

STATEMENT OF

RAFAEL ANTONIO PEREZ,

TAKEN AT THE MTA BUILDING, ONE GATEWAY PLAZA, LOS ANGELES,
CALIFORNIA 90012.

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

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00-007

LOS ANGELES, CALIFORNIA, WEDNESDAY, FEBRUARY 16, 2000, 1135 HRS

MR. ROSENTHAL: Today's date is February 16th, 2000. These are the continuing interviews of Rafael Perez. It's 11:35 in the morning. Uh, present are Mr. Perez; uh, Kevin McKesson, his counsel; myself, Richard Rosenthal; uh, Deputy District Attorney Laura Laesecke.

Spell your last name.

MS. LAESECKE: L-a-e-s-e-c-k-e.

MR. ROSENTHAL: And, uh, gentlemen, could you introduce yourselves?

SGT. SMITH: Sergeant Lance Smith, uh, serial number 24371.

SGT. JUSTICE: Sergeant Joel Justice. Serial number 24871.

MR. ROSENTHAL: Remember we're on the record. So, we'll want to slow down. Uh, first, raise your right hand.

(Witness complied.)

MR. ROSENTHAL: "Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

THE WITNESS: I do.

MR. ROSENTHAL: All right. Thank you.

RAFAEL ANTONIO PEREZ,

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

EXAMINATION BY MR. ROSENTHAL:

Q Let's start off with, uh, one case. This is People vs. Jorge Pena, P-e-n-a. Case number is BA125825.

Mr. Perez, I've actually already shown you the report on this case that was prepared by you. It's D.R. number 96-02-04280. And we've had an inquiry from the Public Defender's Office asking us to review this case. Having looked at the report, are there any problems with this case, that you're aware of?

MR. MCKESSON: Excuse me. For the record, this is a case

that he's not reviewed and not discussed.

MR. ROSENTHAL: Actually, it may have been one that was reviewed in the County Jail. We have not checked it against our records, at this point. So, he may have reviewed it previously and not pulled it out.

MR. MCKESSON: Okay. Is there any testimony regarding this -- this case?

MR. ROSENTHAL: No.

MR. MCKESSON: Okay.

THE WITNESS: I've, uh, -- I've reviewed the report. A four-page report. After reading it, I find that there is nothing that was omitted or added that was improper.

Q BY MR. ROSENTHAL: All right. So, the report, in itself, is completely accurate?

A Yes, it is.

Q And the person was guilty as charged?

A Yes, sir.

Q All right. The next case that we'll discuss is a pending trial. It relates to allegations of attempted murder. It's a two-defendant case. Uh, Defendant 1 is Ramiro Sanchez. R-a-m-i-r-o. The second defendant is Rodney Quinonez. Q-u-i-n-o-n-e-z. Case number is BA188409. The D.R. number is 98-02-00652.

There is an arrest report prepared by Officer J. Freitas, F-r-e-i-t-a-s. This appears to be from Rampart Homicide. And I've already given you an opportunity to take a

look at this report, which is a four-page arrest report.

And on Page 4, it refers to some actions that you took. I'll read those into the record and ask you to comment on that. And, then, also, there is a one-page supplemental report that was prepared by you.

So, let me, first start with the report by -- it looks like Detective Freitas. The only references to you, the first one says, "Officer Arujo and Perez transported Witness 3 Vasquez to the detention scene and advised her of the Field Show-up Admonition. Uh, Vasquez viewed the individuals and identified Suspect 2 Quinones as being with Suspect 1 and believed he had also kicked the victim."

Is that accurate?

A Yes, sir.

Q All right. Was there any misconduct that occurred with respect to the transportation of this witness to the detention scene, or the Field Show-up Admonition?

A No, sir.

Q The next reference to your actions, it says that, "Officer Perez detained the suspect." I'm looking to see which. Suspect 1, which would be Mr. Sanchez.

It says you "Detained the suspect, asked for permission to search the apartment. The suspect stated, 'No problem. Go ahead.'" And then, Sanchez told you that his mother was in the apartment. You made contact with the mother Isabel Sanchez and obtained written consent to search the

apartment.

Is that correct?

A Yes, sir.

Q Did you, in fact, obtain legitimate consent to search

--

A Yes, I did.

Q -- from the mother?

A Yes, sir.

Q So, there's nothing inaccurate about that?

A None, sir.

Q It also indicates that you located Mr. Sanchez' shoes in the living room of the apartment, next to the couch. And you observed possible blood stains on the shoes.

A That's correct.

Q And, finally, it says, "Note, Suspect 1 Sanchez had told Officer Perez he had been home all evening. When Perez questioned the suspect's mother, she stated that she had gone to bed at approximately 2230 hours. And, at that time, her son was not home. She fell asleep and was awakened by a knock on the door. She does not know what time this occurred. But she answered the door and let her son in. And he turned on the television and laid down on the couch."

Is that all accurate?

A Yes, sir.

Q So, Mr. Sanchez did tell you he had been home all evening?

A Yes, sir.

Q And his mother contradicted that by saying that her son had come home after 2230 hours?

A That's correct.

Q Are you aware of any misconduct by any of the officers involved in this investigation?

A No, sir.

Q Finally, I'll have you look at your one-page report. You've had a chance to review that?

A Yes, sir, I have.

Q All right. Are there any inaccuracies in that one-page report relating to this case?

A No, sir.

Q This is -- this is actually a report. It just seems to be a little bit more in-depth than the initial report. And it does talk about the consent to search, the search that was conducted, and the seizure of the shoes.

All right. That will be it for that case. Anything further that you want to say about this case, or that you think we may need to know?

A No, sir.

Q Finally, the last question, I just need to discuss with you is -- and this is something that I believe you talked about off-the-record maybe two sessions ago. I checked the record. I thought that we had already discussed it on-the-record, and, apparently, we did not.

And this relates to Deputy District Attorney Michael Kraut --

A Okay.

Q -- and his testimony at the -- at your trial.

A Okay.

Q At the trial, D.D.A. Kraut testified that he had a conversation with you, at the scene. I think it was the Ubaldo Gutierrez arrest, while engaging in trial preparation. And that you had a conversation about how to go about formally getting leniency for a suspect.

And you made a comment to us, off the record, that that conversation never occurred?

A I've thought about it several times. And myself, Officer Richardson, and Mr. Kraut started off on a bad note. Uh, we sort of went at it for a few minutes. And we -- we came to an understanding that we have to work together. So, let's, you know -- we -- we agreed to maybe not agree on certain issues. But we're still gonna work together.

And I've thought about what he had testified to, as far as me asking him how do I go about getting a letter of leniency. And I know, in my mind, I've never asked him. 'Cause he'd be one of the -- I never got along with him from the start. I certainly wouldn't have social conversation, uh, "Hey, can you help out? Uh, how do I go about getting a letter of leniency for someone," when we're sitting here trying to prosecute someone, you know, uh, Mr. Gutierrez, and not talk about how to

get a letter of leniency.

And, I mean, there's --

Q BY MR. MCKESSON: You have no recollection of doing this, do you?

A None. None whatsoever.

Q BY MR. ROSENTHAL: Okay. All right. I just thought that we should put that on the record. Anything else about that that you want to talk about?

A No, sir.

Q All right. I think we're set. You did say, before we began, that there is one issue you wanted to discuss, a case that had not been discussed before?

A Yes.

Q Sgt. Justice, do you want to put that on one of your tapes?

SGT. JUSTICE: Yeah, if you don't mind.

Q Do you mind?

A No.

Q Okay. Let me do a quick little lead-in here. And we'll get it on tape. This a tape-recorded interview with Rafael Perez. Today's date is February the 16th, 2000. Time is 1145 hours. Location of this interview is the MTA Building. The interview is being conducted by Sgt. Joel Justice and Sgt. Lance Smith.

Present as a stenographer is Sara Mahan. Perez is being represented by his attorney Kevin Winston McKesson.

Present from the D.A.'s Office is Richard Rosenthal. And I didn't get your first name.

MS. LAESECKE: Laura Laesecke.

SGT. JUSTICE: Laura Laesecke. Also present from Internal Affairs is Detective Mike Burditt, Serial number 24454.

Q I understand you had some information you wanted to share with us?

A Yes. And there's gonna be -- there's gonna have to be some investigation as to the time date. 'Cause I'm really sketchy on the time. But sometime, I believe, in '96 I was off-duty, on a day off. The C.R.A.S.H. unit was working.

On the following day when I came to work, they told me about an incident that they had. They were -- we were sitting there. And they were laughing about it, talking to me about it, and telling me what happened. They had indicated to me that I had -- myself and Officer Martin had arrested someone a while back for narcotics.

They said that on the day prior they received a call of a person attempting or talking about committing suicide, and he was trashing the house. He was -- somebody -- one of his family members called, 'cause he was trashing the house, possibly under the influence of drugs or something and was thrashing the house. So, he -- he barricaded himself in the rafters up in his -- uh, in his apartment.

Officers went in. All the C.R.A.S.H. officers went in and looked up, using the mirror, looked up. I believe it

was Officer Brehm that looked up into the rafters with a mirror and saw that there was a male sitting there holding a gun, and that he was somewhat distraught and was talking about committing suicide.

The other officers that were there, that were from the C.R.A.S.H. unit, -- and I can't remember who all -- who all they were -- began telling me how they started telling him, "Well, fuck you. You're not gonna do it. If you're gonna commit suicide, hurry up and fucking do it so we can get out of here." That type of thing.

They started yelling at him. "You know, you ain't gonna do it. Hurry up and get down here. You know, we ain't got all day." That type of thing. They kept doing it. They kept doing it for a while.

While they were doing this, a few minutes into it, while they were doing this, they heard a gunshot go off. And they looked up again, and the guy had shot himself in the head.

Q Okay. This incident occurred while you were on a day off?

A Yes.

Q And then, they talked about it? Where -- where was the conversation?

A At the station.

Q Was the whole unit present?

A All -- a bunch of the guys that were there -- and I've had several conversations. Because we've discussed it --

the first time I heard it was the first day I got back. But we've discussed this incident several times. And several different people have talked to me about it.

The first time I heard it was when I got back the next day and they were talking about this guy that committed suicide. And, supposedly, it was someone that I had arrested. I still don't know, to this day, who it is. But they said that I had arrested him prior for narcotics.

Q Do you -- do you know where this apartment was?

A From what I remember, it's somewhere in the northern part of the division. But I don't remember the exact streets or where exactly it occurred.

Q Okay. Do you -- can you give us any of the officers that were present in that briefing? Was this a roll call?

MR. MCKESSON: Present at the briefing? Or present at the location?

Q BY SGT. JUSTICE: Present at the briefing when this was discussed.

A And it wasn't a briefing. It was just -- I think we were just getting together to get -- to have -- to go to roll call, or something like that.

It wasn't discussed in roll call. Or maybe it was. But when I first heard about it, I heard about it before we went into roll call. The guys were hanging around the station.

And I know that Brehm was talking to me about it. How he -- I think it was Brehm and I want to say Buchanon were

talking to me about how when Brehm looked up, he looked up there and he was looking one direction. And then, looked in the other opposite direction, and he saw the guy holding the gun up. I remember him. And there was a bunch of other officers. 'Cause we were all sitting there talking about it. But I can't even remember, you know, unless you gave me a list of names that I could start looking at.

But the one officer that I remember specifically talking about it was Officer Brehm and how they were telling him, "You ain't gonna fucking do it" and all that. And then, they were surprised when they heard the gunshot.

And then, they looked up again, and the guy was slumped over and blood was splattered, and he had shot himself in the head.

Q From the information you got, was it Brehm who was the one that was coercing him into doing it? Bating him?

A No, he wasn't. No, it was everybody else that was there. All the C.R.A.S.H. guys that were there. They were all kind of egging him on.

Q Can you narrow it down in '96? Summer? Winter?

A I'd be guessing. I kind of lost a year and-a-half there. But I guarantee you it's in the logs. I mean, everybody's log would show a -- a suicide. And we don't handle too many suicides, number one.

Q And you're sure it was in '96?

A Maybe '97. I'm not -- I'm not a hundred percent

positive. See, I -- I'd be guessing if I told you a date right now. I'd totally be guessing. But I'm -- I assure you that's it documented that, you know, that call was handled by C.R.A.S.H.

Q BY MR. ROSENTHAL: The day that this occurred was a day off for you? Or you were --

A I was on a day off. I took a day off. But the C.R.A.S.H. unit was working.

Q It wasn't like a lengthy vacation? It was just a one day off type of thing?

A I was off. I know that.

Q Okay.

A So, did I take a four-day weekend, you mean, or something? Or a --

Q Or even maybe a week-long, two-week vacation.

A Shoot, it may have been. I'm not a hundred percent sure. I know I was off. When I came back, they were all talking about it. 'Cause, supposedly -- and I don't know how they got this -- I had arrested the guy sometime before that. Me and Martin they said.

And I never followed up like on a picture of what the guy looked like or -- or the report or anything like that. I never -- but the other day I was sitting in my cell and thinking of things. And that came through my mind, so. But it's real difficult for me to remember a time and a date exactly.

Q Remembering Brehm talking about it.

SGT. SMITH: Brehm and Buchanon.

Q Did you -- did you take note of the perhaps the tone in which they told you or had this conversation with you? Were they joking? Laughing? Serious? Did you believe that what they were telling you was the truth? And if so, --

A I believed what they were telling me was -- was the truth. And they were saying it in a jokingly manner and using profanity, and talked about how the guy blew his head off, you know. And it was kind of callous talk -- police talk.

Q BY SGT. JUSTICE: Were any of those family members present?

A I believe that he had a mother and a sister, from what I remember. But they were not present in the house. They were taken out. The only people that were inside the location was the C.R.A.S.H. officers.

Q So, you don't think they heard them bating him?

A No. I don't think they would do that in front of the family.

Q Okay. Anyone else?

Q BY SGT. SMITH: In your -- in your opinion the misconduct on their part would be?

A The obvious misconduct? Egging him on. Maybe persuading him to do it. I don't know. It was just something that I needed to -- if something comes in my mind and I remember, I'm gonna bring it forward. And that's just one of the things that came to my mind. And if there's misconduct there, there

is. If there isn't -- I think egging him on would be some kind of misconduct.

Q Encourage someone to commit suicide?

A Yeah.

Q BY MR. ROSENTHAL: Obviously, you're training does not include --

A No.

Q -- telling someone to go ahead and do it.

A No.

SGT. SMITH: No, it doesn't.

SGT. JUSTICE: Okay.

MR. ROSENTHAL: I certainly hope not.

SGT. JUSTICE: Anything else, Lance?

SGT. SMITH: No. We'll just have to look into that further and come back.

SGT. JUSTICE: Okay. That concludes this interview. It is 11:57 hours.

We're back on tape. It is 11:58 hours.

THE WITNESS: I just wanted to add one more thing. I believe, from -- from the conversation that was taking place, I believe Sgt. Ortiz was the supervisor.

Q BY SGT. JUSTICE: Supervisor at the scene? Or supervisor present when you guys were talking about it?

A Supervisor at the scene.

Q Was he also present when you guys were talking about it?

A He was present at different times. He may have not been, necessarily, involved in my conversation. But he was there while people were talking to me about it.

Q Okay. Anything else?

A No, sir.

Q Okay. That concludes this interview. It is 1158 hours.

SGT. SMITH: We're on the record. This is a tape-recorded interview of an Internal Affairs investigation. No. C.F. number has been obtained to date. Today's date is 2/16/00. The time is approximately 1206 hours.

Present to be interviewed is Rafael Perez. His counsel is Winston McKesson.

MR. MCKESSON: McKesson.

SGT. SMITH: Okay. Present conducting the interview are Sgt. Justice, 24871, and Sgt. Smith, 24371. Detective Mike Burditt is also present as an observer. D.A. Richard Rosenthal is also present, as well as D.A. Laura --

MS. LAESECKE: Laesecke.

SGT. SMITH: Laesecke. Present as the recorder is Sara Mahan.

MR. MCKESSON: We also have Detective Stan Nalywaiko.

MR. ROSENTHAL: He's coming and going. So, we won't worry about him.

SGT. SMITH: We won't worry about him. Okay.

Q Prior to going on tape, Rafael, you had an opportunity

to review a transcript relative to a crime report that was taken on 10/02/97. And you indicated in your transcripts --

MR. ROSENTHAL: Well, let's -- let's start, at least -- this relates to Daniel Delcastillo is the arrestee.

SGT. SMITH: Right. This relates to Daniel Delcastillo, the arrestee, who was arrested on 10/02/97. The case number is 97-02-33258.

MR. ROSENTHAL: And this relates to D.A. case number BA157370. And, Sara, do you need the spelling of the last name?

THE REPORTER: No.

MR. ROSENTHAL: I'm sorry. Go ahead.

Q BY SGT. SMITH: Okay. I only have two questions really to ask since this investigation is just beginning. Number one, that is, was there anyone in the company of you and Lujan or Durden when they spoke to you about this particular incident?

A Other than the officers that were obviously there?

Q Right. And you were at Detectives when you -- they had this discussion with them?

A Yes. They were at Rampart C.R.A.S.H. Detectives Office.

Q The Rampart C.R.A.S.H. Detective Office?

A Rampart C.R.A.S.H. -- right. It was. And just the officers that were in C.R.A.S.H.

Q And they were the only ones present?

A You're asking me were there any other like

independent civilians --

Q Right.

A -- or other witnesses? Not that I can remember.

Q Okay. You also indicated, in the last interview, that they carried a picture around of the individual that they had shot with the bean bag shotgun.

A Mmnh-mmnh.

Q Now, during your last interview, when you told the investigators of this occurrence, did you have an opportunity to review a photograph of Delcastillo?

A When I pulled the report, -- yeah, when I pulled the report they -- what they were doing was they had a picture stapled to each report.

Q Okay.

A And when I looked at the report, it was -- it coincided with the picture.

Q Okay. So, you -- then, let me ask you this. When you saw that picture, was that the same picture that the officer -- Lujan or Durden were parading around the station?

A No.

Q It was a different photograph?

A Yes. They had the pictures that I guess that are taken either by the hospital or by SID, you know, of him holding his lip up and kind of up close of his face, depicting injuries.

Q And so, there are more photographs, you believe, than the one that you actually attached to his arrest report?

A This is merely his booking-photo photo. There's some injury photos for the purpose of the Use of Force Report and things like that.

Q Right.

A There is up-close photos taken of the injuries, 'cause he shot with a bean bag. And I think they had him lift his lip up and show his teeth and -- and his gums and all that. There are other photos of this. I know that for a fact.

Q Did they tell you who completed the Use of Force Report on this incident?

A I'm assuming the supervisor. But I'm not a hundred percent sure. I never saw the -- the actual Use of Force Report.

Q Okay.

SGT. JUSTICE: Okay. That's all you have?

SGT. SMITH: That's all I have on that case.

SGT. JUSTICE: Okay. That concludes that interview. It is 1211 hours.

(Off the record at 12:11 p.m.)

(Back on the record at 12:12 p.m.)

SGT. SMITH: Alan Lobos.

SGT. JUSTICE: We're back on tape. It is 1212 hours.

SGT. SMITH: Are you ready?

SGT. JUSTICE: Oh, sure.

SGT. SMITH: Okay. This case involves Alan Lobos. It's D.R. 96-02-16586.

MR. ROSENTHAL: And the D.A. Case number is BA131378.

Q BY SGT. SMITH: Okay. You've had an opportunity to review this case during your past interviews. What I have today is a large photograph depicting the location. And if you would utilize this red ink pen and mark, if you can recall, where you believe the vehicle was parked where an officer found a handgun.

And these -- the pictures that he's viewing is a overhead aerial shot of 445 South Hartford Avenue. It's the parking lot structure -- or parking lot area.

Q BY MR. ROSENTHAL: Mr. Perez, do you remember this particular incident, this one we're talking about?

A Yes. I'm just trying to figure out which way is north and south.

SGT. SMITH: I couldn't figure it out. Yeah, I have a -- another map, in the back, that can assist you with that. That was taken off of Yahoo's Internet site.

THE WITNESS: North is that way. So, that would be --

SGT. JUSTICE: Actually, this -- this is a north/south street. This is Hartford. That's north. This would be east. This is Downtown L.A.

MR. ROSENTHAL: All right. Let's, just for the record, you've placed a little north marker with an arrow on the left side of the photograph.

SGT. JUSTICE: Witmer is down here. And this would be Lucas.

MR. ROSENTHAL: And you say -- and for the record, Witmer

is down at the bottom of the photograph. Lucas is to the north?
Or to the upper --

SGT. JUSTICE: Well, this is Hartford. I believe this street here would be Lucas.

MR. ROSENTHAL: Okay. How do you spell Lucas?

SGT. JUSTICE: L-u-c-a-s.

MR. ROSENTHAL: All right. That is the street that is on the very top of the photograph running from left to right. And Hartford you said?

SGT. JUSTICE: Yes.

MR. ROSENTHAL: Or Harper?

SGT. JUSTICE: Hartford.

MR. ROSENTHAL: Hartford is in the center of the photograph running from left to right.

THE WITNESS: Okay. Going north, if this Hartford --

SGT. SMITH: Yeah, you're right. You're right. You're absolutely right. This is north.

MR. ROSENTHAL: While he looks at this here, do you want to go off the record?

SGT. SMITH: We can go off tape for a moment until he --

MR. ROSENTHAL: Let's give him an opportunity to look at this.

SGT. JUSTICE: We're back on tape. It is 1218 hours. We need to read the C.F. number on this.

SGT. SMITH: Okay. The C.F. number on this investigation is 99-4622.

Q Okay. Perez, you had an opportunity to review an overhead aerial shot of the location. And you marked it with "A, B, C, and D".

A Yeah.

Q Why don't you go ahead and indicate what you're references are?

A I'm placing the "A" on the -- and encircling it with a red ink pen, in a photo of a -- aerial photo of the parking lot. The "A" depicting where I first saw Officer Liddy.

Q Okay.

A I'm drawing a "B" with a circle in the area where I believe the deejay booth was set up, the party booth.

Q Okay.

A I'm putting a circle around that. I'm placing a "C" where I believe the vehicle was parked -- was parked. And I'm placing a "C" around that "C". I'm placing a circle around that "C".

I'm also -- I'm gonna draw a line and then place a "D" next to that line. That's where I remember the defendants being lined-up when they were detained.

Q Okay. And you say "C" you draw -- you have "C" to indicate a vehicle was parked in that area. And from that vehicle is where the handgun -- you were directed to recover a handgun, correct?

A That's correct.

Q Okay.

SGT. JUSTICE: Is that it? You're done. That concludes that interview. It is 1219 hours.

SGT. SMITH: Thank you very much.

(Off the record at 12:19 p.m.)

(Back on the record at 12:28 p.m.)

SGT. JUSTICE: This is a tape-recorded interview of Internal Affairs Investigation. The C.F. number is pending. Today's date is February the 16th, 2000. And the time is 1228 hours. The location of this interview is the MTA Building.

Present to be interviewed is Rafael Perez. He's being represented by his attorney Winston McKesson. Also present as the stenographer is Sara Mahan. Present from the District Attorney's Office is Richard Rosenthal and Laura Laesecke.

MS. LAESECKE: Close enough.

SGT. JUSTICE: Also present as an observer is Detective Mike Burditt. Serial number 24454. The interview is being conducted by Sgt. Joel Justice, Serial number 24871, and by Sgt. Lance Smith, Serial number 24371.

Interview is being recorded on Tape No. 225022, Side A.

Q Did you get -- have the opportunity to read your transcripts on this incident?

A I have. Yes, I have.

Q This incident is involving Michael Williams. And the D.R. number is 96-02-10437.

MR. ROSENTHAL: And this relates to D.A. Case number

BA128788.

Q BY SGT. JUSTICE: Okay. This occurred back on March the 3rd, 1996 at 0015 hours. You were working with O'Grady.

A That's correct.

Q Can you tell me about that incident?

A From the beginning?

Q Yeah, would you please?

A Officer O'Grady is in charge --

MR. MCKESSON: From the beginning? You want him to go -- I mean, I'm not trying to tell you guys the best use of your time. But it would just seem to me, if he's given you a transcript and has gone over it like twice, that you -- it would be quicker if you had some pointed questions.

SGT. JUSTICE: Okay.

MR. MCKESSON: I mean, he read that. I mean, I have no problem. You guys conduct it the way you want to. But I'm -- I'm not trying to impede this investigation. But it just seemed to me, with a transcript, you would not want him to go through everything again.

MR. ROSENTHAL: He has been interviewed once on October 15th, 1999. And then, a second time on November 17th, 1999 on this incident.

MR. MCKESSON: And, Detective Justice, I'm not trying to put you on the spot.

SGT. JUSTICE: No, that's okay. But you are. No, that's fine. That's fine. We can do that.

SGT. SMITH: This is only fifteen pages. We need at least thirty or forty. That's -- that's the problem.

MR. ROSENTHAL: You know you're on the record?

(Laughing heard.)

MR. ROSENTHAL: Remember the L.A. Times.

Q BY SGT. JUSTICE: Okay. You guys were -- now, you guys were in the park, correct?

A Yes, sir.

Q And you pulled through the tunnel that goes under Wilshire, I believe?

A When we pulled through the tunnel, what I recall was, or what I know I recall is [**** CI # 13 Info Redacted ****]
[***** CI # 13 Information Redacted *****]
[***** CI # 13 Information Redacted ***] there is a male and a female selling drugs. She's got the drugs. And another gentleman has the -- can we go off the record for a minute?

MR. ROSENTHAL: Sure.

SGT. JUSTICE: Off the record at 1231 hours.

MR. ROSENTHAL: Back on the record. It's 12:28. Oh, also, as you know, and I previously told you on a number of times, you're still under oath.

THE WITNESS: Yes, sir. As I was saying, we had just gotten some information [**** CI # 13 Description Redacted ***]
[***** CI # 13 ***], that a male and a female were working together selling narcotics. They had just left [** CI # 13 **]
[CI#13], and was walking in a park in a southerly direction,

south-westerly direction from where he was.

[*** CI#13 ***] the male was carrying a gun and that the female had some drugs. At that point, we decided to drive in a south-westerly direction in the park. And a few feet away we saw what -- a male and a female that we believed must be the team that he was talking about.

When we detained him, the female -- well, when we detained them, the female broke off and started walking in a little bit of a north-easterly direction away from the male. The male was taken into custody right there. No weapons was -- was found on him.

I detained the female. Found narcotics on her. While we had them detained, Officer O'Grady and myself both began looking around the area for a gun. Because we knew that we were just told that he was carrying a gun.

And, eventually, Officer O'Grady, after looking for several minutes located a gun. On the report, it was written that we were conducting an observation point and that we observed them selling narcotics, and that when we pulled up, we observed the male discard the gun. All of that was fabricated.

Q BY SGT. JUSTICE: Okay. Did you guys stop to observe them, at any time? Or did you just continue right through?

A We just kept driving through. And we saw a male and a female together. We figured that must be them.

Q Okay. How long after you went through the tunnel did you guys first see them? I mean, did you -- did they catch

your attention immediately?

A We were -- if I have to put feet on it, maybe twenty, thirty feet when we first saw them. Yeah, they were about twenty, thirty feet from us when we first said that must be them.

Q Okay. Now, how did you surmise that they were the suspects?

A Just the male/female team type thing. We figured, you know, that's got to be them.

Q Okay. How long did O'Grady search before he found the gun?

A Probably five, ten minutes before he -- he found the gun.

Q Okay. In your opinion, there's no way O'Grady could have seen these observations listed in this arrest report?

A Officer O'Grady and myself were in the same car. And we were traveling in the same direction. From where he found the gun to where we detained them, it's impossible for him to have seen.

If -- if we would have actually saw this male toss a gun or something like that, Officer O'Grady would have said, "He just tossed a gun." He would have said something to him. We know we didn't find -- we know that we didn't see him toss a gun, because we sat there and, you know, looked. We patted-down for weapons. He didn't have any. And we started looking around knowing he -- he must have something around here. It's

got to be around here.

And, eventually, we did find it. But never was it communicated that we saw a gun or saw him drop a gun. If he would have saw him dropping a gun, I would have saw it, too. Because he was also right in front of me. And I'm looking right at him. That never occurred.

Q Okay. And you also didn't see the hand-to-hand narcotics transaction?

A That was completely fabricated, yes. We just made that up.

Q Okay. Do you know the third person detained in this incident, Sanders?

A Do I know him?

Q Yeah, do you recall him?

A No.

Q Do you recall if -- why he was detained then, if -- if there was no observation of a hand-to-hand transaction?

A Because there was -- he was probably just walking right by them. He was probably just there.

Q So, you just detained him and listed him as a wit?

A Probably.

Q Okay.

A I mean that's not to say that he probably didn't buy drugs from them or something like that. But --

Q Right.

A On there it says that we conducted an O.P. What were

we doing, conducting an O.P. from ten feet away or something? It's impossible. I mean, to do an O.P. in the park, you'd have to be maybe on the building -- on top of the building right there by the park, or somehow camouflage yourself. You can't camouflage a police car in the park.

So, you know, when we were driving up on them, that's exactly what occurred. We were driving right up on them. If this guy just happened to be walking by past them, and we detained him, that's what it was actually was. We just happened to stop him because he was right by them.

Q Okay. Now, O'Grady is adamant that he sees him drop a dark object. You're saying that's impossible?

A Impossible.

Q And --

A I mean, it's impossible. I mean, it -- like I said, we're in the same car. We're driving the same direction. In fact, I'm closer to him than O'Grady is.

Q Were you driving?

A No, I'm a passenger.

Q You're a passenger.

A So, I'm closer to the male than he is. He would have to go see -- go past me to look at the male. And I'm looking right at him. And I know the conversation we're having, you know, where we're looking around. It's got to be -- you know, there's got to be a gun somewhere around here. O'Grady's talking -- telling me about it. You know, he's looking. You

know, it's got to be somewhere around here.

The informant -- [**** CI # 13 ****] -- is an informant for O'Grady. O'Grady was in charge of the park. That's his gang. [**** CI # 13 ****].

But, you know, for him to say that he saw him -- I mean, I don't know why he would say anything different, but --

Q BY MR. MCKESSON: You don't know why he would say any different?

A Well, I know why he would say something different. But he did not see him drop a -- a gun. Neither did I.

MR. ROSENTHAL: Let me just put on the record that the statement by O'Grady was a voluntarily statement, not --

SGT. JUSTICE: That's correct. And he has since resigned and we could not compel him to come and talk.

Q Did you guys discuss this after the arrest? Was -- was anything discussed, that you can recall?

A Other than just what was written.

Q Did he say he was going to write it this way? Or do you recall?

A Yeah, that's -- what you do is you discuss what you're gonna write, so that when you write it and your partner reads it, and he concurs with it, then, you turn it into your supervisor.

Q Okay. Did he actually ever tell you he didn't see any of that? Or --

A Let me put it this way. Number one, had Officer

O'Grady saw him discard a gun, he'd have told me, "Hey, I just saw discard a gun." That didn't occur. Number two, after we detained him, we pat him down thinking he may have a weapon. He doesn't have a weapon.

Number three, we say, "Well, there's got to be something around here. You know, there's got to be one around here." It took him ten minutes -- five to ten minutes -- to finally locate the gun. From where Mr. Williams was positioned to where the gun was found, he would have had to toss it, you know, thirty feet in the air for it -- for it to be there. I mean, you understand what I'm saying?

Q Mmnh-mmnh.

A When we detained him, he was standing right by a bench, as a matter of fact. The gun was way over there another thirty feet. How -- I mean, right in front of us he's gonna take a gun and throw it? I mean, we would have saw that. I know for a fact that -- I mean, I have no doubt that that gun belonged to Mr. Williams. It's just that he saw us before we saw him. And he got rid of it before we got to him.

Q Okay. Do you have any questions?

SGT. SMITH: No.

SGT. JUSTICE: Okay. That concludes this interview. It is 1241 hours.

(Off the record at 12:41 p.m.)

(Back on the record at 12:50 p.m.)

SGT. JUSTICE: This is a tape-recorded interview of

Internal Affairs Investigation Number 00-0144. Today's date is February the 16th, 2000. And the time is 1250 hours. Location of this interview is MTA Building. Present to be interviewed is Rafael Perez. Present as his attorney is Winston McKesson. Present from the District Attorney's Office is Richard Rosenthal and Laura Laesecke. Getting closer?

MR. ROSENTHAL: Not even close.

MS. LAESECKE: It's close enough. That's fine.

SGT. JUSTICE: Okay. Present as a stenographer is Sara Mahan. Present as an observer is Detective Mike Burditt, Serial Number 24454.

The interview is being conducted by Sgt. Joel Justice, Serial Number 24871, and by Sgt. Lance Smith, Serial Number 24371. Interview is being recorded on Tape No. 226062, Side A. The case we're talking about is Arechiga, Luis. And the D.R. number is 95-02-46189.

MR. ROSENTHAL: This relates to a City Attorney filing on Luis Arechiga. And it's A-r-e-c-h-i-g-a. Their case number is 6CR06756. And there is actually no record of a filing in either the D.A.'s Office or the City Attorney's Office relating to the co-arrestee Mr. Barbosa.

Q BY SGT. JUSTICE: Ray, did you have the opportunity to review a summary or -- or your transcripts in this?

A Yes.

Q Okay. This incident was relayed to you by Brian Liddy; is that correct?

A Yes.

Q Where did he relay this information to you?

A At the station.

Q Do you know who else was present?

A Actually, there was somebody else present. But I don't remember who it was.

Q Okay. Do you recall where in the station this was?

A Rampart Detectives in the C.R.A.S.H. office.

Q In the C.R.A.S.H. office?

A Right.

Q And what was his conversation to you? What did he tell you?

A He was in a laughing, joking manner. He was telling me how he had detained the vehicle that had left a cul-de-sac area of the area where he patrols. That's his gang area. And he detained the Pulsar. He had some other officers hold on to the people that were in that vehicle. And he used that vehicle to drive in -- back into that cul-de-sac where there was additional gang members.

He told me how, when he pulled in, several of the gang members kind of walked up back to the car -- the Pulsar -- and as he and his partner got out of the car, everyone realized it was Liddy and his partner, and they all started running.

Q Mmh-mmh.

A They just kind of took off. I think in my first interview, I stated that I had no direct knowledge. I was not

present when this happened. I have no --

Q Right.

A I was not there. But, based on what Liddy had told me, it was inconsistent with what was written on the report.

Q Whose -- do you know whose vehicle that was that they used?

A Someone that they had detained prior to going in there. I don't know the owner's name or anything.

Q Okay. It wasn't Arechiga's vehicle?

A I couldn't tell you yes or no.

Q Okay. So, what did he tell you about the gun, do you recall?

A I know that from what he had told me, that a bunch of guys had ran off to the back of the building or something. And they went back there looking around. And they, eventually, found a gun or something, and somebody went to jail.

It was inconsistent with what, I believe, was written. And I haven't read -- read the police report today. And I'm not sure what it says exactly. I believe it says that he detained someone and they had a gun in their waistband or something like that. He saw them drop a gun to -- to the floor or something. It was inconsistent from what he was telling me.

What he had told me was that all these people ran. And they ran after a couple of them, detained them, then, they looked around. They found a gun.

Q Okay. I can read that part to you, if you'd like.

A Sure.

Q "When we approached the group, a gang member known to me as Boxer -- Luis Arechiga -- took a two-inch revolver from his right front coat pocket and held it. Suspect Arechiga, upon seeing us, fled on foot southbound on North Berendo Street.

Suspect Arechiga was pursued on foot to the rear of 4024 Rosewood where he through the gun under a gray Nissan, no plates, and ran eastbound in the alley. So, from what you recall in your conversation with Liddy, that didn't occur like that?

A No.

Q Did he say how it occurred?

A It occurred like I just said. That when they showed up -- 'cause he was laughing during this whole -- he's telling me the whole story as to what happened with this car. And like I say, I wasn't present.

Q Right.

A So, would it be impossible for me to know unless he told me.

Q Right.

A They stop this car, get in this car, drive into this cul-de-sac, and gangsters come and approach the car. As they're getting out, they realize that this isn't -- it's officers, or officer. And they all start running.

They detain some. Some get away. After they detain them, they're looking around and they find a gun. And whoever

went to jail -- I don't know these gang members. Who are -- these is his gang.

So, based on what he told me happened, that they detained people, then went looking and found the gun, and then, somebody went to jail, is inconsistent with what he's telling me there or writing there that he saw a guy pull a gun out, hold it, turn around, started running, then discarded it somewhere and they detained them later.

Q Okay.

A He never told -- what he wrote there, he never told me. He told me a different story.

Q And you don't recall who was with you when he told you that at the station?

A No.

Q Okay. Any questions? Okay. That --

A But, you know what? I know that he told the story more than once.

MR. MCKESSON: Ray, you already answered the question.

THE WITNESS: Well, because you asked me did I -- was somebody else present. I remember him telling it to me, and then, turning around and telling it to somebody else. He was sort of like --

Q BY SGT. SMITH: Was it the same --

A I'm sorry?

Q Moments after he told you he turned -- he turned to some -- he told it to somebody else who was present in that

same area?

A Yes.

Q And you just don't recall who that was?

A No.

Q Could you hear the same story being told?

A Yeah.

Q Okay.

A I could hear most of it.

Q Okay.

Q BY MR. ROSENTHAL: There was -- I seem to recall there was a photograph of a gang member named Boxer in your locker, at one point. Is that familiar to you?

A Yes. Boxer is a --

Q I think this is -- this is the Boxer.

A No, sir.

Q Oh, it's a different Boxer?

A A different Boxer.

Q Oh, okay.

A That's the Boxer from La Mirada.

Q Oh, okay.

A He's the head of La Mirada.

Q That's the one that you had in your locker. But this is a different Boxer with a different gang?

A Yes, sir.

Q I think we're off the record.

SGT. JUSTICE: All right. That concludes this interview.

It is 1257 hours.

(Off the record at 12:57 p.m.)

(Back on the record at 1:06 p.m.)

MR. ROSENTHAL: Okay. We're back on the record. It's 1:06. Uh, Mr. Perez is still under oath.

SGT. JUSTICE: Okay. This tape-recorded interview is for Complaint Investigation CF No. 99-4632. D.R. number is 96-02-12666. This investigation involves Mr. Toby Semick.

And today is February the 16th, 2000. And the time is 1310 hours. The location of the interview is MTA Building, One Gateway Plaze Drive.

The person to be interviewed is Rafael Perez. The interview is being recorded on Tape No. 226117, Side A. And the interview is being conducted by a Sgt. Romero, 26914, and Sgt. Dallas Gibson, 16036. Also present is D.A. Richard Rosenthal. Also present is Attorney Winston McKesson. And our court reporter is Sara Mahan.

Okay. The -- we need the BA number on the case.

MR. ROSENTHAL: Right. This is Toby Semick. You gave the D.R. number?

SGT. JUSTICE: Yes, I did.

MR. ROSENTHAL: 96-02-12666?

SGT. JUSTICE: Yes.

MR. ROSENTHAL: There is no D.A. case number. It was a D.A. reject. It was also a City Attorney reject.

Q BY SGT. ROMERO: Okay. Well, what I'm gonna do -- do

you mind if I call you Rafael?

A Whatever you want to call me.

Q Or Ray?

A That's fine.

Q Ray? Okay. Ray, what I'm gonna do here is, I'm gonna -- you've had an opportunity to review the arrest report previously?

A (No audible response.)

Q Here's a copy of the arrest report.

A Mmnh-mmnh.

Q Which includes a photograph of Mr. Toby Semick just to help you to refresh your recollection.

MR. MCKESSON: Detective, do you have a copy of the transcript?

SGT. ROMERO: In this incident, there were no transcripts.

MR. ROSENTHAL: No, no, no.

MR. GIBSON: From Homicide?

MR. ROSENTHAL: Right. In -- in my file. No, Mr. Perez was interviewed about this on October 15th, 1999. It looks like it was about a -- it was not -- it was for a brief time. It was only four pages in the transcript. I do not have a copy of the transcript handy. I could get one if we had to have one --

MR. MCKESSON: I'd like to have one.

MR. ROSENTHAL: -- from upstairs.

MR. MCKESSON: Could you gentlemen go to another case and

we come back to this one?

SGT. GIBSON: Sure.

SGT. ROMERO: Why don't we go ahead then. And we can switch. Because this one didn't have transcripts in my pile. But the other one, -- the other --

MR. MCKESSON: There should be a transcript.

MR. ROSENTHAL: Do you have a summary of the past interview of Mr. Perez, by any chance?

SGT. ROMERO: A summary, yes. Yes, we do. We should have that here.

MR. ROSENTHAL: That should do it.

SGT. GIBSON: That's all he wants.

MR. ROSENTHAL: All right. Could we go off the record for a moment?

SGT. ROMERO: Okay. We're back on tape. The time is 1355 hours. January -- I'm sorry. February 16th, 2000.

MR. ROSENTHAL: And, Mr. Perez, you're still under oath.

THE WITNESS: Yes, sir.

Q BY SGT. ROMERO: Okay. Ray, we -- I gave you a copy of the arrest report that involves Mr. Toby Semick, an arrest that you were involved in with Officer Tovar on March 23rd, 1996.

A Yes.

Q Now, would you review the arrest report for us, please, and, if you can, look at it and tell us what parts in that report are fabricated?

A The booking sheet. The first sheet. I'm going to start from top to bottom.

Q Okay.

A It says, "Item 1, quantity 3 narco, marijuana." The only reason that's there is because I planted that narcotics on Mr. Semick. Toby Semick. So, that's one thing to start with.

Going down to Page No. 2 of the arrest report, the "Source of Activity" everything is pretty much accurate. Now, under "Observations" it talks about us conducting an Observation Point. Being equipped with some binoculars. That's fabrication. I was not conducting, nor was my partner conducting any type of observation point.

Further on that same page, it talks about that we observed a male standing on the corner looking up and down the street. As far as the observations go, that were supposedly observed during the O.P., all those are fabricated.

Turning over to Page No. 3, midway down it talks about how the defendant looked in my direction and began running southbound. That's accurate. He ran southbound from Virgil towards Burns. That is correct. On the east side of the street.

He continued southbound for about two blocks all the way down to Monroe. That's correct.

Then, it says that he, "At that time he stopped, turned." It says he "Turned towards me, at which time, I observed him drop several aluminum bindles to the ground with

his left hand." That's fabricated.

Q Okay.

A That never occurred. I then write that I recovered those bindles. Noticed that they contained marijuana. That statement was made by Mr. Toby Semick that stated, "I haven't been smoking."

MR. ROSENTHAL: Okay. Keep your voice up.

THE WITNESS: The statement made by Mr. Semick saying that, "I haven't been smoking. You guys can give me a piss test," that was incorrect.

Page Number 4, my opinion is quite, obviously, fabricated. Narcotics was planted. The arrest and booking, as well as the disclosure statement, PCD, that's about it.

Q BY SGT. ROMERO: Okay. And based on your review of the report and the information that you provided to us, would you then tell us, from your initial observation, what it was that occurred?

A I was driving northbound on Virgil when I observed Mr. Semick on the east side of the street.

Q If you'll excuse me. I'm just providing you just a -- a sketch diagram of Virgil, the area of Monroe, Normal, and Burns. Just for your edification. We have to ask you some -- some questions a little later, about certain things that occurred there.

A Okay.

Q And it's a not-to-scale diagram that I drew up. It's

just for reference purposes. I'm sorry. Go ahead.

MR. MCKESSON: Do you have photographs, Sergeant?

SGT. ROMERO: No.

THE WITNESS: You want me to refer to this diagram?

SGT. ROMERO: If -- if you like, yes. If it'll help to explain the situation.

THE WITNESS: You don't want me to write on this diagram, do you?

Q BY SGT. ROMERO: You can if you'd like. But as you write on it, I would ask you just to explain what you're doing.

A I was traveling northbound on Virgil. I believe it was at Burns -- at the corner of Burns -- the southeast corner. I'm gonna put a -- I'm gonna put a "S" and circle it where -- where I first saw Mr. Semick. Right about here.

My vehicle was about here. I'll put "P" for Perez. As I'm traveling northbound, I see Mr. Semick with another male. He sees me. I begin to get out of the vehicle. He starts running southbound. I'm gonna put a -- I'm gonna put a arrow from the "S" going south.

He jumps out and he's running. He's wearing a jacket. I jump out. I chase him all the way to Monroe. When he gets to Monroe, he turns in a easter- -- easterly direction. And somewhere around here there's a gutter on the south side of the street.

Q And, now, if I -- if I can refer to the diagram. If you look at these --

A Storm drains.

Q These -- these are all storm drains located at each corner. We went back and we located all of them. So, if you could tell us which storm drain?

MR. MCKESSON: If you're going south and you make a right, aren't you going west?

THE WITNESS: No.

SGT. ROMERO: No.

MR. ROSENTHAL: It's east.

SGT. ROMERO: It's east. Yeah.

MR. ROSENTHAL: If you're going north, --

MR. MCKESSON: Then you go right.

MR. ROSENTHAL: No, no. He made a left. He made a left going south.

MR. MCKESSON: Okay.

Q BY SGT. ROMERO: So, anyway, so, the -- if you look at the --

A Hold on one second, sir. That's going north.

MR. MCKESSON: Yeah.

THE WITNESS: The suspect ran south.

MR. MCKESSON: And he made a right.

THE WITNESS: He made a left.

MR. MCKESSON: Oh, okay.

THE WITNESS: See the "L"?

MR. MCKESSON: Okay. Got you.

THE WITNESS: Okay. I'm sorry. Go ahead.

Q BY SGT. ROMERO: So, if you look at, for example, the corner -- at the corner of Virgil and Burns, there's -- there's six storm drains that are located in each corner. And that's true. We went back and we looked at all the streets to -- to depict the number of storm drains there, so you can tell us which storm drain -- storm drain you recall.

A It doesn't depict one on Normal. But I don't know whether there is one or not. But if I remember correctly, there's like a little liquor store, or a little store right around here.

Q Mmnh-mmnh.

A This storm drain, when he came in and turned, I'm -- I'm somewhat behind him. But I see him. And he's putting something into the storm drain.

Q Okay.

A He then steps up towards like the little grassy area right around here. As he's standing there, --

Q BY MR. ROSENTHAL: What street corner is this?

A On Monroe. The southeast corner of Monroe and Virgil.

Q Okay.

A As he's coming here, my partner is coming down with the vehicle, and is turning in a easterly direction off of Virgil on Monroe, cutting him off. He's standing here. He's sort of like giving up. I knock him down to the ground and began handcuffing him.

I knew he had threw something in the gutter. But it

was impossible for me to get to it, at that point. And I felt that he had dropped a gun in there. Most likely, that's what he dropped was a gun.

Q BY SGT. ROMERO: Okay. Did you ever see a gun in his possession?

A No.

Q No?

A No. I never saw the gun in his possession. But based on the way he was running and holding something --

Q Right.

A -- it -- I felt that it was a gun. That's what I thought he was holding.

Q Okay. Now, there were other people that were with Semick that day, right?

A There was another male up here. And while we took him into custody here, a female showed up.

Q Okay.

A I think it was his girlfriend. A heavysset Hispanic female.

Q Do you know what her name is?

A If you said it, I'd remember it. But, right now, at the top of my head --

Q Okay. Jessica Chavez?

A I think that's it. It's Jessica.

Q Okay. Now, there was a male that was standing with him. Do you -- do you recall who that was?

A Yeah.

MR. ROSENTHAL: At the time of detention or at the time he was initially approached?

Q BY SGT. ROMERO: Well, initially, when you -- when you approached Semick, was he with anyone?

A I believe so.

Q Okay. Do you recall who that was?

A I think, on the report, it refers to the guy as Looney.

Q All right.

A He's a gang member. They also call him Lefty. I don't know his true name right now, off the top of my head.

Q Okay.

A I'm gonna call him Looney.

Q Okay. Maybe Raymond? Does that sound -- you don't know?

A The first name -- the names aren't gonna help me, unless I have like the I-cards, I could say, "Yeah, that's -- that's him."

Q I got you. I got you. Now, what -- what was it that drew your attention to -- to this -- to Semick?

A I had -- I had arrested him in the past. I know he had -- he had battered a police officer before. I had arrested him for that. I knew he was on parole. I had received little words from different little gang members in the neighborhood that he was always -- always busy. He's always up to something.

Always involved in guns.

So, when I saw him on this day, I wanted to talk to him and see what he was up to. And he just ran on me.

Q Okay. On -- on this particular day of Toby Semick's arrest, what happened to -- to Looney, at that -- after you took control of the suspect?

A I have no idea.

Q No? You never saw him again that day?

A Not that I can remember.

Q Okay. Did your partner tell you if he had any contact at all with -- with Looney?

A No, he -- he didn't tell me. No.

Q Okay. Now, when Jessica approached where you had taken Semick into custody, was there a discussion about his arrest or anything related to that?

A Yeah, I think she wanted to know why -- why was I taking him, or something like that. And I told her, "Look. Don't even worry about it. Just go ahead and get out of it." I was kind of upset. You know, I knew he had gotten rid of the gun on me, or whatever.

But I wasn't sure what I was gonna take him for yet.

Q Okay. What did she do?

A Eventually, she left.

Q She left? Okay. Now, apparently, somebody was carrying something from the point of contact to the point of arrest. Did you see if anyone else, maybe Looney or the female

had anything in his or her hands?

A I have no idea.

Q No? Okay.

A It's very possible. But I just -- I went after Toby because I know he's, you know, -- he's one of the -- you know, the older gang members in that area. And, you know, if somebody was gonna be carrying a gun, I figured it would be him.

Q Okay. Now, just to ensure that we've understood this correctly, you're going northbound on Virgil Avenue. You see Semick and another male standing at the southeast corner of Burns and Virgil. You approach, you park next to the curb. And as you attempt to initiate a contact, Semick runs southbound.

You exit -- are you the driver or the passenger of that -- of the vehicle that day?

A I think I was the passenger.

Q Passenger?

A Because my partner, eventually, got back in the car and drove south. I was the passenger. I believe I was the passenger.

Q Okay. So, both of you exited the car at the point of contact, before he ran?

A I started exiting.

Q Okay.

A And I'm assuming my partner is starting to exit. I'm actually not looking at him. I'm -- I'm looking --

AQ Okay.

A -- at the defendant.

Q Sure.

A As I'm exiting, I'm opening my door, boom, he starts bolting. And I run right after him. So, I'm assuming my partner got right back in the car and turned it around and came back south.

Q Now, did you see Semick, at any time, with any of these other gutters that are laid across Virgil, attempt to discard anything or --

A The gutters along Virgil?

Q Right.

A No, the -- the gutter that I saw him near one, was -- was -- I believe it's this one here on -- on -- on Monroe.

Q Now, with regards to the following -- the arrest after Jessica leaves the scene of the arrest, now, Tovar is there with you; right?

A Yes.

Q You're both standing there. He's pulled the car up. It's the three of you -- Semick, yourself, and Tovar. Is there a discussion -- a discussion between you and Tovar with Semick present with regards to what -- what he's gonna arrested for?

A At the scene right here?

Q Yes.

A Outside or inside the car?

Q Well, let's talk about outside the car first. Is

there a discussion?

A I'm not sure if I, at that point, while he was still outside the car, told him what he was gonna go for.

Q Okay. So, you had originally handcuffed Toby when you caught -- caught up with him. Tovar arrives. And, now, - - so, let's -- assuming --

A Tovar arrives right as I'm catching him.

Q Okay.

A Tovar stops the car. And I'm running up to him. And I threw Toby down.

Q Okay. Was Toby facing or -- facing you or away -- facing away from you?

A He actually had his right profile to me. He was sort of kind of like trying to give up. And I just slammed him to the ground.

Q Okay.

A And Tovar jumped on top of him and handcuffed him.

Q Okay. Did he provide any resistance, at all, after he was put to the ground?

A No.

Q No? Okay. He was handcuffed and then, he's brought back up. Jessica shows up. She wants to know what's going on. Why is he going to go to jail. You tell her, "Don't worry about it. Go away."

A Right.

Q "We'll take care of this." And then, Semick, at some

point, is put into the police car.

A Right.

Q Right? You guys are driving a -- is it a dual-purpose? Is it a -- a unmarked car? Or did it look like --

A I think, back then, I believe I was doing the -- driving the dual-purpose, a gray dual-purpose.

Q Okay.

A I believe. What year was this?

Q '96.

A I believe I was driving a gray dual-purpose.

Q Okay. How about a blue -- did you drive a blue one also?

A I had a blue Taurus also. I --

Q A Taurus?

A I'm kind of -- back then, I was kind of flopping back and forth.

Q Okay. Now, then Semick is placed into the police car in the back seat, right?

A Mmnh-mmnh.

Q Now, is there a discussion then with -- between you and Tovar about what Toby's going to be arrested for?

A I'm having a hard problem remembering whether it was in the car or once we got to the station, or where exactly. But I think he had upset me so badly, by getting rid -- I believe he had this gun. And I told him, "I'm sorry. But you're gonna go. Believe me, you're going for something." And

I think I might have like agitated him. Or, you know, to piss him off, I might have told him, "Well, you're gonna go for something. You know, this or that."

But I'm not a hundred percent sure what it is that I told him.

Q Okay. So, at the scene of the -- the arrest, you're not sure then, whether or not you discussed the -- what you were gonna do with his arrest with Tovar? You just recall that you mentioned something to Semick about him going to jail regardless of what happened?

A With -- you're talking with -- you're talking about talking to Tovar with him present, right?

Q Yes.

A I believe I might have said something to him with Tovar and both of them being present. But I don't remember exactly at what point it was that -- after I put him in the car and we were already driving back to the station, or was it still at the scene.

Q Okay. So, then, tell us what you remember about whether it's at the scene or driving back to the station. What do you recall the conversation being?

A I remember -- I remember him -- telling him, "That's all right. You got rid of the gun. But you're still gonna go for this," or whatever it was that I was gonna take him for.

Q Okay.

A Something to -- to that effect.

Q Did you tell him, at that point, Semick, that he was gonna go to jail for possession of marijuana, either at the scene, or on the way back to the station?

A I may have not said marijuana. I probably told him, you know, you're gonna go. You know, you're gonna catch a dope case. Or something like that.

Q Okay.

A I may have not, necessarily, said, "Oh, I'm gonna book you for 11355," or whatever, for marijuana, or 11350, or whatever it is. I may have not said that exactly. But I might have told him, "That's all right. You're gonna catch a case for some dope anyway." Something like that.

Q Okay. Was there any response, that you can recall, from Semick?

A There probably was. I don't think what it was --

Q Okay.

A You know.

Q Okay. So, what about Tovar? Is he -- does he ask or question anything about the circumstances related to the arrest, from the point of catching Semick to the time that you get back to the station?

A No.

Q No?

A No, he -- he knew what was going on. He knew that this guy was gonna catch a case 'cause he ran and he probably discarded the gun on us. And, you know, he knew what -- you

know, he knew that this guy was going -- was going to catch a case.

Q Okay. Now, the -- the marijuana that you initially had that was used to book Semick, now, you indicated on the transcripts that that came from another detention previously. Is that correct?

A Yes.

Q Okay. Now, if you looked at a -- some DFAR's from a week's period of time, do you think you can recall and identify who that came from?

A If I -- if I recovered some marijuana from somebody, I -- I'm not saying that it's not possible -- but, most likely, I wouldn't put on there that "recovered some narcotics and didn't book it" or something like that.

Q Right.

A I wouldn't --

Q But it could be that if you looked at the DFAR's, you may be able to see the name of the person. And that'll maybe help you to recall.

A It's possible. You mean someone that I might have detained and kicked loose, but I wrote it on my DFAR maybe?

Q Just maybe a Q&R or some other. Why don't you look at these five DFAR's? The DFAR's that we have are dated March 5th, March 6th, March 7th, March 8th, and 9th, all of the 1996. And these are the C.R.A.S.H. DFAR's. If you can just review those and see if you can recall any contact.

MR. ROSENTHAL: What was the date of arrest?

SGT. ROMERO: The date of arrest is the 10th.

THE WITNESS: The 23rd.

SGT. ROMERO: So, these DFAR's are --

MR. ROSENTHAL: Five days before this?

Q BY SGT. ROMERO: I'm sorry?

A The 23rd.

Q Let me look at those again.

A The arrest date is the 23rd.

Q Oh, disregard the DFAR's in this -- okay, this is for the next case.

A Okay.

Q Disregard.

MR. MCKESSON: Can we take a short break and see if I can get him some aspirin?

SGT. ROMERO: Sure.

MR. ROSENTHAL: Yeah, off the record.

(Off the record.)

(Back on the record at 2:15 p.m.)

SGT. ROMERO: Okay. We're back on tape. It's 1415 hours.

Q So, just, I had indicated that I was gonna provide you with some DFAR's, however, they're for -- for the next case. So, do you recall anything about where it was that you recovered these bindles of marijuana?

A I know I recovered it from somebody that we had stopped, or there may have been a search or something. And I

just hung on to it and didn't book it. But, specifically, who? Not off the top of my head.

Q Okay. How about a time span? About how many days before, prior to the arrest, do you think that may have occurred?

A Not too much before that. Because marijuana has a way of, you know, -- you know, the odor coming up. And I try to -- rock cocaine you can keep as long as you want. But marijuana, you try not to keep it too long because it starts emitting, you know, the smell.

So, it wasn't -- wasn't too much longer before -- before that. But the date?

Q No, not a date. Just give me -- was it a -- you think maybe a couple of days before? A week before? A month before?

A I would say no more than probably, you know, a week or two before.

Q Okay.

A Probably no more than that. I would have gotten rid of it, or thrown it away or something.

Q Now, in that particular situation, was -- 'cause you have been working with Tovar for some time. Was he involved with that situation?

A At -- up at this point?

Q Yes.

A I had only been working with him maybe two months.

MR. MCKESSON: Could you read the question back, the

Sergeant's question, please?

(Record was read back by reporter.)

Q BY SGT. ROMERO: Let me -- let me re-ask that question. Was -- was Tovar involved in the recovery of this other marijuana that was eventually planted on Semick?

A It's possible. I mean, I know you some want definitive answers from me. But it's difficult. 'Cause I just don't remember exactly where I got it from, or who I got it from.

But Tovar, up until this point, had been working with me for a couple of months. So, most likely, if I made a detention of someone, Tovar was probably with me. He was probably my partner.

Q Okay. Whenever you recovered narcotics, whether it's marijuana or cocaine, or whatever the evidence is, --

A Mmnh-mmnh.

Q -- did you make it a -- was it common for you to tell your partner that you had that evidence with you, and that you were gonna keep it for other purposes?

A You don't say that I'm keeping it for this other purpose. But you say, "You know, I got this. I'm gonna hang on to it." Something like that. You let him know that it's in your bag, or something like that. But you don't say for what purpose.

Q Okay. And you -- and you did that on a regular basis with Tovar?

A With Tovar --

MR. MCKESSON: At that time? Or are you talking about after this?

Q BY SGT. ROMERO: No, I'm talking about anything and up to -- leading to the arrest of Semick. So, if you -- let's assume that you recovered this marijuana a week and-a-half, two weeks prior to this arrest. Would it be logical to say that, well, every time you recover evidence like that that you inform your partner, and you did on this particular instance?

A When you recover evidence and you don't book it you mean?

Q Yes.

Q BY MR. MCKESSON: You follow the question, Ray?

A Sure. The best way for me to answer that would be, on a situation like this, what are we gonna book him for? Tovar's asking me. And I'm going, "I don't know. Oh, you know what? Remember that weed that I picked up that day?" "Yeah." "I'm gonna put that on him."

You see what I'm saying?

SGT. ROMERO: Yes.

THE WITNESS: I wouldn't, necessarily, go, "Hey, Tovar, I recovered this narcotics and I'm gonna keep it in my bag until whenever. Until we decide to put it on somebody."

It's just like, "Yeah, you know, this guy had this weed. You know, I ain't gonna book it." I put it in my bag. You know, he -- he knows I'm gonna just -- I'm gonna not book

it. I'm just gonna keep it in my bag.

A couple weeks later, "Hey, let's book this guy. What are we gonna book him for?" "That weed I recovered." "Oh, okay. Cool. Let's go." That would be it. That would be the -- the way we would go about it.

Q BY MR. MCKESSON: But you're speaking generally?

A Yes.

Q You're not saying --

Q BY MR. ROSENTHAL: You don't recall on this particular case?

A Right. I'm trying to answer his question as to how did it go. I mean, did -- do you always notify your partner that you had dope in your bag, or -- or narcotics in your bag. Or --

Q BY MR. MCKESSON: I guess what I'm curious about, do you have a specific recollection of having those type of discussions with Officer Tovar prior to this date?

A Officer Tovar probably, to this day, on several occasions, knew that I was carrying narcotics. Yes, definitely.

Q BY SGT. ROMERO: Now, with regards to the arrest report, there is some information, if you look at the disclosure form, which is gonna be just after the -- the -- the arrest portion of the arrest report. It says, "City Attorney Disclosure Statement."

A Mmnh-mmnh.

Q That's attached to this report.

A Yes, sir.

Q Now, there's -- the information that's written in here, do you recognize that writing?

A Yes, sir.

Q Okay. Whose writing is that?

A Officer Tovar's.

Q Okay. Now, there's a name here that says under "Signature" Perez and Tovar.

A Mmh-mmnh.

Q That was not written by you?

A No, sir.

Q Okay. Now, the body of the arrest report, from Page 2 through Page 4, --

A Yes, sir.

Q -- was that written by you, or by Tovar?

A I am the author of that, yes.

Q Okay. Now, with regards to the face sheet of the arrest report, which is Page 1, --

A Yes, sir.

Q -- under "Reporting Officers" --

A Yes, sir.

Q -- that -- the names of Perez and Tovar were written in by whom?

A Officer Tovar.

Q Tovar?

A Yes, sir.

Q Now, if you look at the Probable Cause Determination, which is the sheet that's following the City Attorney Disclosure --

A Yes, sir.

Q -- there's a signature in the middle portion of that report that indicates a serial -- H. Tovar, Serial number 30492. Was that information written in by yourself or by Tovar?

A Officer Tovar.

Q Okay. Now, there is one page that follows that, which is the Declaration of Probable Cause, which has -- in the body of the report, it says "Defendant in possession of several bindles of marijuana." Was that written by yourself or by Tovar?

A That part was written in by me.

Q You?

A Yes, sir.

Q Okay. If you look at the bottom of that same sheet, there's a signature that says Tovar.

A Yes, sir.

Q With Serial Number 30492. Was that written by you or Tovar?

A Tovar.

Q Okay. Did -- in examining this arrest report, do you recall if Tovar had an opportunity to -- to review and read the entire arrest report when it was completed?

MR. MCKESSON: When you say "read" -- just mean -- never

mind. I was wrong. Ask the question.

THE WITNESS: Do I have an independent recollection of him reading this report?

SGT. ROMERO: Yes.

THE WITNESS: No.

Q BY SGT. ROMERO: Okay. As -- since you were partners for a month or two, prior to this arrest, was it common practice for both of you to read each others reports?

A Absolutely. Especially --

Q Would you explain why?

A -- especially, if you're putting a case on someone, you want to make sure that, after I write the report, my partner reads the report, so that we're at the "same page" in case a supervisor asks us, "What do you guys have out there? You know, you guys broadcast a foot pursuit. What did you guys have?"

You know, you want to be on the same page. "Oh, you know, this guy ran from us. He dropped some weed." Or whatever. You know, you -- well, quite often, at the end of the day or the beginning of the next day, you have what we call a "briefing" in roll call and we talk about what we've got, or what we had that day. And, you know, we'll -- we'll talk about what arrests we had the day before.

Q Okay. Was there any situation, that you can recall, between you and Tovar, prior to this arrest of Toby Semick, where Tovar didn't review the arrest reports that you completed, or vice versa?

A I definitely -- I -- I know, personally, and I was cautious in that way, that whenever I completed a report, not only because I wanted to -- my partner to be on the same page -- I didn't want to be embarrassed and misspell something terribly, or just, you know, totally grammatical errors. I would always hand it to my partner. "Yeah, read this. Check it out. You know, make sure it's all there. Everything is there."

And I'm pretty positive I, you know -- Tovar -- I worked with Tovar for several months. And I would always show him the reports.

Q Okay.

A Yes.

Q Now, in reviewing this report, did he have any active participation in suggesting or providing you with information that should go into this police report?

A I lost you. I'm sorry. Say it one more time.

Q Okay. Now, in reviewing the arrest report --

A Mmnh-mmnh.

Q -- do -- do you recall if Tovar had any active participation in completing this report, either by writing anything in the body of the report, or by suggesting to you that certain elements should be included in this arrest report?

A No, this was a real easy one. This was a quick like written -- in fact, I think I wrote it. I didn't even type it. That's how quick this one was. You know, it was a simple we

agreed to book this guy for -- for narcotics, marijuana, in particular. And that was it. Just do the other pages that needed to be filled out. And he filled those out. The -- the Probable Cause Determination and things like that.

But this is not a very big case, per se. It was a real simple one. A couple of hours maybe max.

Q Okay. Now, the arrest report, the signature block under "Approving" -- or I'm sorry, "Approval Reporting Officers" was that report signed by either you or Tovar?

A No, sir.

Q Okay. Do you recognize whose signature that is, by chance?

A It looked like -- it looked like Sgt. Peters. But I'm not -- I'm not a hundred percent sure.

Q Okay.

A Or, actually, you know, I'm not sure whose signature that is.

Q Okay. But it's not --

A It looks like a "P". But I'm not positive.

Q Okay. But it's not your signature or --

A No, sir.

Q -- Tovar's? Okay. Do you recall if Tovar had an opportunity to look at the -- the bindles of marijuana that were booked into property?

A Yes, sir.

Q Okay. Now, was that -- was his -- his handling of

the -- of the -- well, scratch that. When he looked -- when he saw these bindles of marijuana, was that prior to booking the evidence? Or was it at some other point, that you can -- if you can recall?

A It was prior to booking the evidence. It, obviously, had to be prior to booking the evidence. Prior to -- I'm a little confused with the question. Was it prior to booking the evidence?

Q Now, the -- at some point, the evidence was booked; right?

A Right.

Q Okay. Who booked the evidence?

A I believe Officer Tovar filled out the -- the envelopes and, you know, weighed it and all that.

Q Okay. So, he handled the evidence prior to that?

A Prior to being booked in? Yes.

Q To being booked in. Okay.

A Yes.

Q Okay.

Q BY SGT. GIBSON: I just have one real quick. And -- and I know we've covered this already. But just an overview. So, as far as your recollection of this exact arrest report, right here, you believe that, at the time that you put this individual in jail, that Tovar was aware that you had planted this narcotics on him?

A Definitely. Yes.

Q BY SGT. ROMERO: Now, just one thing I needed to cover just quickly here is, when -- and getting back to the scene where you chased Semick down and he's over at Monroe and Virgil. When you said that he -- you had like a right profile of -- of the suspect when you approached him that you knocked him down --

A Yes, sir.

Q -- could you describe how it was that you -- that you put him to the ground?

A I just --

Q I mean, did you push him? Did you --

A I think I just -- he was sort of kind of slowing down running. He was like coming to a stop, standing straight up, and I think I just knocked him. And he just went straight down.

Q Okay. So, you kind of made a --

A I think I just might have laid a forearm to him.

Q Okay.

A And he just went straight down.

Q Okay.

A His left side would have struck the floor. And he just went down on his left side.

Q Okay. And then you said that Tovar was almost immediately there as you approached him?

A Tovar's right there.

Q And that Tovar had got on top of him and assisted in handcuffing him?

A Yes.

Q Did Tovar take -- what -- or rather what physical actions did Tovar take to control Semick?

A I think he just put his knee on his head, or something like that -- or on his neck.

Q On his neck?

A Yeah.

Q Okay.

Q BY SGT. GIBSON: One other quick thing. Did -- you never looked -- never took your flashlight and tried to see down in the drain, see what they threw down there?

A I think I might have tried, but I know I couldn't see. You know, you might be able to see like the -- the angle of it. But you can't see what's in the bottom.

Q Did he appear to be deliberately -- was he stopped long enough to deliberately drop something down there on the edge of it? Or it wasn't just a chucking motion and he got lucky and it went in the drain?

A No, he was close to it. He deliberately put it in the -- in the drain.

Q Okay.

A Yeah.

Q BY SGT. ROMERO: Okay. Then, that concludes the interview with Rafael Perez. The time is 1425 hours, on February 16th, 2000.

MR. ROSENTHAL: Okay. Off the record for just a moment.

(Off the record at 2:25 p.m.)

(Back on the record at

SGT. ROMERO: This tape-recorded interview is for Complaint Investigation CF Number 99-4626. The D.R. number is 96-02-11166. Do we have a D.A. number on that?

MR. ROSENTHAL: This was a D.A. Reject, as well as, a City Attorney Reject.

SGT. ROMERO: Okay.

MR. ROSENTHAL: The defendant was violated on his parole, however.

SGT. ROMERO: The location of the interview is MTA Building, One Gateway Plaza Drive. And the person to be interviewed is Rafael Perez. The interview is being recorded on Tape No. 226118, Side A. The interview is being conducted by Sgt. Romero, 26914, and Sgt. Gibson, 16036.

Also present is D.A. Richard Rosenthal; Attorney Winston McKesson; Detective II Michael Burditt, 24454, Internal Affairs Group; and Court Reporter Sara Mahan.

Q Now, Ray, what we've done is we've provided you with a copy of the arrest report regarding this arrest that occurred on March the 10th, 1996 at 0130 hours.

It involves a -- a suspect by the name of Christopher Sanchez. The arrest occurred on Virgil Street and Burns Avenue in Rampart. Now, in reviewing the arrest report, I would like for us to go through the report and you can identify which parts of those reports -- that report is accurate and which is

fabricated.

So, we'll start with the Page 1 of the face sheet of the arrest report.

A Page 1, under "Narcotics" or "Combined Evidence Report" the narcotics that's listed on that is, obviously, fabricated. Because it was narcotics that was planted on Mr. Sanchez.

Going to Page Number 2, under "Source of Activity" -
-

MR. MCKESSON: Do you want to go back to Page Number 1?

Q BY SGT. ROMERO: Yeah. Just let's -- let's -- with Page No. 1, if you'll look at the "Approval of Reporting Officer" section --

A Yes, sir.

Q -- is that -- was that signature done -- well, did you or Tovar sign that report?

A That is Sgt. Ortiz' signature.

Q Okay.

A Okay. Going to Page No. 2, the "Source of Activity" is correct. Under "Observations" everything is correct up until about the fourth to the last line. It says, "As Defendant No. 1 turned back towards me, I, Officer Perez, observed the defendant drop a small yellow bindle to the ground." That's a fabricated statement, fabricated evidence.

Turning to Page No. 3, again, my observations that "I recovered the bindle and observed it to contain white powder

substance" is fabricated. I did handcuff him, yes. In fact, I handcuffed him after Tovar got back.

Obviously, the arrest is unjustified. The booking was unjustified. The PCD was filled out by me and signed by me. The disclosure statement was filled out by me. I filled out Tovar's signature as well, and his serial number.

Q Okay. Would you tell us what it was that occurred prior to Sanchez' arrest, from the initial observation that you had of Sanchez?

A We observed two males standing on the corner. We stopped our vehicles to investigate. As we got out, one other male -- or one of the other -- one of the males began running westbound. My partner went after him. And I -- I had Mr. Sanchez stopped my vehicle.

I could see right there on the street that Tovar is right behind this other male. As the other male goes from the sidewalk to the street, Tovar goes after him. You know, he follows him.

As he going from the sidewalk onto the street, I could see him trip and fall to the ground, in the middle of the street, and while the male continued running. And Tovar, obviously, lost him.

Q Okay. What corner did you see them initially at?

A It was on the corner that I indicated, Virgil and Lockwood. Virgil and Lockwood.

Q Okay. So, did the -- the second male, not Sanchez,

did that male run westbound on Lockwood?

A Westbound on Lockwood, yes, sir.

Q Okay. I'm sorry. Go ahead. Keep going.

A When Tovar returned back to my location, his pants were ripped. He was upset. I was laughing. Eventually, me and him talked about, "What are we gonna do with this guy?" And we decided that he's gonna pay. And we told him that, that he's gonna have to pay for his buddy running.

And we put narcotics -- I put the bindle that -- that I put on this bindle, I had it on my possession. In fact, it was on my -- my police uniform shirt pocket. And I put it on this guy and booked him on that.

Q That was your left uniform shirt pocket?

A Yes, sir.

Q Okay.

MR. MCKESSON: I don't know if you've reviewed some of the transcripts, Sergeant, but when he's defined "planting" it on him, they don't mean physically put it on his person.

SGT. ROMERO: That's correct. Yes.

MR. MCKESSON: I want to make it clear for the record.

Q BY SGT. ROMERO: In other words, what you -- what you did was you use that evidence that you had and booked it in as evidence that was recovered from a suspect, not literally giving it -- putting it on his person, or his pocket or any -- in any of his property; right?

A That's correct.

Q Okay. So, what you do is you observe two male gang members standing at the corner of Lockwood and Virgil. You approach to make contact. Do you recall who was driving that night?

A I believe I was.

Q You were? Okay. Now, as you approached the two males, which direction were you traveling?

A Well, I know my final direction was west on Lockwood from Virgil. Which way was I coming? I could refer to the report. It says I was -- it says "I was driving southbound on Virgil approaching Lockwood." That's the direction. My final destination, or my final -- where I eventually stopped was actually facing westbound on Lockwood from Virgil.

Q Okay. What did Sanchez do at your point of contact? Did he attempt to run?

A No. He just stood there.

Q No? Okay. Now, so, he stands there. Tovar comes out of the car. How close do you think Tovar got to Sanchez as he runs by chasing the suspect?

A To this person here?

Q Yes, to Sanchez.

A Oh, I don't know. Five feet maybe.

Q Okay. So, he was pretty -- was he in like within touching distance, do you think? Or arm's length?

A Yes, possibly.

Q Okay.

A Probably.

Q So, Tovar runs after the second suspect, and goes out in the street, and you still have a visual on Tovar until Tovar falls to the ground, because Tovar now is running across from the sidewalk on to the street?

A He goes from the sidewalk. I got the guy by the car. And I could see Tovar running. They were running along the sidewalk the entire time. And then, I could see Tovar, or the guy that's running goes from the sidewalk out into the street. Tovar follows him.

And I shift over to look to see where he -- where they're going. And I see Tovar just tumbling and falling to the ground.

Q Okay. Did Tovar continue chasing the suspect at all?

A No.

Q Did he walk back to where you were?

A He got up and walked back.

Q Okay. Now, was there a conversation, that you can recall, between you and Sanchez between the time that you made the initial contact with him and when Tovar had left?

A Yeah, I believe there was.

Q Do you recall what the conversation was?

A Something like he was gonna catch a case if -- if -- that he was gonna catch a case for his buddy running. That I -- I think I might have said, "I just want to talk to you guys. You know, I heard about you guys. I know you guys just got out

of prison, or something like that. And now, you're gonna have to catch a case for -- for running. You guys are gonna have to learn the hard way." Or something like that.

Q Had you been in contact with Sanchez previously?

A I believe that I had maybe possibly had one other contact. But I had heard that they were -- they had gotten out of -- that two gang members from La Mirada that I hadn't met, and they had gotten out of prison, or were back in the neighborhood. And these were the two -- two gentlemen. They happened to be standing there together. And I made -- like I said, I may have had one other contact. But I'm not even a hundred percent sure on that.

Q Okay. What about Capone? Did you immediately recognize him as being the second suspect?

A Well, I knew him -- did I recognize him as being the guy that ran? Or did I --

Q Well, the question is, did you recognize the second person?

A No. But I learned that it was Capone.

Q Okay. Now, did you -- was that information that was given to you by -- at a future date? Or was it information that Sanchez gave to you?

A I believe it was Sanchez that gave me that information.

Q Okay.

A That it was Capone. And I had seen Capone's picture

several times and F.I. -- or I-cards and stuff like that and the La Mirada Mug Book.

Q Okay. So, gang book. So, Tovar's running down the street chasing after somebody else, did you take any action with regards to Sanchez when -- when you got out of the car?

A I had him detained there. That's about it.

Q Okay. Did you --

A I didn't run -- I didn't go and like put him in the car and go after Tovar. No, I stayed there the whole time.

Q Okay. Did you take any physical control over Sanchez? Did you handcuff him? Did you place him in the car? Or do anything else with him?

MR. MCKESSON: You mean before Tovar got back?

Q BY SGT. ROMERO: Before Tovar returned back to the car.

A You know, it's possible. I either handcuffed him right before Tovar got there, or right when Tovar got there. It's possible that I might have handcuffed him. I may have handcuffed him before Tovar got back. But I mean I had him right him right there. I didn't take him anywhere until Tovar got back.

Q Do you recall any specific conversation you had with Sanchez with regards to his arrest before Tovar arrived?

A Like I said, I think I told him that he was going to catch a case for his buddy running. Like I said, you know, why -- why run? You know, what's the point? You know, now, you're

gonna catch a case. You know, something like that.

Q Okay. Do you recall if he made any response to your statement?

A I'm sure he did. I just don't remember what he told me.

Q Now, when Tovar returned you say that he -- his uniform -- his pant -- his pants were torn. Do you recall where? Was it the knee? Was it the calf? Was it anywhere in particular?

A I believe it was the inseam of his pants that might have just busted open. The inseam of his leg of the pants.

Q Okay.

A Or the trouser.

Q So, Tovar is now just returned. Sanchez is in custody. The other -- the other suspect is gone. Now, is there a conversation between you and Tovar, while Sanchez is present, regarding his arrest?

A Probably.

Q Okay.

A If I remember it clearly, -- no, I do remember saying like, "Well, what do you want to do Tovar? Do you want to book this guy?" Something like that. We decided, yeah, we're gonna book him. And we made it clear to him, "You know what? You guys are gonna have to learn. You don't run from us." You know, that type of thing.

You know, "You can thank your buddy for running for

you catching this case." Something like that.

Q Now, when Tovar runs and chases after the second suspect, was there a broadcast that you guys put out?

A No, sir.

Q Okay.

A We don't -- generally, in C.R.A.S.H. we don't broadcast foot pursuits unless we absolutely need other C.R.A.S.H. units to show up. But we won't broadcast.

Q Okay. Was there a sergeant present at this location of the arrest?

A No, sir.

Q No? Ortiz?

A Was he present at this?

Q Yes.

A No.

Q No? Okay. Do you recall that specifically that he was not present?

A That he was at the scene of the foot pursuit?

Q Yes.

A No, he was definitely not there.

Q Now, once both of you -- both you and Tovar and the suspect -- or rather -- let me rephrase that. After -- after the suspect is taken in -- in custody and he's in the police car, you and Tovar get in the car and decide to do a follow-up to the station and go process the suspect. Was there a conversation during that drive between you and Tovar with

regards to the circumstances that were gonna be written in the arrest report?

A You know what, I'm sorry, sir. Could you ask me the question again?

Q Sure. While you were driving back to the station, did you and Tovar talk about what was gonna be written in the arrest report?

A Not in those words, no. What am I going to write? Usually what happens is, "What are we gonna do?" "Well, let's take him for some dope." You know. "Yeah, you're going for some dope." "All right."

We go back to the station, "Yeah, go ahead. Tovar, here. Here's the evidence. You know, book him for this. And start booking the -- you know, the P.C.D., the disclosure or whatever you need to do. I'll do the report. And I'll let you read it when we're done." And that's usually how it works.

Q Okay.

A You know, and before we get to the station, we'll say, in case the sergeant comes and talks to us, you know, "What do you got?" We'll say, "Okay, he ran. One guy ran this way. This guy stayed here. I watched him drop a bindle." You know, we'll get the facts down before we get to write the report, just in case the supervisor asks us, you know, what we have. But, you know, we won't go into details as to what's going to be in the report. I'll usually write the report and he'll concur, or if he changes something, or, you know.

Q Okay. Do you recall -- do you recall -- specifically recall if that was the case in this arrest? What you just explained about --

A That's pretty much. I remember that we discussed it. "Okay. Yeah, let's book him for some dope." I remember telling, you know, Tovar that I had the dope. And I remember -- I remember pretty much everything that was discussed as to how I was gonna write it. I did not -- obviously, I hadn't written the report yet, so I didn't show him the report. But I just, basically, told him how I was gonna write it. Yeah, that's about -- that's about right. Yes.

Q Okay. Do you recall offering Sanchez his freedom for exchange of information with regards to guns or dope or anything like that?

A I -- that's usually my M.O. That's usually something I'll -- I'll offer to a defendant. Do I remember specifically asking him? No, not specifically. But it sounds about right.

Q Now, do you think it's possible that as the -- as you took custody of Sanchez at the corner of Lockwood and Virgil, that, at some point, you put him into -- you put Sanchez into the police car and then drove down the street to go pick up Tovar from the end of the foot pursuit?

A Uhn-uhn. Tovar walked back to me.

Q Okay.

A Because I remember standing there looking, you know -- you know, when he fell, I could see him falling. And I'm

thinking, uh-oh. But he got up and was walking back towards me. So, I just stayed there.

Q Now, Sanchez says that after the initial -- after his detention, that he did see the officer run by him. And then, you took custody of him. You handcuffed Sanchez, but him in the back of the police car, and then you made some radio communication with your partner. Do you recall that happening?

A Well, it's possible that I might have made some radio communication on Simplex or something like that.

Q Right.

A But putting Mr. Sanchez in the back seat of my car and driving, no, that definitely -- that part is wrong.

Q Okay. So, he says that you drove down -- drove west on Monroe.

A Monroe?

Q That's what he said on -- you went south on Virgil, west on Monroe, north on --

A Oh, that's --

Q -- to Lockwood and picked up your partner there.

A Absolutely not.

Q Is that accurate?

A No, that's totally -- my partner ran about -- there is a couple of things we do. I mean, yeah, we -- we do little things are not -- well, we do a lot of things that are not normal on patrol. But I'm not gonna let Tovar run off out of my sight, totally don't know where he's at and not broadcast

it. At that point, if he ran up one block, up another block, and up a whole 'nother block, absolutely, I would have made sure, I would have -- you know, either I would broadcast it, or he would broadcast that my partner's in foot pursuit. Who knows where now. I've totally lost him.

That definitely didn't happen that I drove. In fact, he drove straight -- I mean, he walked -- he ran straight across Lockwood, out onto the street and fell. And then, ran and came right back. He was definitely not going around three blocks.

MR. MCKESSON: Let's go off the record for a second, because I'm a little confused.

(Off the record.)

(Back on the record.)

MR. MCKESSON: I'm confused, Sergeant, 'cause I'm listening to this, obviously, as Mr. Perez' attorney. What would Mr. Perez have to gain by not reporting that brief driving? I mean, if he admits the planting of the -- of the drugs on him. I mean, I'm confused. What would he have to gain by not talking about the drive?

SGT. ROMERO: Well, I don't think he has anything to gain or not gain on that. We're just trying to clarify an issue that was brought up by a witness in the investigation. We need to identify whether or not that occurred. So, it has nothing to do with his being gain or loss.

MR. MCKESSON: Does -- does the witness deny that -- that drugs were planted on him? I mean, he admits that, correct?

SGT. ROMERO: Yes, that's correct. Yeah. It's just a very small issue that we need to clear up for our investigative purposes only.

MR. MCKESSON: Well, I'm not -- I'm not trying to be tricky. I'm not trying to be an obstruction. I just want to clear it in my mind.

MR. ROSENTHAL: This is a civilian witness you're talking about?

SGT. ROMERO: Yes. Yes, it is.

SGT. GIBSON: And, again, a lot of this is just for clarification. We have to take both person's statements down. And if there's any inconsistencies, between the two that were there at the time, we have to take them -- somehow take and put how we showed that it was -- did happen, or didn't happen, etcetera.

MR. MCKESSON: And it's -- again, it's --

THE WITNESS: If -- if I may add, I think Mr. Sanchez might be -- 'cause I -- if I remember correctly, he might have been a little bit -- had a little bit to drink that day. They might have been drinking. I think he might be having a little of the facts a little confused. I think after we were all back in the car, we might have driven around the neighborhood a couple of times. You know, made a couple of turns to see if we found the other guy that had ran.

And I think he might be getting -- sorry. I think he might be getting exactly when certain things happen confused.

I think that after Tovar got back and we placed him in the car, I might have driven one block south and across west to see if I saw the other guy that ran maybe. But -- but, you know, I -- I just think Mr. Sanchez is getting a little bit of the facts confused as to when exactly we were transporting him and that type of thing.

MR. MCKESSON: I'm confused. You said "civilian witness" who are you talking about?

SGT. ROMERO: It's the -- it's Mr. Sanchez.

MR. MCKESSON: An arrestee?

SGT. ROMERO: Is an arrestee. But he's also -- he's -- he's more of a witness -- one of our witnesses in the investigation.

MR. ROSENTHAL: Oh, I'm sorry. I walked -- I walked in in the middle. So, I didn't -- I thought it was a third party witness. But that's Mr. Sanchez. Okay.

THE WITNESS: I don't doubt that that happened, that we might have driven a block south, and a block west. But it's just -- I was with -- Tovar was with me.

SGT. ROMERO: Okay. That clears that issue up.

Q Okay. Now, with regards to the powder cocaine that was planted on Mr. Sanchez, or that used to justify his arrest, do you recall where that came from?

A I know it came from a male Hispanic's male. A male Hispanic that I had stopped. But I couldn't tell you that male Hispanic's name or -- I know I stopped him. I know I had -- I

was looking through his wallet for something. And I found the bindle. I gave him a break. I cut him loose. And I had the narcotics in my shirt pocket.

Q Now, I've got the Daily Field Activity Reports between -- or rather, it's gonna be March 5th, March 6th, March 7th, March 8th, and March 9th, of 1996. Would you just review those and see if that refreshes your recollection?

MR. ROSENTHAL: And the date of arrest of Mr. Sanchez?

SGT. ROMERO: The date of arrest was March the 10th.

MR. ROSENTHAL: And he's reviewing this to see if he can identify the male Hispanic that he took the cocaine from?

SGT. ROMERO: Yes, but there may be a line in the log there that would refresh your recollection.

THE WITNESS: Right. I'll -- I'll look.

MR. ROSENTHAL: Let's go -- well, we'll go off the record while he has an opportunity to look at the DFAR's.

SGT. ROMERO: Off the record.

(Off the record.)

(Back on the record.)

Q BY SGT. ROMERO: All right. You had an opportunity to read the Daily Field Activity Reports on the dates that I indicated. Anything there that would cause -- assist you to recognize or remember about the drugs?

A No. I did -- I reviewed the DFAR's. And there is nothing that refreshes my memory --

Q Okay.

A -- as to where I might have recovered that narcotics.

Q Okay. Now, on this particular day, was Tovar aware that you had narcotics on your, or cocaine that was going to be planted on Mr. Sanchez?

MR. MCKESSON: Before the arrest? Or after the arrest?

SGT. ROMERO: On this day of the arrest. On March -- March the -- well, let me re-word that.

Q Once Mr. Sanchez was arrested, after his arrest, was Tovar then made aware that the cocaine was going to be planted on Sanchez?

A Yes.

Q Okay. Do you recall at what point that was?

A Right there at the scene. I'm pretty sure.

Q Do you recall the conversation that led to that information for Tovar?

A I believe I was talking to him as to what he's -- what's he gonna go for. And I remember looking into -- digging into my shirt pocket. The reason I remember this, specifically, because I remember pulling out like a stack of F.I. Cards and -- or F.I. -- F.I. Cards and other stuff, pulling it out, and the bindle being in between all the paper work or the little whatever I might have had in my pocket, and giving it to Tovar and says, "This is what we're gonna book him for."

Q Did Tovar take the cocaine, at that time?

A Yeah.

Q And what did -- do you recall what he did with it?

A Eventually, or at that point?

Q Right there at the scene.

A I think he might have put it in his pocket himself. He was going to be the one to book the evidence while I did the report.

Q Okay. And that's when he, eventually, did book the evidence?

A Yes, sir.

Q Now, with regards to this -- the recovery of this cocaine from another person --

A Mmnh-mmnh.

Q -- was Tovar aware that you had recovered that from someone else during a separate encounter?

A I do not have an independent recollection as to Tovar being right there when I recovered it. You're asking me was Tovar there when I recovered it from somebody else, right?

Q Yes.

A I don't remember Tovar. You know, I'm not saying that he wasn't. It's just I don't remember. I don't have an independent recollection of him being there.

Q Did -- do you recall if Tovar had an opportunity to review this arrest report before it was submitted for approval?

A He -- my standard practice, like I said on many other occasions, is to always, always have my partner read the reports before we turn them in and make copies and things like that. I want to make sure that we're on the same page and then, later

on, what I wrote, in case we're asked later for some reason.

Q Okay.

Q BY SGT. GIBSON: Okay. That's your standard practice. But do you have an independent recollection of this incident of Tovar picking up that report and reading it?

A I don't have an independent recollection of Tovar actually picking up this report and reading it, no.

Q No. Any questions?

MR. MCKESSON: No, sir.

SGT. ROMERO: No questions? Okay. Then, this is gonna conclude the interview regarding Mr. Christopher Sanchez. The time is gonna be 1515 hours on February 16th, 2000.

MR. MCKESSON: What time do you have?

SGT. ROMERO: 1515.

MR. ROSENTHAL: Off the record.

(Off the record at 3:15 p.m.)

(Back on the record at 3:30 p.m.)

DET. CASTILLO: We are now on tape. And it is the 16th of February, 2000. We are at One Gateway Plaza. It is 3:30 in the afternoon. We are D.A.'s File Number BA147783. D.R. Number 97-07-13409 in the case of Antonio Lizama.

Q Rafael, you talked to me the last time, back in January, on the 27th, and you refreshed -- you were refreshed -- your memory by looking at a [* CI # 24 *] photograph. And he was your C.I. on this thing.

Rafael, on this arrest incident, looking at Antonio

there, I highlighted some parts of the arrest report. And Number one, where were you and Durden when you page Lizama? Were you -- do you remember? Do you recall? Were you at the station?

A We would have been at the --

Q Rampart Station or C.R.A.S.H. Station? The O.S.D.? Now, you've got -- [** CI # 24 Information Redacted ****] [***** *]

A I believe we were -- I'm not a hundred percent positive on that.

Q Okay.

A If I -- if I said something, I'd be guessing or assuming --

Q Okay.

A -- or something. And I don't want to do that.

Q So, you just can't remember?

A Right.

Q Okay. That's fine. According to the arrest report, and if you could flip back to that first page right there, do you see the signature of Sgt. Peters?

A Yes.

Q Did he, in fact, sign that?

A Yes, sir.

Q Now, the interview of the 27th of January, you looked at it and you made the comment, "Durden wrote this." But on

the reporting officers, it's got Perez on the top and Durden on the bottom.

A I said that Durden did what?

Q Durden wrote the report. When you looked at the writing style, the narrative style, -- or did you do that?

A Well, this -- this one is my report. This was another one that I said that about.

Q Okay.

A You had showed me another -- it was another one. This report I wrote.

Q Oh, so, you wrote this? Okay.

A This I wrote, yeah.

Q So, you wrote the report? Okay.

A Yes.

Q Now, you've got your C.R., your confidential informant [* CI#24 **] And we go to the second narrative under the Source of Activity, on March the 20th, at approximately 2200 hours. "My partner and I spoke to confidential C.I."

Let's take a five-minute break. I'm sorry.

A Well, no problem.

(Off the record.)

(Back on the record.)

Q BY DET. CASTILLO: We're back on tape. It is now 1550 hours. We're talking to Rafael Perez. He's represented by Mr. Winston McKesson. Also present is District Attorney Richard Rosenthal; Mike Burditt, Serial number 24454. My name

is Detective Castillo. And Sara Mahan, the court reporter, is here. We're on Tape 225861, Side A.

Rafael, we were going over the arrest incident of Antonio Lizama. And I asked you where you and Durden had paged Lizama, and you couldn't remember where, after -- after looking at the arrest report. When you decided to do this, -- have you read through this arrest report a couple times now?

A I'm sure I've read it a couple times, yes.

Q Yeah. Is it pretty much accurate as far as you -- you get the information from a confidential informant, and that being [**** CI # 24 Information Redacted ****]

[****]. All that information is pretty accurate?

A Yes, sir.

Q When you requested -- "We requested the assistance of two C.R.A.S.H. 11 Officers Richardson and Ng." N-g.

A Mmh-mmh. Yes.

Q To act as a chase unit. What did you tell Richardson and Ng -- Officers -- those -- those C.R.A.S.H. officers?

A Probably what -- what was gonna happen.

Q Okay.

A We were expecting a certain type of vehicle and a certain type of male to show up.

Q [**** CI # 24 Information Redacted ****]

[****]

A [**** CI # 24 Information Redacted ****]

Q And, so, that's the purpose of Richardson and Ng

acting as a chase?

A Yes, sir.

Q When -- when Antonio shows up in his car, what happens next?

A Richardson and his partner Ng detain him.

Q Are you close by or watching this, and on the radio? And it's pretty much the way it's reported? They -- they detain Antonio. And in plain sight, Richardson recovers two baggies of -- of rock cocaine?

A That's about right. Yes, sir. In fact, I was -- I think I was just south of the location. And I broadcasted it that that's the vehicle. Go ahead and make the stop.

Q Okay. Go ahead and make the stop and everything. And do your search. Pretty much down the line?

A Pretty much, sir.

Q Were Richardson and Ng aware of any misconduct, or what was gonna happen?

A No. No, what they knew was what was gonna happen. That was about it.

Q They were just gonna be the chase car, detain, that's the guy, see what he's got on him, that type of thing, if anything?

A That's correct.

Q Okay. And then, Richardson recovers the baggie of cocaine and gives it to Durden?

A Yes.

Q Okay. And, so, you take Lizama to Rampart Station and arrest him for 11352. And you notice he's wearing a pager. And then, you dial the pager number and you put the code 55555.

A To confirm that that was his pager number that we had paged earlier.

Q Okay. During the pre-booking search, \$295 are recovered. Who recovered that, if you remember?

A It -- it wasn't me. Who exactly? I don't remember.

Q Okay. Now, it jumps right here to a follow-up to the defendant's residence and revealed another additional \$768. Okay. Number one, when you took Antonio into custody, what happens next? Did you talk to him?

A Yes.

Q Okay. What did you talk about, if you remember?

MR. MCKESSON: Could you hold on for a second. Do you have a copy of the transcripts?

DET. CASTILLO: No, sir, I don't.

MR. MCKESSON: Okay. Because what we've -- what we've been doing, ever since the polygraphs, we've been giving him a chance to review the transcripts, as well as the --

DET. CASTILLO: I can give you a paraphrased statement that I did on -- on this thing.

MR. MCKESSON: Well, he has that.

DET. CASTILLO: Well, no, that's -- that's Stan's. I've got a -- I've got a better paraphrased statement. But I was just trying to clean up my paraphrased statement that was

reviewed by another supervisor that says, "Who did they get to -- what happened after they took him into custody?"

MR. MCKESSON: Do you have a copy of your paraphrased statement?

DET. CASTILLO: I can get it for you in a heartbeat. I can get it for you in one second. Let's -- let's take a time out.

MR. ROSENTHAL: Off the record for a moment.

(Off the record.)

(Back on the record.)

DET. CASTILLO: Okay. We're back on tape. It is 1600. I went upstairs and got the paraphrased statement for Rafael Perez to look at, Mr. McKesson. Basically, I had -- I had pretty much outlined it. But I just want to get a little bit more detail into what was suggested.

Q When you -- when you took Lizama into custody, what happened next? Did you question him? And you said yes.

A Mr. Lizama. I'm sure I questioned him, yes.

Q About what?

A Probably to use him as an informant, to roll over on his narcotics supplier.

Q Did he -- did he give you an information? Or --

MR. MCKESSON: Let the record reflect that Mr. Perez is staring at the photograph and at the police report, apparently, trying to refresh his recollection.

THE WITNESS: Off the top of my head, I don't remember. But for some reason, I believe he did, that he may have. If I

had the recap book which shows each arrest --

DET. CASTILLO: Okay.

THE WITNESS: I'd be able to go, "Oh, yes. This guy gave me that." 'Cause I would know where the tie-in is.

Q BY DET. CASTILLO: Well, did -- did he tell you that he had money in the -- in the residence, as stated in the arrest report, at the very end there?

A No. It -- it says that he told us that -- you know, in that yellow part, that highlighted part. "A follow-up to the defendant's residence -- on the arrest report, I'm sorry -- revealed that additional \$768 -- right.

I thought you said that he told you that --

Q Yeah.

A That I said that. I -- I don't remember him saying that. I think that was something that we wrote to justify how much we had actually recovered to -- to match it up, in other words.

Q So, did -- did Mr. -- how did you get the consent to search Mr. Lizama's residence then?

A I don't remember how we got the consent.

Q Okay. Well, do you remember Mr. Lizama giving you consent?

A I don't.

Q Okay. If he did you don't remember? Or he just didn't?

A I just don't remember.

Q You can't remember?

A I don't think we -- I don't think -- I think we had the address. I don't think we asked for consent to search.

Q Okay. Was there -- that's what I'm trying to get at. So, you just -- you all just went back on your own?

A I think we just went back, yeah.

Q So, you went back on your own.

A Yes.

Q Went there on your own. Was there anybody there at the residence? 606 North Oxford Avenue, right there.

A Oh, lord.

Q Second story apartment building off of the corner. Nice residential area.

A You know, I was about to say something. But that's confusing it with the other cab driver.

Q Yeah.

A I was gonna say that there was two females.

Q Yeah.

A That's -- that's the other one.

Q Yeah, that's the other one.

A That's the other cabby.

Q Did Antonio have a wife of anything? Anybody there?

A I think there was --

Q Or you can't remember?

A I can't remember who it was, or what -- what exactly happened there.

Q Okay. Where -- at the -- at the residence of Antonio, on Oxford, where specifically did you and Durden find the money?

A I think actually Durden recovered it.

Q Okay.

A So, I'm -- I'm not exactly -- exactly sure where, you know. At the time, it wasn't very important to us. You know what I mean?

Q Yeah.

A It was just he found, you know, and I got this much amount of money.

Q And, according to your -- your other statement on January 27th, there was a lot more money than what was reported. You're shaking your head yes?

A I'm sorry. Yes, sir.

Q Okay. Rough guess again?

A I think we wrote the total that we recovered about a thousand.

Q About a thousand dollars?

A It was probably two thousand, maybe \$2500.

Q So, maybe \$2500 total was found. Durden found it. So, you don't know? You don't, specifically, remember where the -- where the money was?

A Where -- where in the --

Q Or if any?

A -- in the house?

Q Or if any other people were present at that house

when -- when the money was found?

A Well, I know there was a -- there was other people there. I just don't remember who they were, or who they --

Q So, other people were there?

A At the house. There was somebody else there. I just don't know if it was his wife, or who these people were. I don't know. I don't know who they were.

Q They were present, but cannot remember who.

A You don't happen to have a photo, obviously, do you?

Q No. I'm having a hard time finding them, to be honest with you.

A Yeah. Yeah.

Q When you presented this arrest report to Sgt. Peters, was he aware of your follow-up to -- to Lizama's residence?

A I'm assuming he would, because he would have read it in the report.

Q Okay.

A Now, did he go with us to the follow-up?

Q Yeah.

A I don't believe so. No.

Q Was there any mention by Sgt. Peters of the specific location where you had gone to? Did he question this in any way, shape, or form?

A Not that I can recall.

Q Do you remember him reading the report?

A I don't remember that either. I know I gave him a

copy of the report.

Q Uh-huh.

A I always, you know --

Q Sure.

A -- after, we always have to make a copy for the sergeant at the end of the night. One of the things we do when we make copies for the evidence and stuff like that, we make copies of everything for the report, and drop a copy on his desk.

Q Okay.

A Plus, you know, when he signs it, he wants to -- he's one of the -- the sergeants that does want to read the entire report.

Q Sure.

A He's not one of those that'll just sign it, "All right. Whatever."

Q Okay.

A He wants to read it.

Q So, he's pretty conscientious?

A Yes.

Q Okay. So, there was no entry on your DFAR, your Daily Field Activities Report that you went to Oxford -- the Oxford residence. Is that just -- you just didn't do it?

A I believe -- did Durden do the log?

Q Durden would have been doing it.

A Right.

Q So, Durden did the log.

A Durden was, you know -- that -- that doesn't surprise me. No.

Q Did Sgt. Peters question you about the lack of specific -- of the lack of specific location where you got the money? No?

A No.

Q But he is one person that does read the reports?

A Yeah.

Q Peters - was Peters aware that [CI#24] - this guy here was the C.I. on the case? Did he question you about the C.I.?

A I don't remember him questioning me about it, no.

Q Did not question. Now, what is your training and knowledge in the use of a C.I. at this time? A confidential informant. How -- how does that come about?

A In a situation like this, where this is someone who I've arrested and has a pending case, for expediency, I can do a one-time use informant package on him and use him that one time.

Q Sure.

A Of course, that still requires paper work. And I know about that paper work, but we just never did it. It was just our common practice, we'd just use informants over and over. You know, use as a one-time, or use them over and over. We just never did packages. Very rarely. If we were -- if we

wanted to pay them, then we would do packages.

Q So, --

A But the rest of the time, we just use them over and over without doing any packages.

Q Were your supervisors aware of this? Or did they question you? Such as Sgt. Peters?

A I think -- well, I'm gonna be guessing if I said that I'm sure that he was aware of, you know, that one-time package. But, I believe, he's worked Narcotics before. But I'll be guessing or assuming that he should have known, or did know.

But he's -- he's a knowledgeable guy.

Q During the counting of the money at Rampart Station, Durden stated, "We're not gonna book this money, are we?"

A "We're not gonna book all of this money, are we?"

Q "All of this money, are we?" That was made by him?

A Yes.

Q Was anybody else around when he made this statement?

A No.

Q No?

A No.

Q Heck no?

A No.

Q Then, again, Sgt. Peters, actually -- what happened in court on this case? Are you aware of the disposition of the case?

A Didn't this guy bail out? Did he -- I don't know the

disposition. But I could have sworn I remember this guy showing up at court one time out of custody, though.

Q Right. He did.

A He did?

Q He did. Well, I don't know if he bailed out. But he did show up in court.

A Yeah, he showed up in court. Because I remember him being out of custody and showing up. So, I'm assuming he bailed out, unless they gave him an O.R.

Q Okay.

A But what the final disposition was, I don't know.

Q Do you remember testifying against him?

A I remember going to court. I don't remember if I actually testified or not.

Q Okay.

A I do remember being in court and seeing him.

Q Now, did you make any promises to him or -- that you were gonna do him a favor in court, or that type of thing?

A In exchange for?

Q In exchange for information or working for you as an informant?

A It's possible.

Q It's possible? Do you remember that, though?

A It was probably one of those promises I wasn't gonna keep.

Q Okay.

A Actually, since I don't have the recap book, he may have given me some information. But at his level, I wasn't gonna give him a break. He wasn't like a -- he wasn't the first -- in other words, you have like a chain of people.

Q Sure.

A This is the street person. The street person gets it from the -- the little supplier. The supplier gets it from the middle guy.

Q From the middle guy. Right.

A And he was -- he was too high up here to be -- just to be kicking him loose.

Q Yeah.

A You know, I'll tell him everything that he wants to hear. But he -- you know, I was gonna book him no matter what.

Q No matter what.

A Yes.

Q He would be more of a mid-level dealer?

A Yeah.

Q He's the supplier?

A He's supplying the supplier that's supplying the street guys. So, he's got to go.

Q Sure. Sure. Gentlemen, that's it. Mike, I'm sorry. Do you want to jump in here?

DET. BURDITT: No.

DET. CASTILLO: Okay. Mr. McKesson?

MR. MCKESSON: No.

DET. CASTILLO: Thank you. Sara, thank you. And that concludes my interview at 1615. We're done.

(Off the record at 4:15 p.m.)

(Back on the record at 4:25 p.m.)

DET. KIRSCHENMANN: This is a tape-recorded interview for Investigation No. CF-00-0473 related to LAPD D.R. No. 96-11-11992 and Misdemeanor Court Case Nos. 6-CR-1075801 and 6-CR-1075802. Today is February 16th, 2000. The time is approximately 1625 hours. Location of the interview is the MTA Building.

Present to be interviewed is Rafael Perez. The interview is being tape-recorded on No. 223338, Side A. It is being conducted by myself, Detective Kirschenmann, 23496 and Sgt. Yzguerra, Serial Number 21400.

Represent Rafael Perez is Winston McKesson, Attorney at Law. Also present as observer is Detective Burditt, Serial Number 24454; and Stenographer Sara Mahan. Is that correct?

THE REPORTER: Perfect.

DET. KIRSCHENMANN: And before we went on tape, --

MR. MCKESSON: Did you introduce your partner?

DET. KIRSCHENMANN: Yeah, that's Yzguerra. 21400.

Q And before we went on tape, you had a chance, is that correct, Mr. Perez, -- your transcripts from the Task Force Interview of October 15, '99 --

A I'd read the -- I've read the transcript, as well as the report.

Q Okay. And the arrest report bearing D.R. Number 96-11-11992, is that correct?

A Yes, sir.

Q Did you have any questions before we started?

A None.

Q Okay. Basically, when you were interviewed by the - - or actually referring to the arrest report, it was referring to an arrest you made on April 2nd, of 1996, when you were assigned to Rampart C.R.A.S.H. You made a follow-up to the 1100 block of North Westmoreland Avenue.

Ultimately, two people were arrested -- Nestor Zetino and Oswaldo Candelerero -- for possession of a firearm with altered serial number; is that correct?

A Yes, sir.

Q During your interview with the Task Force you indicated that the majority of -- I'm just kind of highlighting, so you can correct me if I'm wrong -- that the majority of the arrest report, the observations, were falsified, that there actually was a different set of circumstances to the arrest; is that basically correct?

A Yes, sir.

Q And, again, going to your interview with the Task Force, you had said that you had received information from [*CI#8*] that there were some [CI#8] gang members at the 1100 block of North Westmoreland who were in possession of a handgun; is that correct?

A That's correct.

Q What -- who was [***** CI # 8 *****]

[*****]

A [***** CI # 8 Description Redacted *****]

[*****]

[*****]

Q [***** CI # 8 Description Redacted *****]

A [***** CI # 8 Description Redacted *****]

[*****]

[*****]

[*****]

Q And what descent is he?

A [***** CI # 8 Description Redacted *****]

Q About how old?

A [***** CI # 8 Description Redacted *****]

Q Do you remember how tall he is?

A [***** CI # 8 Description Redacted *****]

Q Do you know about how much he weighed?

A [***** CI # 8 Description Redacted *****]

Q And again, these are for indentification purposes

[***** CI # 8 Description Redacted *****]

A [***** CI # 8 Description Redacted *****]

[*****]

[*****]

Q Yeah.

A [***** CI # 8 Description Redacted *****]

[*****] It's just -- it's on the tip of my tongue. But it ain't coming, though.

Q Do you recall what street he lived on?

A [***** CI # 8 Information Redacted *****]

[*****]

MR. MCKESSON: Detective, can I just make one statement? The only thing I'm a little troubled about is when the transcript was leaked the last time, information about the confidential informants got out. When the transcripts were leaked the last time, information about the confidential informants got out.

I just wanted to alert you that maybe those are some of the questions you may not want to ask here, as far as the exact location of this informant, and things of that nature. Because a couple of informants' lives have been place in jeopardy because of the transcripts being given to the L.A. Times and The Daily News.

DET. KIRSCHENMANN: Okay. I think he's about the only one that is involved in this case that I'm gonna ask about.

MR. MCKESSON: No, I'm not saying anything improper. I mean, obviously, you could be -- this is a proper line of questioning. I just wanted to alert you to that fact that maybe you didn't want to put -- include that information in the transcript.

DET. KIRSCHENMANN: Okay.

MR. MCKESSON: As far as his address and things like that.

DET. KIRSCHENMANN: Okay. That's understood.

Q Do you recall when you received the information from [CI # 8]?

A That day.

Q Do you recall about what time?

A It would have probably been 45 minutes to an hour before that -- before we actually went into the location. So, I can't give you an exact time. I can only tell you probably between 45 minutes to an hour before.

Q Do you recall where you spoke to [CI#8] to get this information?

A [***** CI # 8 Information Redacted *****]
[*****]

Q Okay. And when you said "we" who else was present?

A Other than me and my partner, you mean?

Q Who was your partner?

A Tovar.

Q Tovar?

A [***** CI # 8 Information Redacted *****]
[*****]
**]

Q Okay. At the time you spoke to [CI#8], who was present? Just yourself and --

A Just me and my partner.

Q Okay. How long did you speak to [CI#8] for?

A A few minutes. Not long.

Q And do you recall exactly what he told you?

A Other than that these guys had a gun over at -- the guy that actually lives at the location, -- and I can't think of his name -- it's another gang member. [CI#8] told me that this gang member, at this apartment, at this house, you know, they had a gun in there, [**** CI # 8 Information Redacted ****].

[***** CI # 8 Information Redacted *****]

[****] And that's the information he had given me.

Q Did [CI8] tell you where the gun was hidden in the house? Or if it was hidden?

A No. [CI#8] just told me that they had a gun there.

Q Did [CI#8] describe the gun to you?

A Yes, [CI#8] did.

Q Had you ever been to that residence prior to that?

A Yes.

Q Do you recall for what -- for what reason?

A Gang activity. The gang member that lives there I've arrested -- yeah, I arrested him once with a gun. And I had been there several times to talk to his mother. His mother is a -- had like a brain tumor or something, so she was kind of slow. But I had been there several times to talk to his parents.

Q Would you recognize the resident's name if I told you?

A The person who lived there?

Q Yeah, the gang member.

A Sure.

Q Mark Munoz?

A Munoz. That's right. About 18, 20 years old maybe by now.

Q Approximately about 20.

A Okay.

Q Was [CI#8] specific that Munoz had the gun at the apartment?

A No. What [CI8] was specific about was that the gun was in Munoz' house, or the apartment.

Q And [***** CI # 8 Information Redacted *****]
[*****]
*]

A [***** CI # 8 Information Redacted *****]
[*****]
*]

Q Just that it was [** CI # 8 Info Redacted **] and they had a gun?

A Yes.

Q After you received the information, what did you do then? How did -- because, ultimately, you end up with another unit. It was Hewitt and Martinez and Lujan, possibly?

A Possibly. And I believe there was a -- a supervisor, Sgt. Ortiz, as well.

Q Did you request them to meet you at a location?

A Yes.

Q Was your intent to go on a follow-up to the Westmoreland address?

A Yes, sir.

Q Okay. Do you recall where you met the officers?

A No, sir. Where exactly I met them, where we snooped-up before we went?

Q Yeah.

A No. Give me a second. Maybe I can. I know we met. I don't remember exactly where we met up.

Q Okay. To the best of your memory, who was at this briefing before you went to the address?

A Myself, Officer Tovar, Hewitt, Martinez, and -- those are the people that I remember.

Q Is it possible Lujan was there?

A For some reason, I don't remember Lujan. But if the report says he was there, he was there. But I don't remember him. His face doesn't strike me.

Q Was Sgt. Ortiz there, at the time?

A Sgt. Ortiz was there, eventually, yes.

Q But did he come to the briefing?

A No, he was there after we had already been in it.

Q What did -- what did you tell the other officers at this briefing? What was your intent?

A That we knew there was a gun inside. And that we got information from [***** CI # 8 Information Redacted *****]
[***** CI # 8 Information Redacted *****]

And I, basically, relayed what I -- what information I had to them.

Q The basics, just that there was a gun inside?

A Pretty much. And I wanted to get inside and see what, you know, if they did have it in there.

Q Did you have game plan of what you were gonna do at the house?

A Well, what we had hoped was that they were sitting out front, in front of the location. But it's not how it worked out.

Q Had you discussed --

A I know -- I'm sorry. Go ahead.

Q No, I'm sorry. Had you discussed the possibility of what would happen if nobody was out front?

A No.

Q How long did this briefing last, approximately, if you recall?

A I don't recall. But it would have just been a few minutes.

Q What happened after briefing? Did you respond to the 1100 block of North Westmoreland?

A Yes, sir.

Q In the report, I need to clarify something. It's got an address of 1148 North Westmoreland.

A On the -- where exactly does it say 1148?

Q It might be in the report. Because I think on the

face sheet it only has 1100 North.

A 1100 block north, right.

Q And somewhere then, it maybe in your -- in your transcript from the previous interview. It had 1148.

A If it says 1148 --

Q That may have been mistaken. Would you recognize the -- the apartment if you saw a picture of it?

A Absolutely.

Q This a picture of 1148 Westmoreland. Is that the apartment?

A No.

Q This is 1144 North Westmoreland. Is that the apartment?

A Yes, sir.

Q So, for clarification, that is the apartment building you went to?

A This is the one, yes.

Q Okay. When you responded on Westmoreland, you parked your cars. And what happened after that?

A We responded from -- there's an alley. Just east of Westmoreland there's an alley. It would be back here somewhere.

Q Behind the -- the apartment complex?

A Yes, sir. We all -- we responded from there. One thing I do remember is, as we came -- as we -- as we all came in through the back, there was one gang member that, apparently, either just came out of the apartment, or was just hanging out

here.

Q And you're kind of pointing to the north side of the apartment complex?

A Right, the northwest corner of the -- the building. He was a parolee who had been there, who had -- I think they call him the -- he goes by the moniker of Mike.

Q BY MR. MCKESSON: Mike?

A Mike, yeah. I think his name is Michael-something. He's a parolee. But, anyway, as we approached, we can hear him yelling out, Brucha. Brucha." Meaning looking out. That's a Hispanic saying for like be careful, something. You know, the cops are here or something.

Q Is he the only you saw outside?

A Yes.

Q And I think you indicated, again, pointing to the picture, there was a driveway into the south of the apartment building? Is that where you walked from the driveway?

A I think a couple of us did. A couple of us came through the north side. If you go -- if you come up the alley, you enter the -- the -- this building's courtyard, you can go either south or north on the building.

Q Okay. Do you recall which way you came up?

A I came up from the north side of the building.

Q Do you know who was with you?

A Probably my partner, Officer Tovar.

Q Okay. And then what happened? Where did -- did you

see where Mike went?

A I think he just walked off across the street or something. In fact, I think he went -- he hung around for a little while, because after everybody was detained, and whatever person was going to jail, a supervisor had to go and talk to him, 'cause he was getting mouthy. He was mouthing off about something.

Q But he had no further contact with the arrest inside the apartment? He didn't go into the apartment?

A No.

Q Okay. So, then what happened when you got up to the apartment?

A I know -- I don't know if you have any of the photos, but there's a door.

Q Yeah, I've got some more I'll show you. And you're kind of pointing, in that picture, to the north side. It looks like a little pedestrian walkway?

A Right. There is a -- there is two --

Q What angle are you looking for? I've got more if you need.

A Is this the closest door to the front of this building here?

Q Yes.

A Okay. Those wrought iron doors weren't there before.

Q Okay. So, that's the difference?

A Right. 'Cause I'm seeing wrought iron doors there

now. Q Yeah. Because that's --

A And the building's painted a different color, by the way.

Q Okay.

A Before, this would -- this was just a wooden door with the top half being glass.

Q Okay.

A I believe it was Hewitt, kicked this door in. He kicked this door in. And it -- the lower portion of the door handle ripped or broke. The door was one of those cheap doors. And the glass broke. And this led into the laundry-room.

Q Okay. Is that the first thing that happened? Did you knock on the doors first? Did you knock on the front door at all? And, again, the front door being --

A Right.

Q -- to the front door there's two double doors in front of the apartment building that actually go into Apartment No.

1. A You're talking about this door right here, right?

Q That's correct.

A That leads right into up here.

Q Yes.

A Right.

Q Do you recall if you knocked on those doors?

A I think we may have. But I don't think we got any response. But we knew they were inside. We could hear something.

Q Okay.

A But what I -- I mean, what I remember is -- I mean, the little things like that, I mean, it's kind of hard for me to remember those little things.

Q Understood.

A We may have knocked. I know how we made entry, which was, eventually, kick this door in and went inside and did a methodical search, and got everybody out.

Q So, ultimately, all four officers were on the north side of the building? Yourself, Tovar, Hewitt, and Martinez?

A Yes.

Q Is that correct?

A Yes.

Q And was it discussed that you were gonna force entry into the apartment?

A Actually, Hewitt just said -- Hewitt sort of just took it upon himself. He didn't realize he was gonna break the door, break the glass on the door. But, eventually, you know, we just decided, well, we had no other choice, and we just, you know -- we broke the door in.

Q How much do you think elapsed from the time you arrived to the time the door was kicked?

A A few minutes.

Q Two, three minutes?

A No, maybe five, eight minutes.

Q Five to eight minutes?

A Yeah.

Q During that time, were you knocking on that laundry-room door?

A I think we knocked on it. I think we knocked on the front door. And there was no response. And I think, eventually, Hewitt -- Hewitt kicked the door and it sprung open breaking everything.

Q Would -- would Tovar and Martinez be in a position to see him kick the door down?

A Yes.

Q Kick the door open? What happened once you got inside the apartment?

A We did a systematic search of the -- all the lights were out. I remember that. And we started detaining people. Everybody that was inside, we detained them.

Q Do you recall where you located people in the apartment? Was anyone located downstairs?

A I think -- I don't have a picture of the interior.

Q I've got a few pictures of the interior. But I've also got a not-to-scale diagram. This is the bottom floor. This is the north side, the side door -- the laundry-room door.

Do you recall any of the interior?

A I think we detained some people, if I remember correctly, -- this is a storage room back here?

Q That's correct.

A Does it have a door that can close?

Q Yes, it does. And there's also -- same thing off of the laundry-room, there's a door to a bathroom that opens and closes.

A If I remember correctly --

Q There's --

A -- we -- these are the stairs that lead upstairs, right?

Q That's correct.

A When you go up these stairs, they kind of curve to the left, and there's a bedroom back here?

Q That's correct. This is a diagram of the second floor. Again, the stairs and the, basically all the bedrooms.

A I think we de- -- we detained -- it was either here or here. This is a bedroom back here?

Q That's correct.

A We detained a couple people here, and then, a couple people upstairs.

Q Do you recall who you detained downstairs? Males? Females?

A No. It was just a couple of people who were taken out and then going upstairs we yelled out to them, and they came down on their own. We took them out and went ahead and searched it anyway.

Q Okay. Do you recall where you detained Munoz?

A No.

Q Do you recall -- in the -- in the reports, it's

written that Munoz' mother was present also?

A I think she was downstairs in -- I think she was laying in this bed here, or in this bedroom here.

Q In the downstairs bedroom?

A Downstairs, yes, sir.

Q Okay. When the person that was detained downstairs, was he handcuffed?

A Yes.

Q The first person, I'm talking about?

A He, eventually, I'm sure he was handcuffed. I didn't handcuff him.

Q Do you know who handcuffed him?

A No.

Q Was he -- and I think you said that he was removed from the apartment? Or was he? Was he taken outside the apartment, if you recall?

A For some reason, -- for some reason, I want to say that he -- they weren't taken -- he wasn't taken out of the apartment. I want to say he was -- he -- we kept everybody downstairs somewhere. This is the kitchen here?

Q That's correct.

A This is the stairs. This is the front door. If I remember correctly, when -- I believe we found somebody here. And, actually, I believe it was here. When we got to this place here -- the stairs, we yelled out that, you know, "We know you're upstairs. Come down." And the two guys came down. I

believe they were being detained right up in here, in -- inside the apartment. I don't remember them being taken outside.

I know, eventually, when they came down, we still -- a couple of us still went upstairs and searched the upstairs area. So, I'm not a hundred percent -- a hundred percent sure if they were taken out or brought back in.

But, for some reason, I remember them being lined-up over here by the door, or by the stairwell.

Q Is it possible, though, that they were taken outside?

A Sure, it's possible. I mean, these are -- those are little facts that are very difficult for me to remember.

Q Well, the one point I'm leading into is, as far as who leave -- who it would leave inside the apartment.

A Who would -- who would --

Q Which officers would have remained inside the apartment. 'Cause all three of the -- Munoz, Zetino, and Candelero are saying they were all immediately, upon being handcuffed, taken outside and lined-up along, again, near the door, you know, along the wall beyond the north side of that residence.

And they were guarded by at least one or two officers. Obviously, which is gonna lead to my next questions about who searches the apartment and who is remaining in the apartment?

A They had to have -- unless we called another unit. From what I remember, I remember them being inside. Because I remember -- I remember we were -- at least four of us were

upstairs, I guess, the central heating up here. Right up in here is where the -- where the gun was found. I remember there was -- we were all there.

So, there had to be somebody downstairs or -- or right outside with them, unless it was just a supervisor. But I don't think the supervisor was just gonna be watching them by themselves -- by himself.

Q Do you recall -- sorry. Do you recall what time Sgt. Ortiz arrived?

A Probably shortly after the door was kicked.

Q Did you request a supervisor? Or did he just show up?

A No, I think we asked for him to come by.

Q Was he aware that you were going on this follow-up at the Northeast Division?

A Probably not.

Q Okay. So, by -- what you're saying is you've got all the three people and the mom lined-up downstairs?

A No, the mom stayed inside.

Q Okay. So, how many --

A The mom was definitely inside the whole time. That I do remember. She -- she was kind of slow and I didn't want to bother her. In fact, I told her to stay on the bed. The -- the two -- two people that came down, I remember we got them lined-up here. Now, when I went upstairs and we were clearing each -- or all the rest of the rooms, if they were taken outside,

I don't -- I don't know, because I, obviously, went upstairs searching.

Q Do you recall who went upstairs with you to search?

A I think it was Tovar. My partner Officer Tovar.

Q And there was no one else upstairs?

A Any other bodies, suspects?

Q That's correct.

A Other than the two that we told -- or the persons that came down, no.

Q Okay. Did you search for the gun?

A Actually, I searched for other things, including other guns. But the gun that -- that was found, was found by Tovar.

Q Were you present when he recovered the gun?

A I was present. But after he recovered it, that's when my attention was drawn over there. Because he goes, "Oh, here it is." They pulled it out of the -- one of those vent -
- heater vents or whatever.

Q So, you were searching that bedroom also, do you recall?

A I was actually searching -- there was like a -- like a -- a material -- a cloth chair. And then, there was a mattress on the floor and a small television like on a grate. That's where I was searching. I was searching in -- in that area.

Q In the same bedroom?

A Right. Well, this heater here --

MR. MCKESSON: Excuse me. Do you have any photographs of the inside of the apartment?

DET. KIRSCHENMANN: Yeah, I have some.

MR. MCKESSON: Maybe that'll refresh his recollection.

Q BY DET. KIRSCHENMANN: This is -- well, this is of the heater. Does that look familiar?

A Yes.

Q I don't have photographs of the entire apartment, just the -- this is a photograph of -- standing in the kitchen area looking, I guess it would be eastbound towards the laundry-room, then, to the back storage room.

This is a photograph of the stairs going up. This is a picture standing at the top of the stairway looking, I guess, it would be westbound. The furthest door is the bedroom door that we're talking about. There is a bathroom door visible in the photograph.

A This is where the -- the gun came from.

Q Okay. And you're pointing to a vent in the upstairs bedroom?

A Yes.

Q It's actually a heating unit that's in the wall of the bedroom? I'm sorry, sir?

MR. MCKESSON: Did you want to mark this as an exhibit to the transcript?

DET. KIRSCHENMANN: Is that what you've been doing?

MR. MCKESSON: No, we have not been doing it. But he

really hasn't described where he found a piece of evidence before exactly on the photographs. I mean, it's up to you. I'm just -- 'cause the transcripts may not make sense, 'cause this isn't marked.

DET. KIRSCHENMANN: Yeah. We can describe the other bedroom.

DET. BURDITT: Could we not mark it on the back "A" and circle it, and put it on the record?

MR. MCKESSON: Yeah. I mean, it's up to you guys. I'm just saying. Well, it sort of makes sense, because what he -- what he's been -- just so you know. What he's been doing before, he's been drawing circles on locations, --

DET. KIRSCHENMANN: Okay.

MR. MCKESSON: -- and they haven't been, in my mind at least, as important as locating a weapon.

DET. KIRSCHENMANN: Okay.

MR. MCKESSON: So, I mean, it's up to you.

DET. KIRSCHENMANN: No, that's fine. Well, I think they're actually looking for a reference that they can reference the photograph to the -- to that. So, what I'll do, for that, I'll put a "A" on the back of it.

MR. MCKESSON: You can keep that. You can give Sara a copy, make a photo here. Can you make color photocopies here?

DET. KIRSCHENMANN: Yeah, I can. Well, not here.

DET. BURDITT: I'm not sure if in the building here.

MR. MCKESSON: Okay.

DET. KIRSCHENMANN: Yeah.

MR. MCKESSON: Okay. You can make -- just get it to her and have her attach it. I think that, you know, maybe useful.

DET. KIRSCHENMANN: We'll do that. And I've marked on the back the letter "A". And that's a photograph of the heater unit in the upstairs bedroom.

THE WITNESS: Yes.

Q BY DET. KIRSCHENMANN: And a closer photograph -- I don't know if I handed it to you -- a close-up of the heater vent.

A Yes.

Q Then, another one with the vent cover off, the register off.

A Right.

Q Now, you said that you were searching in the -- the same room, but on -- other parts?

A Back here.

Q And it was actually Tovar who found the weapon, correct?

A Yes.

Q Who else was in the room, at that time?

A Hewitt and Martinez.

Q You were all inside?

A Yes.

MR. MCKESSON: All inside the apartment, correct?

DET. KIRSCHENMANN: Inside this bedroom.

THE WITNESS: Inside this room.

MR. MCKESSON: Okay.

Q BY DET. KIRSCHENMANN: And did they actually see the -- the handgun being taken out of the vent or Tovar in possession of it?

A Yes. They saw it before I did. I was still searching. And I think it was Martinez that was giving -- giving Tovar something to unscrew something. They were trying to figure out how to get this thing off. And I'm still searching over here. And, eventually, Hewitt and Martinez is looking up at Tovar and he gets it out. And, you know, he goes, "Yeah, here it is." You know, so, they actually see it before I do. I turn around and go, "Okay. There it is."

Q Did -- at that time, did you personally look at the weapon?

A Other than looking at it in Tovar's hand, I don't remember if I grabbed it, at that point. I mean, I was just glad that we found it or whatever.

Q Okay.

A I don't think I -- I took it from him, "Let me see it." I don't recall that.

Q When was it discovered that the weapon had the serial number altered, or filed off?

A I don't remember that. The serial number was altered off? That's even possibly something that we might have done.

Q Well, that's what I'm going to ask you.

A Did -- were -- were these guys -- none of them had felony convictions? Either one of these two guys?

Q I'm not familiar with their rap sheets.

A The reason I'm asking is because, quite often, if we had somebody with a gun, and they didn't have like, let's say a prior felony, so, we could book them an ex-con with a gun, a lot of times we would just file off the serial number, so we could book them 12090, or 12091, obliterated serial number.

But I don't remember if I filed -- or we filed the serial number off or not. It's possible that we may have.

Q But you're not certain?

A I can't remember right now.

Q If you had done something like that, in this case, would you recall?

A Well, we've done it many times before. That's why I'm saying it's not that unusual. But I just can't, off the top of my head, remember whether we obliterated the serial number or not. It's possible.

Q How would you normally do that?

A Obliterate the serial number?

Q Yes.

A We have those like -- you know, those handcuff engravers with the little red ones with the -- that they buzz real loud.

Q Yes.

A We take that and just keep grinding at the metal until

it screws up the serial number.

Q Would you do that at the station?

A Yes.

Q Or in the field?

A At the station.

Q Okay. Let me get into -- going back to this instance. Do you recall how long you searched in the apartment for the gun?

A We were probably in the apartment searching for the gun I'd say 30 minutes, 45 minutes. 30-45 minutes.

Q Do you recall, at all, at one time Ortiz shows up? Does he ever come upstairs to where you're searching the bedroom?

A No. You know what, I remember him talking to the lady trying to calm her down, talking to her, you know, "Ma'am, we got to do this. And -- and that's why your door was broken. And these guys are running in here." That type of thing.

But I don't remember him coming upstairs. I remember him being downstairs and trying to talk to people or whatever.

Q Do you know who briefed Ortiz on what had occurred?

A It would have been me.

Q But you don't recall when you had done that? 'Cause if he's telling mom why the door was kicked, it sounds like you would have had to have briefed him before that.

A Right.

Q About guys running in and doors being broken.

A Well, once he shows up to the locations, as soon as he shows up, he wants to know what's going on. And, as soon as he shows up, I'm gonna tell him what happened. And then, if he wants to talk to the lady, he can talk to the lady.

Q Do you recall, in this case, did you tell Ortiz the truth? Or did you tell him what, ultimately, ends up in the arrest report?

A On this one, -- on this one, I, basically, told him what we're gonna write. That's what I told him.

Q You told Sgt. Ortiz?

A Yeah. I told him, "This is how we're gonna write it." That's what I told him. In other words, I think you're asking me the truth. Which -- which truth are you talking about?

Q Yeah.

A That they were out front with guns, or something like that? Or that we got there and no one opened the door, so we kicked the door down? Neither one. Basically, what I told him was, "This is how I'm gonna write it. This how we're writing it." And I'm taking both of them. They're gonna go for the one gun. That type of thing.

Q So, you didn't disclose to Ortiz that the door had been kicked?

A Oh, yeah. Well, he could see the door was kicked. I mean, that -- that was obvious. The glass is broken. The door -- we -- put we told him how I'm gonna write it to justify

everything.

Q So, he knew what the -- the truth is. And then, he -- you made him aware of how the report was gonna read?

A Basically, yes. He, basically, -- he knew the basics of -- as to what happened when we got there. And then, what we had to do. And then, I explained to him how I'm gonna write it and how it's gonna read. And, you know, all that stuff.

Q And he agreed to that?

A Yes. He okays -- after I explained to him how I'm gonna write it, he okays it. And unless he doesn't think that's a good way of writing it, he'll tell me how he wants me to write it.

Q So, he approved of you falsifying the report?

A Yes.

Q To conceal the -- the door being kicked?

A Right.

Q During your interview with RHD Task Force, you had talked about after the gun was recovered from the upstairs bedroom, that you, Tovar, Martinez, and Hewitt --

A Mmnh-mmnh.

Q -- the four officers who were inside, got together. And, I guess, you talked about how the report should be written?

A Yes.

Q Who was it that came up with the scenario that ultimately ends up in the arrest reports?

MR. MCKESSON: Which scenario are you specifically

referring to now?

DET. KIRSCHENMANN: Well, --

MR. MCKESSON: Everything that's fabricated or one thing specifically?

DET. KIRSCHENMANN: Yeah, basically, the -- no, basically, the entire story about the observation post and gang members running into the apartment, and the door. I'm sorry?

MR. MCKESSON: The only reason I ask, they may have come up with different parts of the story.

DET. KIRSCHENMANN: Well, that's what I'm trying to figure out.

MR. MCKESSON: Okay.

Q BY DET. KIRSCHENMANN: Who came up with which aspect of that?

A The -- the only thing that I needed a collaboration -- let's put it in those words -- was how we got in the -- the place. Because all the observations, and all the other fabrication as to our observations, O.P. or whatever, I could do all that. And I don't need them to -- for that.

It was -- basically, we all came up with this idea, you know, how we were -- how we're gonna write it, or how I was gonna write it. How they ran, they ran upstairs, we followed them, the door got knocked open, we broke the glass, we went upstairs, recovered the -- you know, we had recovered the gun up front, and all that other stuff. That was just how we're gonna write it. And that's what we came up with.

But as far as the portion about the observations and all that other probable cause, that was my idea.

Q Okay. And they wouldn't have been aware of that, at that time, when you were discussing how the report was gonna be written?

MR. MCKESSON: I don't understand the question when you say "would have been aware of that".

DET. KIRSCHENMANN: His observations.

MR. MCKESSON: They wouldn't have been aware he put it in there? Or they wouldn't have been aware that that's what you could possibly do?

Q BY DET. KIRSCHENMANN: No, 'cause I think you said that -- Mr. Perez -- that you were gonna take care of the observations part. You didn't need them --

A Mmnh-mmnh.

Q -- to tell you how to write that part.

A Right.

Q So, were they aware -- and I'm -- I'm speaking of Tovar, Hewitt, and Martinez. Were they aware -- did you tell them that you were gonna say, hey, what we were doing was we had this observation post, and you go into that aspect of the story?

MR. MCKESSON: Did he tell them he was gonna put that down before he wrote the report or were they aware of that after the report was written?

Q BY DET. KIRSCHENMANN: Well, ultimately, both, before

at the apartment were -- did you tell them that's what you were gonna write in the report?

A I'm not sure whether I told them that I was gonna -- that I was -- I'm not sure if I told him. I -- I told everybody that I'm gonna put down that I'm gonna -- that we were doing an O.P. That's -- and I know, for this investigation, that's important. I understand that.

But if you can try and understand what I'm saying. While we were out there in the streets, working Rampart C.R.A.S.H., that portion is very insignificant. That's not something that I go up to the officers, and, "Oh, listen, I'm gonna write down that we were conducting an observation point."

What was important is how we got into the apartment and how the gun was recovered. That -- those kind of things. Did my partner know that that's what I wrote on the report? Absolutely. Because I always give my the partner the reports to read, you know, after I write them. Because I want to make sure we're on the same page.

Did Hewitt and Martinez know that I was gonna write that we were doing an O.P.? I don't remember. I'm pretty sure that I did -- I tell -- I told them, because I -- we go through the whole scenario as to how I'm gonna write it. But did they -- do I have a specific recollection of them reading the report? No, I do not.

MR. MCKESSON: Can we give the court reporter about a five minute break?

DET. KIRSCHENMANN: Absolutely.

(Off the record.)

(Back on the record.)

Q BY DET. KIRSCHENMANN: Okay. We're back on tape. It's 1720 hours. It's still the same case. I'm sorry. We shouldn't have too much longer. I think, before we left off, we had been talking about the officers' knowledge of what was written in the arrest report. And what I'm gonna do is kind of step away from that a little bit, 'cause I want to kind of finish out what happened out on Westmoreland, before we get into the report. Is that okay?

A Yes, sir.

Q Not to distract from -- our attention to the report.

A Mmnh-mmnh.

Q Whose was -- whose decision was it to arrest Zetino and Candelero?

A Those were my decisions.

Q Was there anything that you based that on?

A Their -- their level of activity in the gang.

Q Just your previous knowledge of those two?

A Mmnh-mmnh. Yes. I'm in charge of the La Mirada Gang. And I know how -- how active these two -- particular two gang members are. And it was my choice, my sole choice, as to which two were going. And it was my -- my decision.

Q Okay. Did you have a discussion with Munoz' mother about who was gonna be arrested, if you recall?

A I know I talked to her. I tried to talk to her a couple of times. But she is kind of very incoherent. I mean, I guess she had just had brain surgery or something, so I think, I was just trying to calm her down and, you know, tell her that she shouldn't let gang members in here with guns and stuff like that.

Q Okay. Zetino brought something up. Do you recall -- and, again, looking at the -- the photographs of the -- the apartment -- you indicated earlier that there was no security gate on the laundry-room door in 1996? You notice the light metal security gates?

A That's correct.

Q Do you recall the windows outside around the bottom floor, they also have bars on them now?

A Mmnh-mmnh.

Q Do you recall if those bars were there in 1996?

A I don't remember. I -- I can tell you there was definitely no security. But I don't know about this -- this thing here.

Q Do you ever recall, at this apartment, on this date, -- I'm sorry.

MR. MCKESSON: I'm just mindful of the transcript. My client just said, I recall there was no security. He point to one thing. And he says, "I don't recall this thing here." On the transcript it makes it seem like there was no security bars there at all.

DET. KIRSCHENMANN: Okay.

MR. MCKESSON: You know, she's not looking at the transcript.

THE WITNESS: How about I do it this way? At the picture -- the pictures are being handed -- they're being -- they're numbered. On this particular one it's Picture No. 11.

MR. MCKESSON: Okay.

THE WITNESS: And I'm gonna refer to it as Picture No. 11 of the pictures that you're showing me. And they are -- they are in somewhat of order, 15, 16, 17. See that? This one's No. 11. This one's No. 9.

MR. MCKESSON: Okay.

THE WITNESS: There in somewhat of an order. But this one is No. 11. I know we usually -- so, I'm referring to Picture No. 11.

DET. KIRSCHENMANN: Okay.

THE WITNESS: There's a white security gate. I remember that gate not being there. There's also a black gate. I'm sorry, black bars at the smaller window. I don't remember whether that was there or not.

Q BY DET. KIRSCHENMANN: Okay. It was brought up by Nestor Zetino that during this arrest he was handcuffed with one hand to bars on the -- the window. Do you recall that ever happening?

A If that happened, that might have been while I was still going upstairs. And somebody might have brought him out

and handcuffed to that. But I don't -- I don't remember that.

Q And you didn't see that happen?

A No.

Q Is that something that was common practice in the C.R.A.S.H. unit?

A Not really. I -- I mean -- I mean, it's -- it's happened on a couple of occasions because of, you know, it needed to happen. I mean, we had to get it done. But I just don't remember it happening here.

I mean, I'm not saying it didn't. I just don't remember. I didn't handcuff him to the dog-gone, you know, iron gate there.

Q Do you recall if -- who transported Zetino and Candelerio to the station?

A I do not. I don't remember. I believe it was -- no, I'm gonna be guessing, and I don't want to guess. I don't really recall who transported.

Q Okay. Zetino said that you and Tovar placed him in a police car. And he asked you why he's being taken to the station. But either you or Tovar responded, "Just shut up. It's none of your business. Just get in." Do you recall that?

A No.

Q If something -- if something like that was said, is that something that you'd remember?

A Not necessarily.

Q Okay.

A But that's not -- I'm not saying it didn't happen. But I'm just saying I don't remember that statement -- or I didn't make that statement. I don't remember making it.

Q When you left Westmoreland, do you recall, from the time you arrived, until the time you left, how much time had elapsed?

A From the time I arrived at the location?

Q That's correct.

A To the time I left, I'd be guessing. I want to say an hour and-a-half maybe. Somewhere around there.

Q When you left, where did you go?

A We would have went to the station. To the station.

Q Do you recall if you were assisted in the booking by any other officers?

A Yes. I'm almost -- I'm pretty confident that Hewitt and Martinez would have helped me in the booking, at least booking the bodies.

Q And where would they have been booked?

A Jail Division. Where would they have been booked?

Q Yes. That's correct.

A Jail. Jail Division Downtown, or -- yeah, Downtown.
P.A.B.

Q Do you recall, in this case, that you remained at Rampart Station, or at the Detective Section?

A Did I remain there?

Q Yeah. Do you recall that that's where you went and

stayed?

A What do you mean "stayed"?

Q To write the reports. That you didn't participate in the booking.

A That's probably accurate.

Q Okay.

A 'Cause I have to write the report. So, I have to sit down and sit there and write all the reports. Everybody else will book the evidence and book the bodies.

Q Do you recall what Tovar did?

A I think he was probably -- he probably booked the evidence while the other two officers booked the bodies.

Q Now, looking at the -- the arrest report, starting at the face sheets, there's some handwriting, even up to the D.R. Numbers. And it's got your name and Tovar's. And the unit designation and such. Do you recognize that handwriting?

A Yes.

Q And whose is that?

A Well, starting from the top, where it says, "La Mirada and Scooby" that's my handwriting. The D.R. number, the names Perez and Tovar, D.R. number -- serial numbers, division, and the unit, that's Tovar's handwriting. "See Property Report" that's Tovar's handwriting.

The signature on there is Sgt. Ortiz' signature.

Q That's definitely Ortiz' signature?

A Yes.

Q Okay. Could you just flip over to the next page?
And whose booking face sheet is that?

A That belongs to Moreno -- uh, Zetino, Nestor.

Q Okay. And is that page the same as -- as far as that
most of it was completed by Tovar?

A Exactly, sir. Yes.

Q And the actual arrest report, the pages and the
narrative, -- let's see. Pages 2, 3, 4, 5 -- and 5. Is that
all your handwriting?

A All of it.

Q Now, Page No. 6 is the Property Report.

A Yes, sir.

Q Do you recognize that handwriting?

A Yes, I do. That is everything except the signature
and the 1100 North Westmoreland, everything else -- the -- the
signature and the 1100 North Westmoreland, is mine. The rest
of it is Officer Tovar's.

Q And the -- you're talking about the signature for
supervisor approving?

A Yes, sir.

Q And that's your handwriting?

A Yes, sir.

Q Is there any reason that you signed Sgt. Ortiz' name?

A He probably wasn't around. I don't know. I mean, it
was common for me to sign reports for the supervisor.

Q Just give me a second. Okay. It's approximately

1721 hours. We switched to Side B. The same tape number, 223338, now, Side B.

And, I'm sorry, you said just as the tape ended that it was common practice that you would sign Ortiz' signature?

A Yeah, it's surprising me actually that this is actually his signature.

Q And you're pointing to the front booking face sheets?

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q Now, moving on, I think you should have the page being the City Attorney Disclosure Statement.

A Yes, sir.

Q Do you recognize the handwriting on this page?

A Yes, I do.

Q And whose is it?

A The -- where it says "Arrest" and the names of my name, Tovar, --

MR. MCKESSON: Let the record reflect he's taking a few minutes to study the document.

THE WITNESS: The names and the date and the Rampart, and the arrest is Officer Tovar's signature, or handwriting. The "Multi-two" and the D.R. number, that's my handwriting. I don't know who wrote that other part up top there. CR4. CR1. I don't know.

Q BY DET. KIRSCHENMANN: Now, moving on to -- the next

ones are the booking recommendations. There's two. One for Candelero and Zetino. Do you recognize the handwriting on this form?

A Everything on here belongs to Tovar.

Q Is that including the signature for approving supervisor?

A No. I was just about to say, the -- the one thing that's not on both of them, is the signature. Those were my signatures.

Q And, again, you signed for Sgt. Ortiz?

A That's correct.

Q And that's with his approval?

A Yes, sir.

Q And then you've got the PCD, the Probable Cause Detention Termination forms?

A Yes, sir.

Q Do you recognize the handwriting on these forms?

A The handwriting is Officer Tovar's handwriting. It looks like under the signature, it might be my signature as well as Tovar's on top of each other. I think he might have signed it, and then, I came back and signed it on top of his.

Do you see what I'm talking about?

Q Yes. About three-quarters of the way down the page, where it's got a -- it says, "Executed on 4/03/96." And then, there's a line for a signature.

A Yes.

Q Is that what you're speaking of?

A Yes, sir.

Q Okay.

A And on the back side of that one, everything's in my handwriting except the name. That's Tovar's handwriting.

Q Now, which one is that? For Candelerero or Zetino?

A For Candelerero. On the back side of that -- the one we were just looking at.

Q Okay.

A And, then, the next one for Zetino, everything is filled out in Tovar's handwriting except the signature and serial number.

Q And that is yours, sir?

A That's mine. Yes, sir. And, then, on the back side, everything is my handwriting, except the name.

Q Do you recall how long it took you to complete these reports?

A I do not.

Q And you already stated earlier that you always give your partner the report to review. Is that prior to it's being turned in?

A Prior to getting it signed, yes.

Q Do you recall that's what happened in this instance?

A Do I have an independent recollection of handing Tovar the report for him to read it?

Q Yes.

A No, I don't have an independent recollection. I know what my standard practice was, which was to always have my partner read the report -- always.

Q But in this instance, you don't recall?

A An independent recollection of him reading it, no.

Q Okay. After you wrote the reports, did you turn into Sgt. Ortiz, you said his signature appears? It would have been that same evening that you gave it to him?

A Yes, sir.

Q Do you recall if he had any questions? Or did he have you make any changes to the reports?

A I don't recall him having me make any changes.

Q Also, during your interview with the Task Force back on October 15th, you brought up about a Detective Wessel, I believe his name is.

A Mmnh-mmnh. Yeah.

Q About how he used to kid you about this arrest because two people were arrested for one gun?

A We would have meetings, at least once, maybe twice a week, with the C.R.A.S.H. Detectives. They'd let us know who they were looking for, what's going on. Certain particular -- you know, we used to exchange information. And after I had made this arrest, this was sort of like a standing joke, within the C.R.A.S.H. and the C.R.A.S.H. Detectives, how I, supposedly, arrested two guys for one gun. You know, it was sort of like an ongoing time. Every time we'd talk about

something, you know, somebody would mention something like about this.

Q Was -- did you ever inform Detective Wessel that the report had been falsified?

A Not in those words, no. Not, you know, "Oh, by the way, this report was falsified." Like I said, we were making jokes about it. There were several off-remarks were made. And -- but I've never -- I never went to Detective Wessel and said, "Oh, I falsified this report. Or I planted this gun on these guys. Or the gun was actually found over here." No, I never did that.

Q So, Wessel was making these jokes without the knowledge of the true circumstances of the arrest?

MR. MCKESSON: Well, I think that calls for him to speculate as to what Detective Wessel's knowledge was.

Q BY DET. KIRSCHENMANN: Okay. Do you have any knowledge that Detective Wessel was informed of the true circumstances of the arrests?

A No.

Q Okay.

A Did he know what the actual -- what actually happened out there? No. Does Detective Wessel know what goes on in Rampart C.R.A.S.H.? Yes.

Q But, in this --

A Did he know exactly what happened on this? No. he just probably -- he could have probably taken a real wild guess

and probably have been close to what actually happened or as to what actually was written.

Q Okay. But you don't have specific knowledge that it was actually true?

A That's correct.

MR. MCKESSON: You guys are talking pretty close to each other.

Q BY DET. KIRSCHENMANN: Sorry. Did you or Tovar ever testify in court concerning this arrest, if you recall?

A You know, I remember getting subpoenas. I remember seeing subpoenas for it. I think it got filed. I just don't remember what happened. I don't remember what happened in court.

Q Do you need to take a break, sir?

MR. MCKESSON: No. You go -- go ahead.

Q BY DET. BURDITT: I know we've referred to the saying "in the loop". Was Wessel in the loop?

A I've talked about this before. Wessel wasn't in the loop, per se. Wessel was in the know. But he wasn't in the loop. Wessel -- one of the things that we talked about with Wessel was, has he ever done anything, you know, to show that he was part of all this. And I gave one instance where, you know, he asked me to write a report a certain way so that we could get a filing.

So, you know, that was just an example of how, you know, I had explained that he knew about things that were going

on. And he looks -- he sees every report that comes in. And he talks to us about every report that comes in. So, he knows some of the things that are going on. You know, he'll -- he'll -- every once in a while, he'll go, "I don't want to know. Never mind." You know, that type of thing.

So, he knew what was going on. But, you know, he wasn't out there putting cases on people. He was a D-3.

Q BY DET. KIRSCHENMANN: One other -- what I'm gonna do is I'm gonna down the Daily Work Sheets. I'm gonna read off the names and make sure that it doesn't jog your memory that other officers may have been present, at the scene? Okay. Do you understand what I'm looking for? And I'll ask you.

Sgt. Ortiz you already said, ultimately, showed up at the scene?

A Right.

Q Sgt. Dickerson? Did he respond to the scene?

A I don't -- I don't recall. I don't remember if he did.

Q Then there is Richardson and McNeil?

A I don't remember them being there.

Q O'Grady and Moore?

A No, sir.

Q Is it Barr and McMahan?

A Don't remember them being there.

Q Liddy or Harper?

A Still don't remember them being there.

Q Okay. The other -- earlier I asked about Lujan.

A Mmnh-mmnh. Yes.

Q Do you recall him being there? 'Cause the reason I've asked several times is the work sheet shows that he was riding third with Martinez and Hewitt on both the work sheet and the DFAR.

A Right.

Q Do you recall him being there at all?

A I sure don't. I don't remember. I don't remember Lujan being there. I'm not saying that he wasn't. I just -- I don't -- I don't see his face there. I don't know what time that maybe his partner leave, and he just jumped in with somebody else, or what particular time of the day. I didn't know. But I just don't remember Lujan. I don't remember seeing his face. I don't remember seeing -- you know, I'm trying to picture the whole incident. And I don't remember seeing his face.

Q Okay. One of the -- let's see, I think it's Zetino again. Let me get in one last things I want to ask you about.

Zetino, he brings up, in his interview, that when he was -- after he was booked, that an officer that he knows to be Sammy Martin Mirandized him at Parker Center Jail.

Zetino waived his rights and told Martin repeatedly that he did not have a gun. And, on the work sheet, it shows that Martin on loan on that day.

Do you remember Sammy Martin being involved in this

arrest at all?

A No. Martin was on loan to C.R.A.S.H. Detectives. So, the following day or a couple days later, he goes and interviews the -- the defendants at the jail. So, what goes on in those interviews, I don't know.

Q Okay.

A That's separate from us.

Q Okay. So, probably what he's mistaken was a -- a day or two later and not the night that he was arrested?

A No, the night. No, sir. Definitely not. The detectives work during the day. And if there's an arrestee, the following day. Or if it's on a weekend, the following work day, they'll go and interview the -- the arrestee.

Q And Zetino also says that he had seen Sammy Martin arrive at the apartment on the night of the arrest and go inside.

A Impossible.

Q That's inaccurate?

A Yeah. I think he's -- he may have some other instances confused. I mean, 'cause me and Martin have been there when we were partners several -- I mean, on many occasions we've been to that apartment. I think he's getting some other instances confused.

Q Okay.

A But -- and let me add that, right now, that I have -- we have -- myself and other partners, either Sammy Martin or

Tovar, have stopped these same people at the same apartment on numerous occasions. So, I mean, they may be -- I don't know if they're getting certain instances confused.

Q Okay. Now, again, Zetino, he believed there was an officer present that, I guess, they had a nickname for -- "Bulldog." Do you know who that is?

A Jeff Graham.

Q Is that who -- who is referred to a Bulldog by these guys?

A Yes. That's Jeff -- Jeff Graham.

Q Was he present?

A I don't believe so.

Q I don't even think he's on the work sheet.

A He wasn't working C.R.A.S.H. yet. I don't -- see, everybody in La Mirada knows him. See, everybody in La Mirada associates Sammy Martin and Jeff Graham because they used to work that gang, too.

Again, this is why I say they may be getting some instances confused. Because I'm sure Jeff Graham has been to that location on many, many occasions. Because when he worked C.R.A.S.H., he's gone there many times. And even working Patrol, he's gone there many times.

But not on this particular night.

Q Okay. So, it would be inaccurate that -- if he's identifying this person "Bulldog" as being at the apartment that night, that would be inaccurate?

A That's correct.

Q Okay. Do you have anything that you'd like to clarify?

MR. MCKESSON: No. Thank you, sir.

Q BY DET. KIRSCHENMANN: Do you have anything you'd like to clarify?

A No, sir.

Q With that, I guess, we'll conclude the interview. This being approximately 1735 hours.

(Off the record at 5:35 p.m.)

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