he goes to talk on the radio, and everything else,
25 he comes back out to the hallway.

26 Q Okay.

27 A Uhm, I'm still standing here. Uh, from the time that
28 the shooting occurred, I'm still standing right here where the
"P2" is. He comes back out to the hallway. Uhm, I believe he

called for the unit first.

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Shortly after he calls for the units, he calls for the, uh -- the R.A. -- an R.A. Uhm, what do you want to know next? Who showed up, or --

Q Yeah. Who was the first unit to show up?

A The first unit to show up was, uh, Officer Montoya and Officer Rios.

Q How soon after the shooting occurred, approximately? I know it's -- you have hard time with it, but approximately.

A Well, yeah, I'm going to have a real hard time with it.

Q Okay.

A I'm really going to be guessing.

Q Would it be under ten minutes?

A Oh, definitely under ten minutes.

Q Okay. Would it be under five minutes?

A Uhm, --

Q Somewhere in that range?

A Somewhere in that range between maybe, you know, five and ten minutes. Somewhere around there.

Q So, Rios and Montoya, which we've already discussed, they were in a chase car. And you don't know where they came from, but they were the first unit there?

A Yes.

Q Even though you didn't request them? You -- you put, uh, C.R.A.S.H. 10, 20, 30, 40, and they responded, 'cause they're the closest?

A No, because they're a C.R.A.S.H. unit.

Q Well, that's what I mean, out of the C.R.A.S.H. units.

1 A Every C.R.A.S.H. unit is going to respond --

2 Q Right.

3 A -- no matter what they're doing.

4 Q But they're the closest, obviously, probably because
5 they're the first ones there. And they --

6 A They're the closest probably 'cause they work 18th
7 Street gang and they were probably nearby, yes.

8 Q BY MR. ROSENTHAL: And they got there first?

9 A They were the first ones there. Yes. Why they got
10 there first, I don't know. They were the closest ones, I'm
11 assuming.

12 Q Okay.

13 Q BY DET. COX: They come upstairs. And you said
14 Officer Rios handcuffed, uh, Mr. Ovando?

15 A Yes.

16 Q From the front or the back?

17 A I believe he handcuffed him in the back.

18 Q In the back?

19 A Yeah, his hands into his back. Yes.

20 Q Okay. Uhm, is that the reason -- let me ask you this.
21 Is that because, normally, that's what you would do? Is there
22 any reason he would be handcuffed in the front?

23 A I think 'cause he was facing face down.

24 Q Okay. He was handcuffed in the front from the
25 photographs that we have.

26 A Was it?

27 Q Yes.

28 A I don't even remember then.

Q Okay. Who shows up next after Rios and Montoya?

Sergeant show up?

1
2 A I think so. I think. I think maybe a sergeant in
3 another unit show up, simultaneously, actually.

4 Q BY MR. ROSENTHAL: Let me just ask a question. Before
5 the handcuffing, I assume that because he was handcuffed, at
6 that point, you believed he was alive?

7 A Yeah, he was alive. You could hear him -- uh, you
8 could hear him making noises. And you could hear him making
9 noises and --

10 Q Because if you thought he was dead, there would be no
11 need to handcuff him.

12 A Right. I mean, but he -- well, not necessarily.
13 Because, I mean, I think we're trained, if I remember correctly,
14 that you shoot a suspect, no matter what -- whether alive or
15 dead, you're still going to handcuff him.

16 Q Okay.

17 DET. COX: That's correct.

18 MR. ROSENTHAL: Okay.

19 DET. COX: On the radio, I think it came up that he's not
20 breathing. The suspect.

21 THE WITNESS: No, he was breathing.

22 Q BY DET. COX: Mr. Ovando. I know. I'm just saying on
23 the radio.

24 A Oh.

25 Q And I know that you didn't do the radio. Uh, I assume
26 that maybe you guys thought he had been killed. That's why --

27 A Well, I'm looking at him. I know he's breathing.

28 Q Okay.

A So, I -- I don't know what Durden said over the radio,

what kind of information he put out.

1 Q Okay.

2 A But, uh, I know he was still breathing. I could hear
3 him, you know, kind of gagging or whatever, making noises.

4 Q At what point did you guys know that this was not a
5 good shooting?

6 MR. MCKESSON: At what point did he know it was not a good
7 shooting?

8 Q BY DET. COX: Yes. I'm sorry. Did you know?

9 A Well, I knew it was not a good shooting right after
10 the shoots were fired and I'm looking at him and I know there's
11 no gun there.

12 Q Okay. So, then, when Officer Durden throws the gun
13 down, now you know for sure that it's not a good shooting?

14 A Now I know it's a cover-up to a shooting.

15 Q Okay. Uh, Sgt. Ortiz arrives along with the Officers
16 Rios and Montoya, but not with them, but he comes after them?

17 A Yes, sir.

18 Q Is something discussed, at that point, about what had
19 happened?

20 A Yes.

21 Q Between?

22 A Myself, Officer Durden, Officer Montoya, I believe,
23 Officer -- or Sgt. Ortiz.

24 Q What was discussed?

25 A I'm -- if you give me just a second.

26 Q Oh, I'm sorry.

27 A I'm trying to think if there was anybody else that
28 was --

1 Q Could there have been another sergeant?

2 A Give me a name and I'll tell you if he was there or
3 not.

4 Q Is there a Sgt. Peters that, uh --

5 DET. HANSON: I know that Ortiz was not driven -- did not
6 drive there himself.

7 THE WITNESS: Maybe it was Sgt. Peters.

8 DET. HANSON: He was driven by another sergeant.

9 THE WITNESS: I think Sgt. Peters might have been there.
10 Uh, vaguely -- I vaguely remember him there.

11 Q BY MR. ROSENTHAL: And you said Montoya. Would his
12 partner have been with him?

13 A In the meeting?

14 Q Right.

15 A No.

16 Q Okay.

17 Q BY DET. COX: Tell me about the meeting. Or let me
18 -- the meeting is yourself, Durden, Montoya, uh, Ortiz, and
19 Peters? Or you're not for sure?

20 A I'm not for sure. You know, I remember that they
21 would drive around together.

22 Q Okay.

23 A But I just can't picture him. I really just cannot
24 picture him.

25 Q What's -- tell me what the meeting is about.

26 A Uh, it's to, basically, debrief the sergeant as to
27 what occurred, uh, and to formulate a plan as to, uh, well, how
28 everything happened.

Q Okay.

1 A Uhm, you want me to get into specifics?

2 Q What -- in other words, you didn't tell them about
3 the fact -- the throwing the gun down?

4 A No.

5 Q Okay.

6 Q BY DET. HANSON: Was Peters in this loop that we hear
7 about?

8 MR. MCKESSON: Oh, that's a separate question as opposed
9 to be being present.

10 DET HANSON: Correct.

11 MR. MCKESSON: Was he in the loop?

12 Q BY DET HANSON: 'Cause I'm trying to see if -- if
13 would you have talked in front of Peters to address this.

14 A That's why I don't think he was in the meeting. Sgt.
15 Peters was not in the loop.

16 Q Okay. Okay.

17 Q BY DET. COX: All these other guys that are there are
18 in the loop?

19 A Yes, sir.

20 Q But Rios is not there. So, Rios is in or out of the
21 loop?

22 A Rios is trying to be in the loop. But we're trying
23 to protect him. We try to protect -- 'cause he was a probationer
24 at the time. And what we do, is with the probationers, we try
25 to expose them to as little as possible, uh, fearing that if
26 something goes sideways, they can get fired immediately. And
27 we don't want to put them in a bad position.

28 Q BY DET. HANSON: And we know where Rios was.

A What do you mean by where he was?

1 Q We know by his testimony that Rios was told to go to
2 the front of the location.

3 A Yeah, we always sent somebody --

4 Q But we didn't know if that was prior to the meeting.

5 A Probably during the meeting. When the meeting's
6 gonna take place, we send someone as a diversionary person.
7 Just in case other people show up, we don't let them in the
8 building.

9 Q I'm just trying to see if this helps you a little
10 bit.

11 A It does a little bit.

12 Q And you -- and you're saying that Rios wasn't there.
13 I know where Rios was. So, that --

14 A Okay.

15 Q -- makes sense.

16 Q BY DET. COX: So, what's the meeting about?

17 A Uhm, we discuss logistics. Uhm, -- uh, we have to
18 formulate a plan, as far as, uh, what the, uh, O.P. is about.
19 Uh, and we already had that covered. But, uh, we had to
20 formulate a plan as far as, uh, how we kept in contact with the
21 supervisor, how we had a chase unit at all times, uh, how we,
22 uhm --

23 Q And these things were not true?

24 A No.

25 Q Okay. Go ahead.

26 A And we, uhm, -- how we -- I think he said that we
27 needed to say that we were checking in every fifteen minutes
28 with the chase car or something like that.

Q Who was telling you this? Ortiz?

1 A Sgt. Ortiz. Yes. Uhm, what else did he say? Uh,
2 Sgt. Ortiz had a concern. He says, "Are you sure you were
3 standing here when you shot him? Because the -- the injury to
4 the head looked like it was from the rear."

5 He told me something like that. He goes, "We need to
6 -- I mean, are you sure you were over here and not over there?"
7 I said, "No. Believe me. I was right here." I mean, if it
8 wasn't -- if I wasn't standing right here, we would have said
9 wherever it would have been appropriate.

10 But, uh, where I said, where -- where in the diagram
11 it shows where I was standing, that's exactly where I was
12 standing. Uhm, but he had a concern that the -- the injury
13 looked like it came from the rear, not from the front.

14 Q So, you're setting up the shooting scene, what's
15 favorable to you and Officer Durden?

16 A Right.

17 Q And that's --

18 A I mean, that --

19 Q -- that's what this was about?

20 A That's what the meetings are usually about. When we
21 meet, uh, we discuss how do we make this look as good as
22 possible.

23 Q BY DET HANSON: As far as tactics, --

24 A Everything.

25 Q -- enough units, or -- enough units. And because it
26 was an O.P., we all know that there's a lot more than just two
27 guys sitting in a hotel, or in a room. You have to have --

28 DET. COX: The procedure.

 DET. HANSON: -- the procedure of other people helping.

1 THE WITNESS: When we had this meeting, we're covering --
2 we're covering -- we're covering procedures -- all the
3 logistics, as I mentioned earlier. And when I say "logistics"
4 I mean the tactics, the communication, the, uh, tactics, the --
5 up to where the shooting occurred, everything is covered in
6 that meeting before all the -- all the other supervisors and
7 captains and everybody show up, an officer-involved shooting
8 team.

9 You know how everybody thinks that the officers are
10 split up and you go sit in one room and you go sit in another
11 room? I've never seen it happen.

12 You get together with your supervisor and the
13 officers involved, and you discuss everything. And then, that's
14 your -- that's your story. And --

15 Q BY DET. COX: Well, when did -- when did you and
16 Durden get your story together about what happened?

17 A The story went as it -- as it -- as everything
18 occurred, that was what happened, as far as we were concerned.
19 In other words, uhm, -- uh, where we fired from, that stayed
20 true to -- true to form, as to how it happened.

21 Q But Mr. Ovando coming into the room, when did you
22 guys get that together?

23 A That actually got -- came together when Durden was --
24 - uh, like I said earlier, that Durden was doing all the
25 talking, remember I told you that Durden was doing all the
26 talking? And I just listened to him. And as he was telling
27 the story to Ortiz, I'm going, okay. "That's exactly how it
28 happened. Yes." Uh, and then, when we left the, uh --
12th and Lake, I believe it was Lieutenant -- there's a

1 lieutenant that works Rampart. Not Weaver. There's a
2 lieutenant that transported us back to Rampart.

3 And me and Durden, they put us in the room together,
4 the C.R.A.S.H. office. And we sat there and discussed it a
5 little bit more as to as far as, you know, communication and
6 things like that.

7 Uh, I can't remember the lieutenant's name.

8 Q BY MR. ROSENTHAL: Where -- let me just ask. Where
9 was this meeting? You guys were all standing somewhere.

10 MR. MCKESSON: What meeting? Which meeting?

11 Q BY MR. ROSENTHAL: The meeting -- the first one with
12 Montoya, and Ortiz, and --

13 A I believe, uh, where the apartment is, 407. I believe
14 we walked away from the scene, like down the hallway somewhere.
15 I can't -- I don't remember if we walked this way or this way,
16 or this way. But we walked away from the scene.

17 Q BY DET. HANSON: You're looking at Exhibit 1.
18 Correct?

19 A I'm sorry. I'm looking at Exhibit No. 1, uh, the
20 diagram of the apartment building on the 4th floor.

21 Q BY MR. ROSENTHAL: And you don't know if you walked
22 north, south, or west? Uh, those are the hallways, at least.
23 And -- and you don't remember?

24 A I'm -- I'm trying to think the best I can, or -- or
25 reach back in my memory as best I can. I know we walked away
26 from the scene, because we had officers standing around there.
27 And --

28 Q BY DET. HANSON: The same floor?

A Yeah. On the 4th floor.

1 Q Okay.

2 A And, yeah, we stayed on the -- I'm sorry.

3 Q Or, so -- so, your meeting was on the same -- on
4 the 4th floor?

5 A Just away from the, uh --

6 Q Just away from the scene.

7 A -- the apartment. Yeah.

8 Q BY MR. ROSENTHAL: Had an R.A. showed up yet?

9 A No.

10 Q Had anyone -- did anyone take any photographs of Mr.
11 Ovando when he was down? Do you recall?

12 A I remember somebody taking photos -- Polaroids
13 though. Q Who would that have been?

14 A I don't know. Put, uh, for some reason, I remember
15 the "pachew" and people -- somebody taking Polaroids. But I
16 can't tell you who it was.

17 Q And was this before or after your meeting?

18 A This is after. This is after.

19 Q Okay.

20 A This is before the -- uh, the R.A.

21 Q BY DET. HANSON: In this meeting -- and I -- I think
22 we know -- know the answer. But I want to make sure. You and
23 Durden are the only ones that know about the gun; is that
24 correct?

25 A Yes.

26 Q Ortiz and Montoya did not know that you had planted
27 the gun? Is that correct?

28 A That's right. That's correct.

Q What you were going over were the officer safety

1 issues that needed to be falsified in order to make this a
2 tactical correct operation for a shooting?

3 A Yes.

4 Q Right?

5 A Yes.

6 Q BY DET. COX: The gun, uh, where did this gun come
7 from?

8 A It came from an informant.

9 Q You mentioned [CI#6] earlier, [CI#6]?

10 A That's -- right.

11 Q [CI#6]?

12 A Uh, you know, [*****
13 ***** CI #6 description redacted *****
14 *****].

15 Q [CI #6 description redacted].

16 A [CI #6 description redacted].

17 Q [CI #6 description redacted].

18 A [***** CI #6 description redacted *****
19 *****].

20 Q And who is [CI#6] to you?

21 A [CI#6]'s an informant.

22 Q For you, or for Durden?

23 A For me.

24 Q For you?

25 A Yes.

26 Q And --

27 A But I had [CI#6] before I -- I had Durden as a
28 partner. So, yeah.

Q Okay.

1 A I mean --

2 Q BY MR. ROSENTHAL: [CI #6 description redacted].

3 A [CI #6 description redacted].

4 Q Okay.

5 Q BY DET. COX: And [CI#6] calls you up on the phone,
6 or calls --

7 A We talk regularly. I mean, it was a -- I've used
8 [CI#6] for -- for almost two years. So, I mean, I've -- uh,
9 I've known [CI#6] for quite some time. I would always tell
10 [CI#6], you know, "Let me know if there's any guns in the
11 neighborhood. You know, where they're at or whatever."

12 And [CI#6] said, "Hey, there's one." [*****
13 *****
14 *
15 ***** CI #6 description redacted *****
16 *****
17 *
18 *****].

19 [***** CI #6 description redacted *****
20 *****]. Uh, but, like I said, where we met was on, uh, like
21 Myra branches off of Hoover, just south of, uhm, Santa Monica.

22 Q And this gun was exact -- was put on the ground near
23 a tree, you said?

24 A On a grassy area by a tree, yes. Uhm -- uh, on the
25 sidewalk itself. But, you know, how the first part of the
26 sidewalk will have grass, I believe.

27 Q Yeah.

28 A If I remember correctly. I -- that's what I remember.

1 It was like a grassy area. There's a tree there. And that's
2 where it was placed.

3 Q Okay. And you guys showed up there on the same night
4 [CI#6] told you about it? And the gun was there?

5 A No. We were already there. I had talked to [CI#6].
6 I told [CI#6], get up there at a particular hour. We were --
7 we set up. We -- we parked. We saw [CI#6] driving up. We saw
8 [CI#6] get out of the car, place it, get back in [CI#6]'s car,
9 and drive off.

10 Then, I drove around, and put my door -- or my, uh,
11 passenger door -- which was where Durden was, uh, seated --
12 right by the, uh, sidewalk. He stepped out, grabbed it, and
13 pulled it in.

14 Q Now, why didn't you guys take that gun and book it?

15 A We just didn't.

16 Q Why? It makes me tend to think you've done this on
17 other occasions. This was not the first time.

18 A What? That we've taken a gun and --

19 Q Taken guns and not booked them.

20 A That's true.

21 Q Well, how many times, prior to this, did you take
22 guns? You and/or Officer Durden, or someone else that you were
23 working with, take guns? Give me an approximation.

24 A That someone just directly came and dropped it off?

25 Q Or whether you just took guns and did not book them.

26 A Oh, it's happened many, many times.

27 Q How many times did you do it?

28 A Take a gun and not book it?

Q Mmnh-mmnh. Yes.

1 A I'll be guessing, unless I look at some reports, you
know. Well, a report ain't gonna help me.

2 Q Let me ask you this, Ray, is it more than ten times?

3 A I would say more than ten times. When I say, "many,
4 many times" I mean -- you mean, everybody in the unit, how many
5 times?

6 Q I mean you.

7 A Right. Me? Uh, --

8 Q Under ten?

9 A Yeah, it's under ten. That's what I said. It's under
10 ten.

11 Q More than five? Somewhere between five and ten times?
12 Is that a fair guess?

13 A Probably, yes.

14 Q Okay. And the purpose of taking these guns and not
15 booking them was for?

16 A For whatever reason.

17 Q Okay.

18 A Uh --

19 Q Usually what did you do with those guns? If you took,
20 let's say, a minimum of five guns, and that was you counting
21 the one that you -- that you said you planted on Mr. Ovando,
22 what happened to the other four?

23 MR. MCKESSON: When you say "you", you mean --

24 Q BY DET. COX: You and your partner. Uh, --

25 A What happened to them?

26 Q Yeah, I mean, did you sell them?

27 A No. Never sold a gun. No.

28 Q Okay. Did you put them on people that you wanted to

arrest?

1
2 A That -- like I said, I want to look at some reports
3 to see if that might have been what -- on some of them might
4 have happened.

5 Q But you think -- but you think that's a good
6 possibility, at this point?

7 A That's possible, yes.

8 Q Okay. Uhm, I mean, what else could you do with it,
9 unless you use them in a crime yourself?

10 A Uh, I will -- I will say this. Now, that I'm
11 thinking, it's probably more than five. The reason I know it
12 was more than five, is because Officer Durden has a house up in
13 Chatsworth. Somewhere up in there.

14 Q Okay.

15 A I remember asking him, before this incident occurred,
16 -- uh, we had -- we had recovered some guns. And they weren't
17 booked. And I asked him, "What are you doing with those guns?
18 You're not keeping them in your car, are you?" And he said,
19 "No." He had them up in -- uh, underground in the basement
20 area of his house up in Chatsworth.

21 So, I remember there was several that we had. Uh,
22 and even after all this occurred, I had arrested -- he still
23 had those same guns. One that I remember was an M-1, uh,
24 carbine that -- I forgot where we got it from. But we never
25 booked it. He still had it.

26 Uh, one was a handgun that we recovered from a, uh -
27 - a heroin -- female heroin user that lived in that little
28 Hancock Park area. Uh, and we didn't arrest her or anything.
But she was a heroin user. And we caught her using heroin.

1 And we didn't want her to keep the gun. We kept the gun. She
2 had said it came from her dad or something in Atlanta, or
3 something like that. Uh, and we ran it. I remember running
4 the gun. And it had no information on it.

5 He still had -- all the guns that -- that, at any
6 time we had recovered, and that were going to be kept, Durden
7 kept them. Uh --

8 Q You didn't?

9 A For some reason, I just never -- he always wanted to
10 keep those things. He had like his little war bag and his
11 little backpacks. And he kept all that -- all of that stuff.
12 He did.

13 Uh, but, yeah, we definitely recovered some guns that
14 we -- that we didn't book, on several occasions.

15 Q This -- this gun we're talking about on Mr. Ovando -
16 -

17 A Mmnh-mmnh.

18 Q -- tell me --

19 A Yes.

20 Q -- how long before Mr. Ovando's shooting -- I know
21 you mentioned before. How long before his shooting did you
22 recover that gun?

23 A I think we got that gun maybe no more than two weeks
24 before, uh --

25 Q Could it have been longer before?

26 A Mmnh, I don't think so.

27 Q You don't think so?

28 A The only reason I say "I don't think so" is because
I remember -- I don't remember what day of the week it landed

1 -- the shooting landed. Was it a Friday or Saturday? I think
2 he said earlier. But I remember several days before, uh,
3 Officer Durden and -- we were just driving around. And Officer
4 Durden was in the front seat. And he was scraping the serial
5 number off the handgun.

6 Q How was he doing that?

7 A How?

8 Q Yes.

9 A He had some kind of instrument. And he was scraping
10 off the serial number.

11 Q Describe the instrument to me. I mean, are you
12 talking about a file? Are you talking about a spoon?

13 A No, it wasn't a file. It was more like a --

14 Q Well, what kind of instrument was it?

15 A Uhm, it was a sharp instrument. What it was exactly,
16 I don't even remember. All I remember is he was sitting in the
17 passenger seat -- I'm driving -- and he's just scraping the
18 serial number right off. And I remember -- I don't remember if
19 you saying this earlier, that I was thinking to myself, boy, if
20 these guys were to investigate, all they'd have to do is look
21 in our car and find all these shavings off of the -- the gun.
22 Uh, on the -- on the floorboard of the -- the car.

23 Uh, and also that we ran the serial number like two
24 or three days before this had occurred.

25 Q Did you have the gun for awhile before you ran the
26 serial number?

27 A I think we had it for -- for awhile. Maybe even
28 through like a weekend. And then, the following week, or
something like that. And I think, finally, for some reason, we

1 decided to run it, or something. Or Durden decided to -- and
2 Durden, this whole time, by the way, Durden had the -- the --
3 the gun. Uh, this gun.

4 Q In his -- you don't know? You didn't have it?

5 A I -- I never -- let me think very clearly. The only
6 time I possessed that gun is when he had showed it to me like
7 in the car. The rest of the time, he had it, uh, in his
8 possession. When we got off-duty, uh, wherever we went, or the
9 weekend came, uh -- I don't think he kept it in his locker.
10 But he, uh -- he had it the whole time.

11 Q BY MR. ROSENTHAL: You never kept any of the guns?

12 A Let me -- let me think. Working with Durden, I want
13 to say to myself that I -- I must have, at some point, held one
14 -- you know, had one of the guns. But I just don't remember.
15 He was always --

16 MR. MCKESSON: Can we take a short break?

17 (Off the record at 2:15 p.m.)

18 (Back on the record at 2:25 p.m.)

19 MR. ROSENTHAL: All right. We're back on the record. Do
20 we have the tapes rolling? Okay. We're back on the record.
21 It's 2:26 p.m. And Mr. Perez, you're still under oath.

22 THE WITNESS: Yes, sir.

23 MR. ROSENTHAL: Okay.

24 MR. ROSENTHAL: And I can't remember what I -- what I asked
25 -- what we were talking about when we left.

26 THE WITNESS: That's true. There was something I wanted
27 to answer. Oh, regarding the way Durden -- no.

28 Q BY MR. ROSENTHAL: What were we talking about?

A It was about Durden, uh, and he carrying all the guns.

1 I -- I remember now.

2 Q We'll go with that.

3 A Uh, him always carrying the guns.

4 Q Hold on one second. One second. So, it was about
5 Durden carrying the guns?

6 A Right. You had asked me, uhm, --

7 Q If you ever kept any of the guns?

8 A Right. And I -- and I was trying to think. And I
9 can't think of any situation. And I'm really trying to think.
10 Uh, Durden was always the one that kept everything. He wanted
11 to -- if there was anything to be kept, like I said, uh, before,
12 he wanted to do it.

13 You know, uh, the guns, stuff like that, he always
14 kept. Always. Uh, that I can remember, I remember, because
15 I'm trying to think if -- if I had kept one, where would I have
16 put it. And I don't remember. I don't -- I didn't keep one in
17 my war bag. I didn't keep one in my locker. I didn't keep one
18 at my house. I didn't keep one in my car.

19 So, I'm pretty positive that Durden always kept it in
20 either in, you know, his war bag, or in the backpack, or
21 something like that.

22 Q Then, are you saying that every time you would have
23 planted a gun on somebody, you would have been with Durden? Or
24 with another partner?

25 A I will have to look, like I said, at the reports to
26 see if something -- 'cause I may have been working, let's say,
27 uh -- let's say Durden's off on a particular day. Let's say
28 I'm working with another officer. And I'm working with that
officer in a particular area that he works. And he goes, you

1 know, I'm taking this guy. I'm gonna, you know -- and then,
2 that would jar my memory.

3 I may have -- I may not have been like directly
4 involved, but I know that, uh, a gun was planted on him, you
5 know, that wasn't his gun, or something like that. In fact, I
6 talked about the .45 with, uh, but we'll get into that later.
7 But, yeah, I may not have necessarily, uh -- yeah, that I can
8 remember, uhm, I -- I don't recall. As far as, your question,
9 uh, unless it was with Durden, I didn't plant another gun on
10 somebody else?

11 Q Right.

12 A What I'm saying is I'll have to look at some reports,
13 like I asked for, to see if I was in -- I was working with
14 another officer, and that might have happened.

15 Q Okay. And we don't want to go into the .45. Do you
16 want to finish up with Ovando?

17 Q BY DET. HANSON: No. But other officers would have
18 guns -- throw-away guns?

19 A Yes.

20 Q Is that correct?

21 A Yes.

22 Q BY DET. COX: Can we -- can we be for sure that the
23 gun that he planted on Mr. Ovando was a -- was a gun that you
24 had just recovered within a two-week period time of Mr. Ovando's
25 shooting?

26 A Yeah. Uh, well, I'm -- I'm a hundred percent sure.
27 I mean, --

28 Q Okay.

A -- you know, it was a -- it had a banana clip. I

mean, you don't pick those up every day.

1 Q Okay.

2 A Uh, if I remember correctly, it had like a -- what we
3 call a banana clip.

4 Q Yeah.

5 A An extended clip. And, uh, I remember Durden -- I
6 remember seeing him, uh, scrape the serial number off, uh, in
7 the car.

8 Q Was that a common practice? I mean, guns you
9 recovered was taking all the serial numbers off?

10 A It wasn't a common thing.

11 Q Why that one?

12 A I think because, like I was saying, I think we had
13 run the gun and it came back with information. But nothing
14 important. Or nothing, uh, -- like it didn't come back stolen
15 or anything like that. But we had run it. And it had
16 information on it, or something like that.

17 That's why I was saying it was important that we find
18 -- see if that information comes up in the computer, 'cause I
19 remember -- I remember running it. And it had something on it.
20 Uh, on the serial number itself.

21 Q BY MR. ROSENTHAL: So, for example, a gun that would
22 have been from out-of-State, if no information came on it,
23 there's no reason to take off the serial number?

24 A Right.

25 Q BY DET. COX: Were you in C.R.A.S.H. first? Or was
26 Officer Durden?

27 A I was in C.R.A.S.H. first.

28 Q So, how long had you been at C.R.A.S.H. before Durden

1 came in, approximately?

2 A One -- one year.

3 Q One year?

4 A Yes, sir.

5 Q So, the practice of -- of taking guns and keeping
6 them for unlawful, uh, acts, I guess, by you, uhm, that was
7 something that Durden learned from you and other C.R.A.S.H.
8 officers? It's not something you learned from Durden?

9 A No. This is something that's been going on -- I mean,
10 you got to remember Durden came from 77th C.R.A.S.H.

11 Q Okay.

12 A So, Durden wasn't, uh, -- although, Durden was
13 somewhat new to the job, Durden was -- I would categorize him
14 as someone as like Rios, who had been in the mix. Knows what
15 goes on, but was a probation and was probably being taken care
16 of, as far as trying to protect him. Uh, down at 77th C.R.A.S.H.
17 I mean.

18 But when he -- when he came up to Rampart C.R.A.S.H.,
19 he was talking the talk from the get-go. I mean, he was talking
20 like he knew everything that goes on.

21 Q Putting you two guys together, would you be more of
22 a leader than Durden? Or Durden more a leader than you, among
23 you two?

24 A I was more of the leader.

25 Q You were more the leader?

26 A Only because I had been working there longer. I had
27 more years on. I had more experience than he did. Uhm, and I
28 know, in the past, uh, we've discussed this, that sometimes he
tends to make himself sound like a child and don't know nothing.

1 I'm just there. Whatever Perez did, I did. Uh, whatever. But
2 he was definitely -- if I wasn't -- if he wasn't working with
3 me, they would put somebody to work with him, for him to train.
4 I'll put it to you that way. Do you -- you follow my -- my
5 rationale there?

6 He's not someone that you would go, okay, now, I'm
7 going to have to put him with, uh, -- uh, a P3 or some -- some
8 senior officer, 'cause he's -- you know, that know what's going
9 on. He knows exactly what's going on. And he was -- I mean,
10 he -- he had been around.

11 Q But, when he was with you, you would be the leader
12 between the two of you?

13 A Uh, we worked -- I mean, we were partners. Uh, and
14 it wasn't like, uh, when Duarte came in, or when Tovar came in,
15 or when -- 'cause I don't know if you noticed. If you look in
16 the -- the logs, I was always the -- the one that the sergeant
17 would go, "Listen, Ray. I need you to do me this favor. We're
18 getting this body in. And I need you to, you know, uh, you
19 know, train them, or whatever."

20 And it was Duarte. Nobody wanted to work with her.
21 "Ray, please, me do this favor." And it was, uh, -- uh, Arujo,
22 another officer, "Ray, can you do this favor?" You know.
23 'Cause I really never had no problem with working with whoever.
24 I really didn't. When Duarte -- or when, uh -- uh, Durden came
25 in, the reason he worked with me was because I had a -- I
26 sponsored him.

27 Q Yeah, we heard. Yeah.

28 A And I don't know -- you made a face. I mean, like
what's sponsor. I know.

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Q Right.

A You weren't here for a past interview. But the way you get into C.R.A.S.H. is you either got to get voted-in, or someone has to sponsor you in. And if you get sponsored-in, you have to work with that person your sponsoring.

In other words, if somebody came to me and said, "You know, Durden really wants to work C.R.A.S.H., man. Please. You know, he -- he -- he's a hard charger."

MR. ROSENTHAL: Well, we've actually -- we've gone over this. So, okay.

Q BY DET. COX: He's -- yeah, but he can --

MR. ROSENTHAL: Oh, I'm sorry.

Q BY DET. COX: -- just real briefly, just tell me what it is.

A And -- and it just -- I will say, listen, from what I understand he's a hard charger. He's, uh -- he's ready to do whatever. Uh, he'll take it to the box. He's a strong guy. I'll go ahead and sponsor him. Meaning, I'll go ahead and work with him. I'll -- I'll -- we'll take him in the unit. I'll be responsible for him. I -- now, I think we always gave them, uh, one month. And the first month, if it didn't look like it was gonna work out, thank you for your short stay in C.R.A.S.H.

Q And that's Rampart C.R.A.S.H.?

A Rampart C.R.A.S.H., yes.

Q BY MR. ROSENTHAL: How long was it -- or how long were you in Rampart C.R.A.S.H. before you got into the loop, so to speak?

A Oh, okay. I would say, after I was there about -- I would say after I was there about maybe six months. Before six

1 months, people just sort of assumed that I was sort of like,
2 okay, this guy looks pretty solid. Because I, myself, was
3 sponsored-in. I wasn't voted-in.

4 Q Who sponsored you in?

5 A Uh, Sammy Martin sponsored me in. Because a lot of
6 the other guys didn't know me, uh, in the C.R.A.S.H. unit. I
7 had just come from, uh, Undercover Narcotics. Came to Rampart.
8 And, uh, Sammy Martin asked me, "Do you want to work
9 C.R.A.S.H.?" And I said, "Yeah, you know. But I haven't been
10 in Rampart very long, you know." I -- you know.

11 Q BY DET. COX: Sammy Martin's in the loop?

12 A Sammy Martin's in whatever loop he's -- he's in.

13 Q He's in -- he's in "the loop"?

14 A Well, let me -- let me make this clear. I worked
15 with Sammy Martin from, uh -- when did I get to C.R.A.S.H.?
16 Was it August, September I got to C.R.A.S.H.?

17 Q I don't know.

18 A Uhm, I think I got to C.R.A.S.H. -- uh, to C.R.A.S.H.
19 around August, September. I only worked with him 'til about
20 January, February. January maybe. So, five months I worked
21 with him. And he -- Sammy Martin was in the loop. But let --
22 I'll say this. Sammy Martin was in the loop about women.

23 His police work was, uh, great police work. A lot of
24 -- he -- he was really not involved in what everybody else
25 wanted to do.

26 Q What is the loop about women? Or what -- what is
27 that?

28 A No, no. Well, when I say the loop about women, Sammy
Martin was the type of guy who, when he'd come to work, uh, and

1 he had a girl to go visit. We'll go and visit that female.
2 You know, and do whatever. He'd go visit. And then, we'd come
3 back. But I will say this. That Sammy Martin was one of those
4 officers that, I mean, was -- he was a great officer. If you
5 ask anybody, he can drive in the La Mirada neighborhood and
6 know everybody, and make great arrests.

7 Q What about you? What about you, though?

8 A What about you?

9 Q Weren't you a good officer?

10 A I was a great officer.

11 Q Okay. Sammy Martin's a good officer.

12 A I mean, I think I was a good officer.

13 Q Sammy Martin, was he in the loop, as far as the stuff
14 that's going on with the guns?

15 A No. Uh, as far as -- like I said, at -- six months
16 after I got to C.R.A.S.H. --

17 Q Mmnh-mmnh.

18 A -- that's when people really started assuming that
19 he's in the loop, uh, --

20 Q "He" meaning?

21 A Me. Six months after I got to C.R.A.S.H. that's when
22 things really started to happen. And I started seeing things.
23 And people were trusting me in seeing things.

24 Q But "in the loop", what does that mean, Ray?

25 A Like I said earlier, "in the loop" meaning someone
26 who is willing to take it to the box. And what is "take it to
27 the box" mean? Uh, someone who is willing to perjure themselves
28 --

Q Okay.

1 A -- uh, to Internal Affairs when they come by and say,
2 "Hey, did this happen? Did this guy get beat up?" And the
3 guy's gonna go, "No." Well, we saw this guy who said that he
4 saw you. No.

5 Q Fix a shooting? That would be a -- that could be in
6 the loop?

7 A From that spectrum all the way on down.

8 Q Okay.

9 A That's -- that's what I mean by that.

10 Q BY MR. ROSENTHAL: How could Sammy -- I mean, I would
11 assume Sammy Martin is in C.R.A.S.H. --

12 A Right.

13 Q -- he was in C.R.A.S.H. three of your first six
14 months?

15 A Uh, right.

16 Q Okay. In fact, longer than that.

17 A No. We just worked together for about five or six
18 months.

19 Q And then, what did -- where did --

20 A He left. He went to Detectives.

21 Q Okay. You're saying, you know, here you are. You're
22 sponsored by Sammy.

23 A Mmnh-mmnh.

24 Q Within six months, you're in this loop with officers
25 who are willing to lie, to cover up misconduct. And I'm finding
26 it hard to believe that Sammy was not in the same loop. I --
27 I --

28 A Sammy Martin was there before I got to C.R.A.S.H.
Whatever Sammy Martin was involved in, I can't say.

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Q Okay.

A When I worked with Sammy Martin, I was very impressed by Sammy Martin, because we could be driving down the street, and a car goes by, and he can turn around and say, that was this gangster and that gangster, and that gangster. There's up to something. Let's turn around and go look and see what they're up to.

Q So, he -- are you saying that he left C.R.A.S.H. before you got into the loop?

A Yeah.

Q All right.

A Well, like I was saying, maybe like six months into being in C.R.A.S.H. I think before then people were assuming he's a solid guy. You know, he's a solid guy just based on, you know, yeah, he worked, uh, Undercover Narcotics. Yeah, he's -- you know, all this -- just stuff that was told about me. But not everybody's just going to come up and trust you, you know, and -- and do whatever in front of you. And that, yeah, he's going to be all right.

I think after that, maybe about six months into my working C.R.A.S.H., that's when people, you know, just trusted in me, and knew that I was in the -- in the loop.

Q I mean, do you believe that Sammy Martin was a solid guy in that respect?

A Did I think he was a solid guy?

Q Yeah.

A Well, when you say "solid" you mean like in the loop?

Q In your respect. Yeah.

A Right. Uhm, I think -- yeah, I think he was a solid

guy.

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2 Q I mean, did you feel as though he could -- I mean,
3 did you feel as though he would commit perjury in order to
4 protect you --

5 A Yes.

6 Q -- if you were in a bad shooting?

7 A Yes.

8 Q Okay.

9 A He -- but -- but we never got in a situation like
10 that.

11 Q All right.

12 Q BY DET. COX: Well, let's go back. Uh, I think we
13 got off the track here a little bit. Let's go back and finish
14 off the Ovando shooting.

15 A Mmnh-mmnh.

16 Q Uhm, I think we were last talking about, uh, you guys
17 got your story together with Sgt. Ortiz.

18 A Meeting.

19 Q The meeting.

20 A Mmnh-mmnh.

21 Q And that meeting, from what I understand, is just
22 tactics, logistics. It had nothing to do with the fact of --
23 of, uh, that you planted the gun. No one knew that except
24 yourself and Durden, correct?

25 A That's correct.

26 Q At some point in time, when you talked to the O.I.S.
27 team, uh, and Montoya and Rios also talked to them, uh, there
28 was a chase car that was mentioned in the O.I.S. report.

A Okay.

1 Q Where -- that's what Montoya and Rios were for the
2 O.P.

3 A Mmnh-mmnh. Yes.

4 Q And, now, was that part of the plan whenever Sgt.
5 Ortiz talked to you guys at the scene of a shooting, because
6 Montoya and Rios are supposed to be your chase car. That's
7 part of your plans or else if you don't have a back-up, then,
8 uh, a team to back you up, then you're probably going to be in
9 violation of some policy if you guys are up there on an O.P. by
10 yourself.

11 So, you have to have a back-up team; right? And
12 that's gonna be Montoya and Rios as your chase car?

13 A The only thing that was a plan, is that we always
14 plan to talk after a shooting.

15 Q Okay. Okay.

16 A That's the only thing that was a plan.

17 Q All right.

18 A Everything else that occurs is discussed at that
19 time. Q So, there was no chase car? I know you said
20 that.

21 A There is no chase car.

22 Q Okay.

23 A There never was.

24 Q And -- and the contacts with Ortiz never occurred?
25 Sgt. Ortiz on the radio?

26 A The contact -- no.

27 Q Radio communication?

28 A Oh, the checking in every 15 minutes, or whatever?
We talked on the radio once. Uh, and it was like maybe late

into

1 -- uh, when we were there, he said how much longer are we gonna
2 be there. And if we needed anything to contact him. And he's
3 -- he's at the office or something like that. Or -- and that
4 was it.

5 So, once the whole time we were up there we talked to
6 him.

7 Q Okay. So, those things in the report, the O.I.S.
8 report, were Montoya -- Montoya and Rios were the chase car,
9 and Ortiz was communications every 15 minutes -- those are
10 false?

11 A Yes.

12 Q BY DET. HANSON: And those were things that were
13 discussed in the little group prior to everyone showing up?

14 A Yes.

15 Q Correct?

16 A Yes.

17 Q Who, then, told Rios?

18 A Told Rios what?

19 Q What to say if he wasn't in that meeting?

20 A Rios, uh, his only part in it was handcuffing the
21 person.

22 Q Correct. But Rios also talked about him being part
23 of the chase car. Chase --

24 A They -- they must have --

25 Q He talked about that.

26 A Then, they must have discussed it.

27 Q Montoya --

28 A And Rios.

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Q -- and Rios?

A Right. I'm sure that what happened was Rios -- or Montoya got the story. And then, he probably just told, uh, - - uh, Rios, "Hey, we're the chase car for this. Okay." And that was it.

Q BY MR. MCKESSON: When you're testifying, though, you're assuming that's what happened?

A I'm assuming that's what happened. 'Cause I don't remember him in the meeting.

Q DET. HANSON: I can tell you that Rios testified to the same thing Montoya did regarding the chase car, that you guys were their back-up. And those kinds of things.

A They were our back-up.

Q Yeah.

A But I can tell you that that was not true. I mean, we -- that's something we made up as we, uh, held that meeting.

Q Okay.

A That's something we definitely made up.

Q Now, I know, in this shooting, Ortiz was not told that this was a throw-down gun; correct?

A Yes.

Q Do you think Rios -- or Ortiz. I'm sorry, Ortiz knew that some of his guys might have been carrying throw-down guns?

A Uh, probably, yes.

Q But mainly Ortiz, when something would happen, would get everybody together and make sure tactics were covered, who was standing here, those kind of things?

A The purpose of the meetings with our supervisor, when we got together like that, was to make the shooting as far as

in policy as we can, with what we had. Whatever it was.

1
2 Q And that includes -- I mean, 'cause we all -- if a
3 shooting goes down, and the shooting's a righteous one, we still
4 all get together and talk about it.

5 A Right.

6 Q Now, there's a big difference between getting
7 together and talking about it and then going, well, we need to
8 make this up to cover ourselves here, and make up this. And,
9 so, that's what was done?

10 A We were covering both those spectrums.

11 Q Okay.

12 A The aspects as far as, okay, we did this. And that
13 was good. Fine. And also, well, you know what, we need to
14 clean this up. We need to cover that up, or whatever else.

15 Q Okay.

16 Q BY MR. ROSENTHAL: Whose idea was it to come up with
17 the chase car?

18 A Ortiz'. And also the part about, uh, checking in
19 every 15 minutes, or whatever it was, that was Ortiz.

20 Q BY DET. HANSON: Do you know, uhm, -- this is getting
21 a little technical. But, Ortiz -- uh, the story was that, uh,
22 Montoya and Rios were also your chase car on the day before.
23 Now, that's in the shooting --

24 A Okay.

25 Q -- scenario, that's what was told.

26 A Yeah.

27 Q That they were your chase car on the 11th and the
28 12th.

A Mmnh-mmnh.

1 Q And we know that's -- that's a lie.

2 A Mmnh-mmnh. Yes.

3 Q Do you know, or was it mentioned to you, or did you
4 hear this? Who changed that log for the 11th?

5 A I have no idea. I have no idea about logs being
6 changed. I don't.

7 Q Okay. That was never brought up in a meeting they
8 were going to have to change your log from yesterday to match
9 what was said tonight, regarding the shooting?

10 A That might have been something they discussed once
11 our main focus was done -- the shooting itself and -- and the
12 tactics of it. After we had been taken out there by that
13 lieutenant, that might have been something they said, hey, make
14 sure your log reflects that you were here yesterday, or
15 something like that.

16 I'm not sure.

17 Q Okay.

18 A I'll be -- I'm guessing.

19 Q Okay. Uhm -- uh, it was mentioned -- and I don't
20 know if this is part of a story that was made up, or if this is
21 true -- uhm, in the -- I'm going to tell you what I've listened
22 to. I listened to your tape of the shooting. Okay. What you
23 told the officer-involved shooting team.

24 A Okay.

25 Q And there's a part about how you're up on, uh -- up
26 there at -- on the O.P. And you see someone down there walking
27 that looks all hinky and, uh, -- and that they need to probably
28 stop him and see what he's up to.

You mentioned that -- all four of you mentioned that.

1 In the tape, there is a little discrepancy as far as if it was
2 one person or two people. But that is mentioned.

3 A That we called a unit to come down and stop somebody
4 for us?

5 Q Correct.

6 A That's possible. I mean, I don't have a real clear
7 recollection of that. But it's possible that we might have
8 called a unit down to, uh, come in and stop somebody for us.
9 It's possible, yes.

10 Q Okay. It's possible that that could have happened?

11 A Yeah. Sure. Sure. I mean, we were up there doing
12 an O.P.

13 Q Right.

14 A And if we saw certain things happening, we would call
15 whoever, you know, on Simplex. What we do is we come up on 181
16 Boy. And anybody who was nearby, close, yeah, okay, we'll --
17 we'll stop by. And -- and if it did happen, I don't know who
18 -- what the unit was that came by and stopped and talked to
19 somebody, or whatever we did.

20 Q It was Rios and Montoya?

21 A Was it?

22 Q Yes.

23 A Yeah, see, that's their area. That's --

24 Q Right.

25 A -- that's theirs. So, I'm assuming that they're the
26 nearest closest unit by.

27 Q So, that could have happened?

28 A Yes, that's possible. Yes.

Q Okay. Uhm, the red rag that, uhm, you saw the red

rag in his hand and the gun was in the red rag.

1
2 A Right.

3 Q Do you know where he put the red rag afterwards?

4 A To be really honest, and this would be interesting,
5 maybe, uh, photos of the scene.

6 Q I have photos of the scene.

7 A I think it might have been left right there.

8 Q And I have some photos of some red rags.

9 A Really?

10 Q Yeah. I don't -- I can't --

11 A From my recollection, I'm thinking that, actually,
12 that rag was -- was probably left right there. 'Cause I don't
13 remember him like, I got to go flush it, or I got to take --
14 I'm thinking that he might have just thrown it to the side and
15 -- and did whatever.

16 But I'm -- I'm not positive. But that's why I said,
17 you know what, if you had pictures of the scene, I may be able
18 to say that looks like the rag that, uh, the weapon was in.

19 Q When you up into that building, uhm, either on the
20 11th or the 12th, uh, -- and I think I'm gonna show you some
21 photos in a minute -- uh, mainly that -- mainly that building
22 had a lot of writing on it -- a lot of graffiti on it. Uh, do
23 you remember that?

24 A Yeah, I do. Uh, -- uh, 187 on a cop, or "Fuck
25 L.A.P.D." or something like that. Yeah.

26 Q Correct. Is that something -- and I'm just gonna
27 come out and ask you, 'cause it seems a little odd when we look
28 at the pictures. It's fresh paint. It's not the same color as
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A Mmnh-mmnh.

Q -- the rest of the graffiti. Is that something that you or one of the C.R.A.S.H. officers could have sprayed on that wall to make your story sound better upstairs?

A If -- if I did it, I'd tell you right to your face, yeah, we wrote on there to make it sound, you know, more whatever.

Q Okay.

A No. And, as a matter of fact, I really never even noticed it until I think I heard one of supervisors, or somebody -- maybe Peters or somebody, say, "Hey, you know what? Get some photos of these walls with all this writing and stuff like that."

But, uhm, that -- that -- you're going to read that. I mean, you see gangsters with "Fuck L.A.P.D." on their face. I mean, --

Q Right.

A -- you know.

Q It just looked very fresh.

A No.

Q Paint that wasn't there. And it's something that stuck out and I wanted -- we wanted to ask you on that.

A No. I -- I -- I didn't see any officer write that. We didn't write that. I -- uh, I have no idea who wrote that.

Q Okay.

Q BY MR. ROSENTHAL: I've got a couple other questions.

Q BY DET. COX: Just one more -- one more thing. You're saying that you didn't, uh, -- you never touched, uh, Javier Ovando during this whole incident?

1 A I never touched him.

2 Q And, in fact, you never have touched him before ever?
3 You didn't touch him that night? And you had never touched
4 him? And you hadn't seen him -- I'm sorry. Go ahead.

5 A No, no. I have said I've seen him before. Uh, but,
6 you weren't here in that meeting. Uh, --

7 Q BY MR. ROSENTHAL: No. I -- I don't remember that.
8 I thought the initial time you said you didn't remember seeing
9 him before?

10 A I think it was the very first meeting. Remember you
11 asked me if I ever seen him before?

12 Q Right.

13 A I said, "Yes."

14 Q BY DET. COX: Where did you see him at?

15 A I don't remember. But I think I've seen him before.
16 I mean, his face -- uh, you had asked me if I had ever seen him
17 before. And I said, "Yes." Remember that?

18 Q BY MR. ROSENTHAL: Actually, I -- I should look at
19 the transcript.

20 A We should have transcripts. Yeah. I had said, "Yes."
21 I've seen him before.

22 Q Okay.

23 A Uhm, but where -- his face looks really familiar to
24 me. I don't -- I don't know if it was just driving around and
25 I've seen him. Or -- or from where. But I've seen him before.

26 Q BY DET. COX: You have?

27 A Yeah.

28 Q BY MR. ROSENTHAL: Before the shooting?

A Right. That's the question you had asked me before.

1 Q BY DET. COX: It wasn't the day before the shooting
in the apartment?

2 A I can't remember. I can't remember.

3 Q BY DET. HANSON: Did you know if he sold cocaine?

4 A If Ovando sold cocaine?

5 Q Yes.

6 A I have no idea. I mean, -- I have no -- how would I
7 -- how would I -- I don't know.

8 Q Because you ran into him and saw him out there. But
9 you just never arrested him. Maybe saw him where drug deals
10 were going down.

11 A I mean, I go -- I used to drive by there a lot. I
12 mean, working Undercover I'd go by there. And, you know, buy
13 drugs right there.

14 Q Okay.

15 A I mean, you see some of these guys. Like this guy,
16 I know I've seen him before. But I can't tell you where or how
17 many times, or --

18 Q BY MR. MCKESSON: This guy being the individual you
19 call "Mousey"?

20 A Mousey, the photo I was supplied with.

21 DET. HANSON: Yes.

22 MR. ROSENTHAL: They haven't marked that. But we'll just
23 say it's -- it's Booking -- it's a photo with a booking number
24 of 5301552, dated 7/04/97.

25 Q BY DET. COX: Detective Gonzalez ever interviewed
26 you, uh, -- she was, uh -- may have been a female detective?

27 A Yeah, we talked about this before.

28 Q Okay. You can't recall?

1 A You know, she may have. Was it -- it wasn't the same
night, though, was it?

2 Q I doubt it.

3 A Was it a week or so later, or something, maybe?

4 Q I don't know if she interviewed you at all. That's
5 why I was asking.

6 A I mean, I -- I'd see her all the time is the problem.
7 And I don't know if I was just talking to her about what
8 happened, or if she actually had a inter- -- a formal interview
9 with me.

10 Q Well, she actually handled the case on the attempt
11 murder on you.

12 A I don't recall. You know, I really just don't recall
13 a formal interview with her.

14 Q Okay. Well, I can't think of anything else, at this
15 point. Maybe it's --

16 MR. ROSENTHAL: One -- well, actually one other thing
17 that's related to this.

18 DET. COX: Okay. Go ahead.

19 Q BY MR. ROSENTHAL: Uhm, the 18th -- excuse me. The
20 18th Street injunction, apparently, there were, uhm -- and I
21 haven't seen the declarations yet in support of that. But,
22 apparently, there were references to this particular shooting
23 -- the Ovando shooting, as well as the Shatto Place one.

24 A Okay.

25 Q Do you remember if you ever did any declarations in
26 support of that injunction?

27 A I think I did.

28 Q And you would have talked about this shooting? Do

you remember that?

1 A No. See, the declarations were like printed up. And
2 everything was --

3 Q Pre-prepared for you?

4 A -- pre-prepared. And all I had to do was sign it.
5 Uh, you know, the -- the -- uh, I think it was Lisa Fox --

6 Q Right.

7 A -- and Bershan -- the other female. Lisa Nicole.

8 Q Okay.

9 A Nicole Shaw, the other city attorney that was, uh,
10 working that thing.

11 Q Right.

12 A The 18th Street Injunction. They would look into all
13 the reports, all the F.I.'s, and correlate, and you know, put
14 that information. And, so, when I would get the declaration,
15 I would just read certain instances where I was involved, and
16 arrests that I made in that particular area -- 18th Street
17 neighborhood. And I just signed the declaration.

18 Q It was under penalty of perjury?

19 A Right.

20 Q And that would have been a lie?

21 A Uh, yeah, some of it would have been, yes.

22 Q Uhm, let me -- let me ask you then, if you guys are
23 okay on -- on that, there's -- there was something in the paper
24 today that I don't recall us talking about. And I want to read
25 it to you. And tell me is this sounds correct.

26 Uhm, this relates to allegations that, uh, -- here it
27 is. It's actually on the L.A. Times, Wednesday, September 22nd,
28 A-17. And it says, "Investigators have uncovered evidence that

1 officers of one C.R.A.S.H. detail, would "jump-in" or ease new-
2 comers into the unit as part of initiation right as organized
3 street gangs traditionally do." Does that sound, uh, familiar
4 at all? Are you aware of anybody being jumped into Rampart
5 C.R.A.S.H., or any other C.R.A.S.H. unit?

6 A I have never heard of that. That's just stuff they're
7 writing. There's no such thing as getting jumped-in to Rampart
8 C.R.A.S.H. In fact, that's something the gangs do. And I don't
9 if they're trying to make it a gang thing, or -- or whatever.
10 But that's just something they just wrote.

11 Q All right. So, that is -- you have no -- you have no
12 idea if -- if anything like that ever had taken place?

13 A I've never seen anybody getting jumped into Rampart
14 C.R.A.S.H.

15 Q Okay. Uhm, the .45 -- and you mentioned this in the
16 very -- I think it was the first interview. Maybe it was the
17 second. Uhm, --

18 DET. COX: This, uh, tape do you want -- are you going in
19 some direction?

20 MR. ROSENTHAL: Oh, this is -- this is different from
21 Ovando. Do you want to switch tapes on it, then?

22 DET. COX: Yeah. We, uh, -- can we just take a little
23 break?

24 MR. ROSENTHAL: Sure.

25 DET. COX: A five minute break. And let you --

26 MR. ROSENTHAL: Absolutely.

27 DET. HANSON: But let me -- let me do one thing.

28 DET. COX: I'm sorry. He has one more.

DET. HANSON: One more thing on Ovando.

1 MR. ROSENTHAL: Oh, okay.

2 DET. COX: Then, we'll take a break after that.

3 Q BY DET. HANSON: Ray, let me show you this photograph.
4 This is going to be the photograph of the inside of the
5 apartment. Uhm, it's the closet area where the chair was.
6 You're gonna see some markings on the photo where, uh, it shows
7 where, uh, Nino Durden was standing. Uh, and it's some medical
8 -- some gloves and stuff.

9 There's two red, uh, pieces of cloth sitting here.
10 Can you look at those and just tell me, is it possible that
11 those could have been -- one of them could have been what he
12 had used to hold the gun? Or is that --

13 A It is very possible that one of these could have been.
14 Probably. 'Cause, see, now, where he dropped it, it would have
15 right about here.

16 Q Right. Right around the corner there from the closet.

17 A And I'm thinking that he might have just tossed the
18 rag right in front of him, or something like that. I -- and,
19 again, I'm just speculating that that's where he would -- 'cause
20 I mean, where he's gonna hold it? I mean, he's probably gonna
21 just drop it and -- and drop the weapon. But it -- it was that
22 color there. The color that -- that I'm talking about here.

23 Q BY MR. ROSENTHAL: And what you're referring to is,
24 uh, --

25 DET. HANSON: They're not numbered.

26 MR. ROSENTHAL: The photos are not numbers. But there
27 appears to be like a red towel or rag right in the corner by
28 the -- by the entryway.

THE WITNESS: Entrance of the hallway.

1 MR. ROSENTHAL: Okay.

2 THE WITNESS: The -- the hallway there that leads to the,
3 uh, front door.

4 MR. ROSENTHAL: Right.

5 Q BY DET. HANSON: You don't, specifically, know,
6 though, where he dropped it? If he took it back outside?
7 You're just assuming he dropped the gun out of it and then just
8 tossed it on the ground, like the rest of the trash?

9 A The weapon that I saw Officer Durden, uh, produce,
10 uh, that was covered by a rag is very similar to the rag that's
11 depicted on this photo, uh, that I'm being shown here.

12 Q All right.

13 A Uh, exactly if he dropped it there, I -- I don't
14 recall.

15 Q Okay. Thank you.

16 A Do you want, uh, these other exhibits back, or --

17 Q I guess, they're gonna --

18 MR. ROSENTHAL: Okay. It's -- yeah, the court reporter is
19 gonna take -- take two exhibits.

20 MR. MCKESSON: You're not gonna mark that, in any way?
21 'Cause you're gonna look at the, uh, transcript, and you're
22 gonna know what you guys are talking about.

23 MR. ROSENTHAL: No, I think the -- the photos -- I think
24 it's -- there's enough explanation on here. We know it's a
25 photograph of the interior of the location.

26 DET. HANSON: The closet area with the chair tipped over.
27 A pile of clothing and trash in the corner of where the closet
28 is.

MR. ROSENTHAL: I -- yeah, I think we're fine.

1 MR. MCKESSON: Couldn't we just copy it. Couldn't we --

2 MR. ROSENTHAL: The problem is the xerox copy is going to
3 be difficult.

4 MR. MCKESSON: They probably have a color copier in this
5 building, I'm sure.

6 MR. ROSENTHAL: We can mark it on the photo as Exhibit 3.
7 Well, the -- the problem with that is, uhm, then, really what
8 it needs to be is attached to the transcript.

9 DET. HANSON: Or to the -- it says '80 -- it's says '84 on
10 the corner of the photo.

11 DET. COX: These are all numbered.

12 MR. ROSENTHAL: There we go. All right. That should be
13 fine. So, this is Photograph No. 84 from the officer-involved
14 shooting, uh, book.

15 DET. HANSON: Right.

16 MR. ROSENTHAL: Okay. That's fine. And that's what, uh,
17 what Mr. Perez was looking at and referring to. So, that should
18 be fine.

19 DET. HANSON: Okay.

20 MR. ROSENTHAL: Okay. It's, uh, 2:58. We'll go off the
21 record and take a ten, fifteen-minute break.

22 (Off the record at 2:58 p.m.)

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