

STATEMENT OF

**RAFAEL ANTONIO PEREZ,**

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

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

APPEARANCES BY:

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REPORTED BY:

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sam/99-031

LOS ANGELES, CALIFORNIA, FRIDAY OCTOBER 1, 1999: 10:40 A.M.

MR. ROSENTHAL: All right. It is, uh, 10:40 in the morning on Friday, October 1st, 1999. These are the continuing interviews of Rafael Perez. Present today are myself, Richard Rosenthal, Deputy District Attorney. Do you prefer Winston,

Kevin, or just --

MR. MCKESSON: Winston Kevin.

MR. ROSENTHAL: Winston Kevin McKesson, Attorney for Rafael Perez. Also present are Sgt. John Cook, and Detective Jeff Paillet.

SGT. PAILET: Actually, sergeant also.

MR. ROSENTHAL: Sgt. Jeff Paillet.

Okay. Uh, although, uh, Mr. Perez, you've -- you will continue to consider you to be under oath, let me put you under oath again today. Raise your right hand.

"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 Now, let's just start off with a couple miscellaneous issues. Uh, first of all, we discussed this just a little bit before. This is the case of Ubaldo Gutierrez. It was a trial that you had. You testified along with Officer Richardson. And this is the case that you had with Michael Kraut.

A Mmnh-mmnh.

Q Uh, where the case was dismissed by Deputy D.A. Michael Kraut, uh, I think, at some point during the defense

portion of the case. And, uh, you had mentioned before, during the interviews, and I don't know if it was on the record or off the record, how you got into -- I think you had actually referred to as a "pissing match" with the D.A.?

A Mmnh-mmnh.

Q This is the one you were referring to?

A Yes.

Q Uhm, first, with that case, was there anything wrong with that case?

A Mmnh-mmnh.

Q Okay. What was wrong with it?

A Uh, the narcotics was planted.

Q The narcotics was planted?

A Mmnh-mmnh.

Q Okay. Do you -- unfortunately, I don't have that case file with me to look at the report. Why don't you tell us, at least right now, what do you remember about that case?

A About the incident itself?

Q Yes.

A Uhm, myself and my partner -- I think Durden was my partner. And Richardson had a partner. And we were all at the station. A radio call came out, a 415 group or something. Or maybe a 415 fight in the alley, uh, to the rear of Cornado and, uh, Temple, over where the -- the arrest took place.

Uhm, my partner was involved in maybe writing the report or something, uh, so Officer Richardson went with me.

We responded to the location. We went in Officer Richardson's car. As we drove northbound, I guess most of the gang members didn't notice or didn't recognize the car, because they know my car very well.

Uh, we drove northbound. We saw several of the gang members were running every which way. Uhm, you know, one that was there was Mr. Gutierrez. Ubaldo Gutierrez. Uhm, narcotics was planted on him. And he went to jail by myself and Officer Richardson. Uhm, I don't think there was anybody else arrested.

Q No. I think that was it.

A Was there? That was just it. Yeah.

Q Yeah. Uhm, the charge is, I think was Possession for Sales. Is that right?

A Of rock cocaine, yes.

Q Why -- why him?

A Why specifically him?

Q Right. Why would you have planted narcotics on him, at that time?

A Mr. Ubaldo was involved in a plot to, uhm, -- to kill a police officer. Uh, it was being investigated. But pretty much they left the investigation stale. Because, uh, they said that they needed -- they had the -- the motive. They the -- the meetings. They had -- they held like three or four meetings. So, that was in place.

They needed an action, an overt -- you know, some kind of planning -- preparation for it. So, it kind of got

stale. Uhm, but we were aware of it. Uh, so, uhm, when we got there, we knew that, you know, he was going.

Q Who was the police officer they were trying to kill?

A Me.

Q This is the one where you do have some reports where you made, uh, statements to Robbery-Homicide Division?

A Robbery-Homicide Division was interviewing an informant, yeah, that -- well, when this all came out, it came out through an informant.

Q Okay. So, when you saw Ubaldo Gutierrez, when you drove up, you weren't planning to see him there, at that time?

A No.

Q So, it was a fortuitous circumstance that you saw him?

A Yes.

Q Where would you have gotten the cocaine from to plant on him?

A Anybody who had some. I mean, to be honest, where it came from, I have -- I -- I don't remember.

Q Well, would it have been Richardson or you who would have had the cocaine? I mean, 'cause you were the only two that were involved in this. Right?

A Right. Who? I would say it probably came from me. But I don't remember from where, or if I got it from Durden, if I got it from another officer, or where. I mean, when we were at the scene, there were no narcotics there. The narcotics

didn't show up until we got to Detectives. But where it came from, exactly, I don't know.

Q Oh, I see. So, you --

A In other words, we wouldn't just go there, put it on the floor, and say, oh, look what we found. You know, we just hooked him up and took him.

Q All right. So, you handcuff him and put him in the car, and take him to the station, uhm, find some narcotics -- some cocaine -- and --

A Not at the scene.

Q Right.

A At the station, yes.

Q At the station. So, you or Richardson could have gotten it from --

A Any other officer -- any -- anywhere. I mean, you know, like I said, most officers always kept some.

Q The reason why the D.A. dismissed the case was he felt or he said -- he told us that, uhm, you and Richardson had said to him, in his office, that you guys were not assigned partners that day.

A He -- he totally got it confused. Instead of asking, he just said forget it. I mean, what happened was my partner and Durden -- myself and Durden are partners. We keep a log, me and him. When this radio came out -- when this radio call came out, my partner's writing a report. And Richardson's partner is writing a report. So, Richardson said, "Well, I'll



go out with you. Let's go." So, we don't do a whole 'nother separate log for me and Richardson. We don't. I just keep a log. He'll write on his log, "Assisted Perez on this investigation." And I just do it, you know -- or Durden does my log -- you know, our log, and put down whatever we did that day.

Well, he said something about we were supposed to have another log. Or -- or something like that. And we're like, "There is no other log." He said, "Well, you said Richardson was your partner." "No, Richardson is not my partner. Durden's my partner. Richardson went out with me to handle this call, because my partner was engaged doing something."

And -- and he found some confusion, enough to say, we'll, I'm gonna dismiss the case.

Q So, he dismissed it. He made the right decision but for the wrong reason?

A Right. Right.

Q Uhm, all right. That covers that one for now. We'll -- we'll revisit that once we've got the file with us, and the reports. Uhm, you had also mentioned with respect to officers being in the loop or not in the loop or what have you. Uh, there was some mention of Officer Espinoza. Do you have -- what information do you have on Officer Espinoza?

A I think I was talking about Officer Espinoza, uh, them doing their own thing. In fact, they were like trying to

compete with C.R.A.S.H. They -- I forgot what they call that unit now. What was that unit that -- that was handling the parks and all that?

Q BY SGT. PAILET: Wasn't it like the Bicycle detail?

A They were the Bicycle detail. But they formed into another -- a whole 'nother thing.

Q BY SGT. PAILET: Is it G.R.A.T.S? Was it G.R.A.T.S?

A No, not G.R.A.T.S.

Q BY MR. ROSENTHAL: Special Problems Unit or something?

A Yeah, S.P. They were a S.P.U. unit. But I think they changed their name. Yeah, we had C.R.A.S.H. And I think they were S.P.U. for a little while. And maybe -- maybe they might have even changed their name again. They were Special Problems Units. They were handling, you know, burglary for motor vehicles, things like that.

In fact, they even started dabbing a little bit into the gang activity, which started a conflict between C.R.A.S.H. and them. And they started doing their own thing and trying to, you know, impress others. They were making their own little arrests, and -- and, you know.

Q Do you have any personal knowledge?

A But I don't have nothing personal -- or nothing, uh, personally that I've observed that, uh, that he's done. No.

Q All right. And the same with the officers who worked with him?

A Right. We didn't -- we didn't get involved with each others things. They did their own thing. I really don't even know them very well, other than Espinoza.

Q All right. So, did you hear rumors?

A Yeah, I mean, you hear, you know, some of the things that go on. But it's just, you know.

Q Nothing substantive?

A Something at the Short Stop, you know, drinking a beer, oh, yeah, we -- you know, somebody went to jail today. You know, whatever. Nothing that I could even bring to say, yeah, I remember that, you know.,

Q Okay. Uhm, you were given a list -- or we went through a list, the last time, of all of the officers who have gone through C.R.A.S.H. And you went through all of them. Other than the officers, that have been mentioned so far, are there any other officers that you have knowledge of criminal activity on the part of, that you have not mentioned yet?

A That's a difficult question, because, uh, you can ask me if you think, uh, certain things. I know certain things that the officers are doing. Well, I suspect. I know, I mean, -- you just know, uh, based on actions and, you know, eyebrow raising. And, uh, but do I have proof of most of them? No.

Uh, if you gave me a list of certain officers and you asked me, I'll say, oh, yeah, they're definitely involved in certain -- you know, their own thing. Uh, they've C.R.A.S.H. in the past, or they worked over there in the past. And, you

know, they do their thing, uh, you know. But nothing specific.

Q Okay. All right. Let's go on with the issues that you've got to cover.

Q BY SGT. PAILET: Okay. What I'm going to go ahead and do now is -- this is going to be a, uh, starting a separate tape. Okay. This is going to be a tape-recorded, uh, interview of H.R.D. Investigation, uh, the number is pending. Today's date is October 1st, 1999. Time is going to be 1055 hours. Location of this interview is 1 Gateway Plaza.

Present for the interview is, uh, Rafael Perez. The interview is being recorded on Tape No. 21885, Side A, uh, and is being conducted by Sgt. Jeff Paillet, Serial 23307. And Sgt. John Cook, Serial No. 25353.

Also present, uh, for this interview is District Attorney Richard Rosenthal. Rafael Perez is being represented by his attorney Winston Kevin McKesson. And Los Angeles District Attorney Stenographer/Reporter Sara Mahan is also present during this interview.

Okay. Rafael Perez, just, uh, prior to the interview, I gave you an arrest report and a crime report to review. Those report numbers -- uh, D.R. number 97-02-22891, reflects, uh, an individual by the name of Jose Perez, who you arrested. And also it's a domestic, uh --

A Jose Perez? Or Jesus Ortiz.

Q Oh, I'm sorry.

A Is there a Perez?

Q Right here it's going to be. Yeah. Jose. Jose Ortiz. Did I say Perez?

A Yeah.

Q I'm sorry. Jose. Jose Ortiz. Uh, did you have adequate time to review those reports?

A Yes, sir.

Q Okay. I also gave you a report -- uh, arrest report that is completed, 97-02-23201. Have you had time to review that also?

A Yes, sir.

Q Okay. Great. Uhm, the reason I'm asking about these reports is this individual, Jose Ortiz, is alleging that, uh, you illegally arrested him, uh, for Spousal Abuse and you illegally searched his vehicle, okay, at the time of arrest.

Uhm, so, my first question to you is, in reviewing that arrest report, uh, did you arrest -- did you arrest Jose Ortiz?

A Yes, I did.

Q Okay. And did you or your partner subsequently fill out -- complete that crime report?

A My partner wrote the report.

Q Okay. Did you review the report?

A Yes, I did.

Q Okay. Is that report accurate?

A Yes, it is.

Q Okay. Uhm, on that date in question, according to

the report, the suspect's wife, Fannie Ortiz, telephoned you at the Rampart F.E.S. office?

A Yes.

Q Okay. And, uh, when you spoke to her, she advised you that she had been a victim of a spousal abuse incident?

A Yes, sir.

Q Okay. And, uh, you then -- did you go in and review a report and find out there was indeed a -- a crime report listing her as a victim?

A Yes, there was.

Q Okay. And, at that time, did you then, uh, -- uh, page the defendant and have him respond to the station?

A Yes, sir.

Q Okay. And, uh, you had met the defendant on a prior occasion; correct?

A Yes, I did.

Q Okay. And when was the first time you met the defendant, Jose Ortiz?

A I met him on June 25th, 1997 at 808 North Benton Way at the site of an arrest that we were conducting.

Q Right. And was that the arrest that was basically on -- the people that you arrested was Marisa Mancinas, and the other individual is Israel Jaramillo?

A Jaramillo.

Q Jaramillo.

A And Juan Jaramillo.

Q Juan Jaramillo.

MR. ROSENTHAL: Well, why don't you spell that for the reporter?

SGT. PAILET: Jaramillo, J-a-r-a-m-i-l-l-o. Uh, first of Israel, I-s-r-a-e-l. And, uh, Mancinas, M-a-n-c-i-n-a-s. First of Marisa, M-a-r-i-s-a.

Now, on that, directing your attention to this arrest, uh, involving Marisa and, uh, Israel, uhm, that's when you first met the defendant Jose Ortiz; correct?

A Yes, sir.

Q BY SGT. PAILET: Okay. And how did you -- was Jose Ortiz inside the residence when you, uh, made that initial arrest of Israel and Marisa?

A Uh, no. Uh, while we were at the location, uh, serving a search warrant, he, uh, showed up and, uh, relayed to us that he was actually dating the female that was in the house, uh, and wanted to know if there was anything he could do. I think he represented himself as a bail bondsman or something like that.

And, uh, we told him, uh, "No, uh, you know, she's going to be arrested. She's going to be at Rampart. You can find her there later." Or something like that. And he left.

Q Okay. Did he give you his pager number?

A I believe he did. He said, "You know, uhm, here's my pager number." You know, I do remember him saying something about, uhm, that maybe he can help us out on some other case,

or something like that. You know, if he can help her out, or something like that. Uh, so, he gave me his pager number. But, we still left, and we still booked her and everything.

Q Okay. Is this the individual, uh, that you gave, uh, Marisa's baby to and asked if he could take, uh, Marisa's baby to her parent's loc- -- her parent's residence?

A Maybe. I believe so. I think so.

Q Okay. You're not a hundred percent positive? But you think you might have done that?

A I'm not a hundred percent positive. But I think we did give -- we might have given him the child. I think she said it was okay to give him the child.

Q To give him the child?

A I believe so.

Q Okay. Okay. Uhm, and that was all your contact you had initially with Ortiz on that one day; correct?

A That's about it.

Q Okay. So, it wasn't until, uh, -- and that was on June 25th, of '97. So, then on June 30th, of '97, the day that you arrest him, you initially received a phone call from his wife who tells you about this. You verify there is a crime report. And did you page him then?

A I believe after I talked to her, uh, yeah, I, uh -- I paged him.

Q Okay.

A To the station.



Q And had him come to the station?

A Yes, sir.

Q Okay. And then, uh, what happened when he came to the station?

Q BY MR. ROSENTHAL: Well, let me just ask. Why would she have called -- why would she have called you? You're a narcotics officer.

A Right. We -- what happened was we left a message. We had found the arrest or the original crime report. And I believe Durden had called, actually, and had left a message to call us. And I think she called us later. I think we might have called. How did we call? I don't know if it was the same day and she called later that afternoon, or -- but I know we called. And she called back and we talked to her.

In fact, we met with -- we met with her later on too.

Q Later on that day after you arrested her husband?

A Right. Later on that day. Right. We had her come down just to verify everything. And we met with her and talked to her.

Q Let me ask you. When he says -- let me see. She says she telephoned you because her husband was claiming, uh -- she -- she was asking you if her husband was having an affair with this Marisa Mancinas? Do you recall that?

A You know what? I think I do recall something like that. I think I do.

Q And she says that you advised her, yes, he is. That you acted surprised that discovered that she was married -- or that he was married and said, "Oh, his girlfriend is this girl Marisa." Do you recall that?

A I might have said that. But, now, that was -- that's before I found out --

Q Before you arrest him?

A Before I arrest him?

Q Right.

A And this is before I find out that he was --

Q No, then you find -- then, she tells you that she was a victim of domestic violence.

A Oh. Then, it's possible.

Q Okay.

A Yeah.

Q So, in some way, you basically confirmed that there is a crime report, you page him, --

A Mmnh-mmnh.

Q -- you have him come to the station?

A Yes.

Q And do you recall the reason why you were having him come to the station?

A Because she had told us that, uh, while they were fighting, when he left, he took her Berretta. Her 92 .9 millimeter Berretta. And he's not supposed to be having it because I think she had said something about that he had been

arrested or something like that. Or he's not supposed to have a gun, or something like that.

That's what she was saying. And I think we verified that. Uh, we ran him in the computer and he had been arrested for a felony before.

Q Right.

A Yeah.

Q That's what it indicates in the crime report.

A Right.

Q So, was it your intention to have him come to the station to place him under arrest?

A To have him, uh, -- place him under arrest for the spousal, uh, abuse, and also see if he was carrying the weapon.

Q Okay. So, uh, Jose Ortiz comes to the station; correct?

A Yes.

Q Okay. Uhm, do you see him pull up?

A Uh, no.

Q I understand. Okay.

A Uh, somebody came to the -- uh -- uh, what happened? I believe he had -- Durden knew -- or knew somebody else standing out there. And they said, "He's here." And that's when I walked out there and -- and we were waiting on him to get out of the car.

Q Okay. Uhm, and then, what -- what happens next?

A He walks -- he parks on the east side of Rampart

Station.

Q On Benton Way?

A On Benton Way, yeah. And he walks over, uh, to the driveway entrance to the garage -- parking garage there.

Q Okay.

A Uh, we detain him. Uh, I think I asked him did, uh, -- did he have any, uh -- any weapons on him? He said no, but he said he had his, uh, -- he had his gun. In fact, he called it his, uh, 92F Berretta under the seat.

Q Okay.

A I went over to the -- to the vehicle and recovered the gun. It was fully loaded.

Q BY MR. ROSENTHAL: Is this the same gun that's planted on Miguel Hernandez?

A No. No. Just happens to be a 92F.

Q BY SGT. COOK: Okay. Did he give you consent to search, or --

A Yes, he did.

Q Okay.

A And he even told me where the gun was.

Q BY SGT. PAILET: Okay. Uhm, then, you subsequently arrested him for the spousal abuse and for carrying a concealed weapon; correct?

A Yes, sir.

Q Uhm, real quick, in -- in the report, there is a statement where it says, uh --

MR. MCKESSON: What page?

SGT. PAILET: It's going to be Page, uh -- Page 1 of the narrative.

THE WITNESS: Okay.

Q BY SGT. PAILET: Okay. Where it's just under "Observations." This is going to be starting the third line. Officers observed the defendant park his vehicle on the east/west street as defendant exited. Uh, and you're saying you didn't actually see him. Was that Durden that saw him, or --

A Durden and New, I believe it was.

Q Durden and New saw him?

A They were standing there by the driveway. Because we -- we were expecting him. So, that, you know, I was standing there, on and off. I would go back in the trailer. Back -- back and forth.

But, uh, I saw him walking from the vehicle over to where we were.

Q Okay. So, either Durden or New made the initial observation of him pulling up?

A Yes, sir.

Q Okay. So, the initial, basically, this report was accurate -- is an accurate reflection. And, uh, there was no, uh -- you didn't -- you didn't plant this gun on him or load the gun?

A No, not at all.

Q The statements that Fannie Ortiz made to you regarding her domestic violence, uh, are accurate?

A Yes.

Q Okay.

A Yes. Which we verified it through the --

Q Through the initial crime report?

A Crime report, yeah. We went and pulled the copy of it.

Q Okay. That's it. I'm gonna go ahead and -- John, can you think of anything?

SGT. COOK: No.

Q BY SGT. PAILET: No? Is there anything else I need to know about this?

A About that report?

Q Basically, the -- the allegations that this individual is making is that he was illegally arrested, that you falsely testified in court. Do you recall testifying in this, uh, case?

A Vaguely. Yeah, I remember going to court. I think did he bail out or something? Was he out of custody?

Q Yes, I believe he was out of custody.

A I vaguely remember something. But did it go to trial? Actually go to trial?

Q Uh, yes, it did.

A It did?

Q He was convicted.

A Vaguely I remember. I mean, the -- you know, I -- I, obviously, I would say if, you know if something was done wrong here. And there was -- there was nothing. Which is probably why Durden decided to write it. Uh, it was absolutely nothing --

Q Nothing the matter with this case?

A Nothing. I mean, it was --

Q Okay.

A I mean, we normally don't get involved, Number 1, in spousal battery.

Q Right.

A And it -- it just so happens, that, you know, he was there and we knew he had a gun, so, we just paged him up. And he showed up.

Q Okay.

A And he had the gun with him, or in the car.

Q Okay. Great. Okay. Uhm, if that's it, we'll go ahead and conclude on this investigation. The time is going to be, uh, 1105 hours.

(Off the record at 11:05 a.m.)

(Back on the record at 11:06 a.m.)

MR. ROSENTHAL: It's 11:06. We're back on the record.

SGT. PAILET: Okay. This is going to be a tape-recorded interview of H.R.D. Investigation No. 98-3981. Today's date is October 1st, 1999. Time is going to be 1110 hours. Location of this interview is One Gateway Plaza. Present in the

interview is Rafael Perez. The interview is being recorded on Tape No. 218886, Side A.

Being conducted by Sgt. Jeff Paillet, Serial 23307; and Sgt. John Cook, Serial No. 21353. Also, uh, present, uh, is Sgt. Mark Thompson, Serial No. 23251; uh, Detective, uh, Stan Nalywaiko, Serial No. 21100; District Attorney Richard Rosenthal.

Uh, Rafael Perez is being represented by his attorney Winston Kevin McKesson. And, uh, Sara Mahan, the stenographer, uh, reporter is also present from Los Angeles County District Attorney's Office.

Q Okay. Officer Perez, just, uh, prior to the interview, I gave you another arrest report to review. That arrest report being No. 96-02-32730. Uh, have you had adequate time to review that report?

A Yes.

Q Okay. Uhm, the reason I've, uh, given you that report, this individual is making allegations that he was falsely arrested by you. And that, uh, you had prepared a false, uh, police report and you searched his car without his consent, and illegally -- or -- and he's alleging that his gun was -- that was recovered in this arrest was actually unloaded and then, you loaded it and subsequently arrest him for that.

So, my first question to you, in reviewing that report, is that an accurate report?

A I remember this vaguely. Uhm, I remember you telling



me that the guy said that I put the gun, or put the magazine in the chamber, racked a round, and said, "It is now," or "It's loaded now." Or something like that.

Q Uhm, right. He makes a -- he makes an allegation.

A Okay. That didn't happen.

Q Okay.

A That's incorrect. Uhm, the fact that he said he told me that he had a gun in his car is correct, in this report. Uh, when he said go ahead, sure, uh, 'cause he told me that he had a gun, uh, in the trunk.

Q Okay. So, he advised you of the gun and he gave you consent to search?

A Yes.

Q Okay.

A That is also correct. What I'm having a problem remembering exactly was, I remember there being like a -- like maybe a camera bag or something.

Q Okay. He says there was a -- the gun was in a black bag.

A In a black bag or something?

Q Right.

A I remember that the gun was in there. What I don't recall -- and I'm not a hundred percent sure of, is whether it was loaded or not.

What I do know was that if it wasn't loaded, and I really have to think on this. I've been thinking about it since

when you asked me the first time. If -- and I'm really having a hard time remembering this.

Q Mmh-mmnh.

A But it's the -- if the gun was not loaded, the magazine was right in the same pouch with it. Because we -- in fact, everything was found in that bag. In the bag that --

Q Right.

A -- the gun was in. Uhm, but now, I'm not too sure. Now I can't remember whether it was actually loaded or not.

Q Is this individual a gang member?

A No. Well, he was hanging out with a bunch of gang members. Uh, he's been stopped a couple of times already. Uh, he had been stopped a couple of times by other officers carrying the same gun, uh, hanging out with gang members.

Q When you recovered the gun, was anyone standing with you? Do you recall?

A No, I think we testified in court, though, that maybe Officer Buchanon was there or somebody like that.

Q Okay. Officer Buchanon? Right. You testified that Officer Buchanon was there with you.

A Right. That -- that was not true.

Q Okay. Uhm, --

A I think we said that because --

Q BY MR. ROSENTHAL: That was not true?

A That was not true. I think we -- we -- we added that because the D.A. had called and said, uh, is there anybody else

who can testify that -- that, uh, there was somebody right there when you -- when you found it, or something like that. You know, and I think we just said, "Yeah, uh, I'm sure Buchanon was there." I think he was there later on. But not when I recovered the -- the actual weapon.

Q Not when you recovered the actual weapon?

A Right.

Q Do you recall -- okay, 'cause Buchanon testifies that he was there when you recover this gun.

A That's -- that's a lie.

Q I'm sorry?

A That's a lie.

Q That's a lie?

A Yes.

Q BY MR. ROSENTHAL: It was Officer who? Buchanon?

A Buchanon, right.

Q How do you spell that? Do we have a serial number for that officer?

SGT. PAILET: Yeah, I'll get it for you.

MR. ROSENTHAL: Serial No. 32055.

Q BY SGT. PAILET: All right. Let me ask you this then. Uh, Buchanon was saying -- Buchanon states that he was working with Officer Richardson that day.

A Okay.

Q He says they responded to your stop.

A Mmnh-mmnh.

Q Okay?

A Right.

Q And they arrived at the scene. They parked there. And he approaches. He says he observes you searching the Cadillac, okay, that you had stopped. He walks up. He walks up towards you. And you notify him, "Hey, I've got a gun over here." Do you recall that at all?

A That didn't happen.

Q That did not happen?

A No.

Q Okay.

Q BY MR. ROSENTHAL: Why would you have lied about that?

A The -- if I remember correctly, the D.A. wanted to know if there was anybody else. Because the D.A. -- I think it was an Asian D.A. maybe. An Asian gentleman, wanted somebody else to be able to testify that, you know, they saw me recovering the gun instead of it just being a one-on-one. He wanted to know if there was somebody else. I mean, who else was at the scene. Buchanon. You know. And Buchanon said, "Yeah, sure. I'll testify."

Q BY SGT. PAILET: Okay. So, Buchanon says he looked over and observed you holding this, uh -- a .9 millimeter semi-automatic. He says he observes you removing a magazine from the weapon.

Q Okay.

A That didn't --

Q Did that happen or not happen?

A No.

Q Okay. So, what you're saying, now, okay, whereas before you're saying you're unsure, now, you're saying the gun definitely was not loaded?

A No. I can tell you that definitely Buchanon was not there. If I even pulled a magazine out, he was not there. By the time they showed up, I already had the weapon. Uh, it was already in custody. Uhm, and the more I think about it, I think that the magazine was in -- or the magazine was in the bag. It wasn't in the weapon. But it was in the bag.

Q It was in the bag?

A In other words, it was a small black bag like maybe a camera bag. The weapon was in there, and the magazine was in there, uh, with the ammunition. But it wasn't in the magazine.

Q But it wasn't in the magazine?

A I believe that's correct. But I had already had the gun in custody when they showed up -- when Buchanon and whoever else showed up.

Q All right. So, when you find the gun and the magazine, I'm saying, did you load it yourself?

A No, that -- that never took place. As far as just loading it and chambering a round, or something that didn't happen.

Q Okay. Uhm, does Buchanon ever approach you while you're searching the trunk? Do you recall?

A He was there. He was actually -- he was at the scene.  
But --

Q Did you have any real interaction with him?

A (No audible response.)

Q Uh, you're shaking you head no. Is that no?

A Not -- I'm trying to think. Uh, interaction? I mean, we talked, I mean, a couple of times. Uhm, he might have helped do a couple of F.I.'s. Uh, 'cause there were five people there. He might have help get a couple F.I.'s on some of the guys, uh, that were there. Uh, but that was about it, I mean --

Q Okay.

A -- if you want to call that interaction.

Q When -- when is the first time, uhm, -- let me just -- I'll go over some of the things that this -- the individual who is making the complaints is alleging. Basically he's driving down the street. He has these four gang members in the car. And you guys are driving and cut them off so they can't proceed. Does that sound about accurate?

A I think he was traveling, if I remember correctly the name of that street was on, uh, -- on Burns. But he was just about stopped. And we pulled right in front of him on Burns. He was traveling eastbound.

Q On Burns and Hoover?

A Yeah, 'cause he had some of those gang members sitting up on the car. You know, how you -- it's a convertible. And they were sitting up in the back seat. Instead of sitting on

the seat itself, they were sitting on the, uh, what would come up to --

Q Right.

A You know, so, they were talking and hanging out right there. So we pulled right in front of them.

Q Okay. Then you ordered them out of the vehicle?

A Yes.

Q Okay. And you, basically, had them standing in a line on the sidewalk?

A Yes. That's true.

Q Okay. And then you searched. Uh, these individuals were all searched.

A Yeah. They were patted-down, yeah.

Q Okay. And then, he gave you -- uh, he gave you consent to search the car?

A Yes. Uh, actually, I asked him were there any weapons in the car, or anything like that? Do you mind me looking around?

'Cause actually, I wanted to -- I thought that he was in some kind of trouble. I thought, you know, they told him, hey, you're gonna take us around. You know, drive us around. 'Cause he just didn't fit in with them. I -- it didn't, you know, -- and then, he goes -- 'cause he's like Armenian or --

Q Right.

A -- or something like that. And then I asked him were there any weapons in the car. Uh, and he said, "Oh, I have

one." And he told me that he keeps it for protection 'cause he works at a -- uh, a towing yard place, or auto body place. And he had been robbed once already. And he kept it for protection, and stuff like that. He went on with his little story about the whole thing.

Q Okay. So, then, uh, at that time, you searched the car and you recovered the -- the .9 millimeter gun, correct?

A Right.

Q And it's in the black, uh -- in the black bag?

A Right.

Q Okay. And as you recall, basically, you have the gun there and you have the loaded magazine.

A Mmh-mmnh.

Q But the magazine was not inside the gun?

A That's correct.

Q Okay. Uhm, when you are conducting this search of the trunk, there is no one? To your recollection, there is no one standing around you? No other officers present?

A You know, I really wasn't paying attention to what was going on behind me. When I reached down in the car, or down into the trunk, you know, I don't remember seeing anybody else there, you know, when I recovered the weapon. Because I -- as soon as I took it, I saw and, you know, I put it in my vehicle.

You know, so, I wasn't out, you know, showing it around displaying it. I mean, what was the purpose of that?



I'm pretty sure that I just put it in my car as soon as I recovered it.

Q Okay.

Q BY MR. ROSENTHAL: This guy went to trial, right?

SGT. PAILET: Right. He did.

Q BY MR. ROSENTHAL: And he was acquitted?

SGT. PAILET: He was acquitted.

MR. ROSENTHAL: Was it a felony or a misdemeanor.

SGT. PAILET: It was a misdemeanor.

THE WITNESS: It was a misdemeanor.

Q BY MR. ROSENTHAL: And the charge -- and I haven't done misdemeanors in a long time --

A Mmnh-mmnh.

Q -- but doesn't it require that the gun actually be loaded inside the car?

A Actually, I think the magazine -- doesn't the ammo have to be apart from the gun?

SGT. PAILET: Right.

THE WITNESS: It's still a --

SGT. PAILET: Actually, technically, he still committed the crime.

THE WITNESS: -- misdemeanor. Right.

SGT. PAILET: Yeah.

THE WITNESS: 'Cause the -- the ammo and the gun have to be apart, at least locking distance apart. Where like in the glove box and then the trunk, that's fine. If they're in the

same bag, that's still, uh, 12025.

Q BY SGT. PAILET: That being the case, why -- why did you write that it was loaded, as opposed to just saying -- just writing it the way it was? And -- because, technically, you can still arrest him for that --

A Right.

Q -- that violation.

A I have no idea. I really -- I couldn't even begin to make something up or tell you why, or --

Q Okay.

A I have no idea.

Q Uhm, at what point -- now, initially, you -- there was -- you had went to a first trial. And, uh, it was hung jury. Eleven to one for conviction. Do you recall that?

A I don't know what the -- the numbers were. I know they said that, uh, it was a hung jury. And they were gonna re-try it.

Q Re-try it?

A Mmnh-mmnh.

Q Okay. Do you recall testifying in the first trial?

A Not really.

Q Not really?

A No.

Q Okay. But, at some point, the D.A., before the second trial, -- or the City Attorney says, hey, was there anyone else standing by you?

A The City Attorney finds me -- uh, he finds me in court. I was testifying on another case. Uh, and like I said, I believe he's an Asian, uh, City Attorney. And he wanted to know, is there anybody else that could testify, or something like that, uh, that they were there and saw me recovering the gun, or something like that. And I told him I'd get back with him with a name.

Q Okay. So, then, what did you do? So, you said, I'm gonna get back with you with a name?

A Mmnh-mmnh.

Q And what did you do then?

A Uh, I think that, uh, me and Durden were talking, uh, about it. And then, uh, we were trying to figure out who was there. And we talked to Buchanon. We said, "Hey, listen. We got this trial." In fact, it was only right before it was gonna go back to trial. I remember that. Uh, we talked to Buchanon. And we told him what we needed, as far as him -- what we needed for him to testify to.

And he said, "Sure. Yeah, sure. No problem." He said, "Just let me, uh, let me look at the report again, or whatever. And I'll call the D.A., uh, -- or the City Attorney and let him know."

Q How come Durden didn't just say, I'll do it? Is that why, uh --

A I think because we had talked about him being, uh, -- uh, in control of the suspects. I think he watching the --

the males that were up, uh, on the, uhm, -- on the wall there.

Q Now, when you approach Buchanon, you say, hey, can you do us a favor? And you recall -- and did you -- did you pose it -- now, how did you pose the question to him? Do you recall being in there? What -- do you remember -- do you know I mean? Did you try to --

A Yeah.

Q -- lure him into it --

A No.

Q So, he doesn't remember? And you said, hey, you got to help us out here.

A No, we reminded him of the case. We talked. Remember the guy in the Cadillac, uh, the Armenian-looking guy with the gangsters. Oh, yeah, yeah, yeah, yeah. Just it went to trial, or we're going to trial with it. Uhm, we need you to testify that you saw me, you know, getting the gun out. The same way I'm talking about it right now. That's the same way we talked to him about it.

He goes, "Yeah, sure. No problem." And, uh, he, uhm, -- he wanted the number, or who he had to call -- the City Attorney. Because the City Attorney, I think wanted to talk to him. Uh, he said he wanted to see like the police report or something like that -- uh, the crime report -- or, uh, the arrest report.

Q Buchanon wanted to see it?

A Right.

Q Uh, the arrest report?

A Just to get familiar with it.

Q Okay.

A But the same way I'm saying it now, is the same way I posed it to him, that we needed for him to testify that he actually saw me getting the gun out.

Q Okay.

A The same way.

Q Okay.

A Not, you know, you remember; don't you? You remember, uh -- 'cause he, obviously, wasn't there. So, he --

Q Right.

A -- can't remember. So, it was posed that way.

Q Okay. So, -- and, as you said, when you recovered it, Buchanon -- you don't recall Buchanon being there?

A He wasn't there.

Q Okay. Uhm, do you recall which officers were there, who responded to that, uh, scene?

A There was a couple of other officers there. Uh, but, again, they -- they were maintaining, uh, the -- the five people that were up against the wall. Uh, --

Q So, they were guarding the suspects?

A They were guarding the suspects. I went and recovered it, put it in my car. I think it my trunk. It was no big deal. You know, it was just -- uhm, but there was nobody with me. When I recovered that weapon, nobody was with me. I was by

myself. 'Cause I was the one talking to Hassan. He told me that it's in the trunk. I went straight to the trunk.

In fact, I think somebody else searched the -- the interior. The interior. I think, uh, Durden might have searched the interior afterwards, 'cause I went straight to the trunk. 'Cause he told me, "It's in the trunk." You know, so I just went straight to it.

Q At what point did you -- or actually handcuff Hassan? 'Cause you have the five gang members there -- uh, four gang members and Hassan.

A Mmnh-mmnh.

Q When do you tell Hassan, hey, you're going to jail?

A Right after that, probably. Uhm, I'm -- I'm not sure if I handcuffed him, or Durden handcuffed him, or if somebody handcuffed him, but we told him he was going to jail. Oh, yeah. We told him he was going to jail.

Q Uhm, and the other four gang members were released?

A Yeah.

Q Do you know who those other gang members were?

A I know it was some -- some members that I had arrested in the past. Uh, 'cause I -- I remember there's a little brief, uh, note on there in the report that these guys had been arrested before. Uh, I think -- if you gave me some names, I would know. Right off the top of my head, I can't remember their names. I -- I could see their faces. I know who they are.

Q Do you know a Dagoberto Diaz?

A Dagoberto Diaz, I believe is one of them. Is he, uh, he has a big nose?

Q Yeah. I don't have a photo of him.

A I think he was one of them.

Q Was he one of them?

A Yes.

Q Dagoberto Diaz and then another guy named Scooby. And I can't remember his real name now.

Q BY MR. ROSENTHAL: Dagoberto Diaz. There was a case involving him, an arrest you made. Do you recall that? I don't have the report with me.

A What kind of arrest was it?

Q It would have been a -- it was a dope arrest.

A Oh, yeah, that was a very good, uh, legitimate arrest. It was a dope arrest on -- with me and Graham?

Q I'm sorry?

A Me and Jeff Graham? Officer Graham?

Q Right.

A No, that was exactly the way it happened. Uh, it was written is how it happened.

Q He claims it was a frame-up?

A No. No. That was, uhm, right as, uh -- as Jeff Graham was patting him down, he tries to take off. You know, that -- yeah. No, that was exactly the way it was written.

Q That's -- okay.

A That's how it happened.

Q BY SGT. PAILET: Other than -- now, did Durden know -- did you ever tell Durden, oh, by the way, this gun, uh, was actually unloaded, or -- and I just loaded it up?

A Uh, Durden knew. Uhm, how did I tell him exactly? I don't remember. After that -- I think I might have him told that -- I showed him the bag and -- and I told him, you know, that's what he had in the trunk. Uh, and he saw that it wasn't loaded.

And, uh, I don't remember specifically telling him it was unloaded, or anything like that.

Q What other officer, other than Buchanon, did you tell, or would have knowledge that this gun was actually unloaded and not loaded?

A Other than Durden?

Q Other than Durden. So, yourself, Durden, and Buchanon.

A That's about it.

Q That's it?

A Mmnh-mmnh.

Q Uh, Richardson was Buchanon's partner, would Richardson -- from factual knowledge, would you know if Richardson knows?

A Richardson probably knew, sure.

Q And why would you say that?

A Uhm, Richardson is about as in the loop as you can



get. I mean, he -- you know, he helped create the loop. So, if we told Buchanon, I'm sure Buchanon told Richardson. I mean, 'cause --

Q No, I -- I understand the assumption. But do you have factual knowledge that -- I mean, did you ever see Buchanon actually tell Richardson --

A No.

Q -- or -- okay.

A I did not see --

Q So, you believe that he probably would have told him?

A Yeah.

Q So, just to -- for clarification, basically, the only three people that are gonna know that this gun was actually unloaded is yourself, Nino, and Mike Buchanon?

A Right.

Q And Buchanon knows this --

MR. ROSENTHAL: Wait. Wait. We've got to give space between the questions and answers.

SGT. PAILET: Oh, I'm sorry.

MR. ROSENTHAL: You're not giving the reporter a chance.

MR. MCKESSON: Just let me clear it up, Detective. I think my client has testified he's the only one who actually saw what happened. And so, he, may have told Nino, and told Buchanon.

But, I think the way you phrased it suggested that they actually had personal knowledge by seeing him putting the, uh -- uh, load the gun.

Q BY MR. ROSENTHAL: Mr. Perez, is that a good, uh, --

A That's good. But it's -- it's not exactly correct. The gun was never actually loaded.

Q Right.

A The gun was there. Uh, I think after I recovered it, I showed it to Durden. He saw what was in there. It was a magazine and a gun. Uh, when we write it -- when we wrote it, and we always -- you won't ever find a report in C.R.A.S.H. that said that the gun was unloaded.

Even if you find a gun, they're gonna put bullets in it. Uh, that's -- you will never find a gun that was unloaded. Uh, any arrest, any -- I'm just telling you as honest as I can be. He knows we're gonna say that it was loaded. 'Cause that's just the way we always write it. And there's one in the chamber. That's why you'll notice every report will say, "One round in the chamber. And the magazine was loaded."

That's just the way that we're taught how to write them, you know.

Q Except for Ovando.

A Ovando? Right. There was one in the chamber?

Q There was not one in the chamber.

A There was not one in the chamber? I remember hearing -- reading that or something like that. I don't know why. I don't know if he really did or --

Q You guys forgot?

A I don't know. He had the -- he had it. So, I don't

know what he did with it or didn't do with it. But most of the time, if you think about it, you're gonna have one round in the chamber, and, you know, the magazine loaded.

Q BY SGT. PAILET: And then, Buchanon knows just because you wanted -- you asked him, hey, can you testify that you were present when I found the gun?

A Right. Right. He knows because we told him. We asked him to perjure himself. And, hey, listen, we need you to testify in this case, uh -- uh, regarding the gun. We need you to say that, you know, you found -- you saw me recovering it and it was loaded. I mean, the whole thing was -- uh, you know, that part was a fabrication. We just asked him to testify to it. That's all. And, you know, he did.

Q Okay. And then, the only other thing was that you gave him -- and you did not give him consent, but you stated earlier, you know.

A I knew it was in there. He told me it was in there. He even told me that he had been stopped before and the officer said it was okay.

Q Okay. Uhm, is there anything else, about this case, that I should really know about, that you think would be, uh, relevant for me?

A I think that he had made a complaint that we took him to a -- uh, right after we had arrested him, we had stopped somewhere to get food or something like that?

Q No, he did not.

A Yeah, he did. Uh, I mean, I know he did.

Q That he made a complaint that you had stopped?

A He had made a complaint -- personnel complaint.

Q He made a complaint initially, the day you arrested him.

A Right.

Q And they --

A And he said that we took him to go eat -- get some food. And we said, "No, that didn't happen." Or something like that.

Q No, he just made a complaint that he should not have been arrested.

A No. But part of -- what some of the complaint -- I remember this was a personnel complaint.

Q Right.

A And one of the allegations was that we stopped and got food. And we were listening to music while he was in the car.

Q No, he never -- he never made that complaint. He did?

A Yeah, he did. I --

Q I don't know.

A I don't know if that first complaint got squashed and he made another one, or -- he did. 'Cause they interviewed us on it. And 'cause we testified, no. But it was true. I was gonna say, yeah, we did have music on. And, yeah, we stopped and got a couple of burgers before we went to the station. I

-- I don't know.

I'm just saying.

Q Okay.

A I -- I know that this -- this was a complaint. Because he -- I remember, you know, we were laughing about it, you know, oh, brother. He's gonna complain of us playing music, you know, in the car. And we said, "No, the music was not." But it was on. And we did stop and got burgers, so.

Q Okay. And this is at -- and who interviewed you on the complaint? Do you recall?

A It had to be the -- whoever was working that 181 unit. I think it was Sgt. --

Q Sgt. Roller?

A Sgt. Roller, I believe. Yeah, I was gonna say Roller or Ortiz. One of the two. Roller, I believe. Sgt. Roller.

Q Okay. Okay. That's it. We'll go ahead and conclude this interview. Time is gonna be, uh, 1130 hours.

MR. ROSENTHAL: Let's go off tape for a minute.

(Off the record at 11:30 a.m.)

(Back on the record at 11:38 a.m.)

MR. ROSENTHAL: All right. It's 11:38. We're back on tape.

SGT. PAILET: Okay. This is going to be a tape-recorded interview of R.H.D., uh, Task Force Investigation No. 99-2951. Today's date is October 1st, 1999. Time is gonna be 1140 hours. Location of this interview is One Gateway Plaza.

Present for the interview is Rafael Perez. Interview is being recorded on Tape No. 218888, Side A. Being conducted by, uh, Sgt. Jeff Paillet, 023307, and Sgt. John Cook, Serial No. 25353.

Also present, uh, in the interview is a Detective III, Stan Nalywaiko, Serial No. 21100; and Sgt. Mark Thompson, Serial 23251; a Los Angeles County Deputy District Attorney Richard Rosenthal; and, uh, Rafael Perez is being represented by his attorney, Winston McKesson. And, also present is stenographer/reporter Sara Mahan.

Okay. And just, uh, prior to the interview, uh, Mr. Perez, I gave you an opportunity to review a statement form. And that's a paraphrased statement of a statement that you provided to, uh, R.H.D. Detective Petrosomy, and, uh, F.B.I. Special Agent Katherine Moore.

Uh, and that statement was, uh, taken from you on, uh, December 19th, 1997. Okay. Do you recall making that statement?

A Yes.

Q Okay. And what that statement was is, basically, uh, the F.B.I. and the Los Angeles Police Department was, obviously, conducting an investigation into the Bank of America robbery that occurred on November 6th, 1997, where David Mack was identified as the suspect.

Do you recall that?

A Yes.

Q Okay. David Mack was a close personal friend of yours, correct?

A Yes.

Q And, uh, two days after that bank robbery, the robbery occurring on November 6th, 1997, on November 8th, 1997, you went to Las Vegas, uh, with David Mack; correct?

A Yes.

Q And, uh, who else went to Las Vegas with you?

A Uh, Samuel Martin and Veronica Quesada.

Q And in that statement -- uh, when did you first learn that Mack was arrested? He -- well, he was arrested -- Mack was arrested on December 16th, 1997. When did you first learn that Mack was arrested?

A Was he arrested in the evening?

Q I think he -- I believe he was.

A I -- I found out about that he was arrested when there was gonna be a press release done. And I received a call that David Mack had been arrested.

Q Okay.

A But I found -- you know what? I found out in the morning. He was arrested, I believe, that evening.

Q Okay.

A The day before. I found out the next day in the morning.

Q Who called you and told you he had been arrested?

A Uhm, Mike Montoya's wife. Her name -- Renee Montoya.

She's a police officer. I guess, she was working down there. And was in charge. She had told my wife. And my wife called me and told me.

Q Okay. So, did Renee actually call you? Or did, uh, your wife call you?

A No, I was trying to -- to tell you how it -- she told my wife. And my wife called me and told me about it.

Q So, your wife called you?

A (No audible response.)

Q So, who, if anyone, did you call?

A Uhm, I believe I called -- I might have called Detectives to call -- to talk to Sam, if he already knew it. He said he'd talk to me a little later when he got in. But, I guess, everybody already know. And it was already on the news. 'Cause I didn't -- I didn't get up very early in the morning, other than my wife called. But I guess it was already in the news or something. But he already knew. He was already aware.

Q Okay. Sam was already aware?

A Yes.

Q Okay. So, what did, uhm, -- now, did you, uh -- you and Sam meet later on that day?

A Yes, we did.

Q And where did you meet at?

A We went to a cigar bar up in Glendale on Brand Boulevard. In Glendale.

Q Do you recall the name of that -- that cigar bar?



A Cigar One or Cigar Smoke, or some- -- something like that. I can't remember the exact name of it.

Q Was it called maybe Smoke?

A Maybe it was Smoke. It was something like that.

Q Now, this is a private cigar club; correct?

A Yes.

Q And you were a member of this club?

A Yes.

Q And so was Sam Martin?

A Yes.

Q And so was David Mack?

A Yes.

Q You all three joined about the same time?

A The same day, I believe.

Q Okay.

A I believe it was the same day.

Q Uh, and you all paid cash for your membership?

A No, I paid, uh, mine and Sam Martin's with a credit card. And then, he paid me back.

Q He paid you back?

A Yeah.

Q Okay. So, that day, uh, you met -- you and Sam meet. That's, uh, -- let's see, if he's arrested the 16th, so, you met on the 17th?

A 17th in the evening, yes.

Q Okay. And then what did you guys discuss on the 17th?

A Uh, we were just shocked. We couldn't believe it. I mean, we were just, you know, discussing it. We never had any clue of any financial problems, any -- I mean, we just never -- we never saw it coming. I mean, we just -- it was incredible to believe that he had robbed a bank.

Q Now, you were notified that H.R.D. was gonna interview you; correct? Or did Sam tell you that H.R.D. was going to interview him?

A I'm not sure how it came up. But, maybe it was something like that that they had called and said they wanted to talk to him, and talk to me. And something like that. I didn't get like a formal call saying, hey, we want to interview or anything. I think they said that they were come down and talk to us at Detectives.

Q Now, who told you that?

A I really don't remember.

Q You don't know?

A No. I know they were supposed to talk to us one day and they didn't show up. And then they came another day, if I remember correctly.

Q What, uh -- now, you -- when you were interviewed on the 19th, uhm, you were asked who went to Las Vegas; correct?

A Yes.

Q Okay. And you told them that yourself, uh, David Mack, and, uh, Sammy Martin.

A Right.

Q And you didn't mention Veronica Quesada.

A I did not.

Q Why didn't -- why didn't you mention her?

A Uh -- uhm, probably because I didn't want somehow, you know, my wife to find out that I had taken a female to, uh, Las Vegas.

Q That was the only reason?

A That was the primary reason, yeah.

Q What were the other reasons?

Q BY MR. ROSENTHAL: You had already gotten leniency for Quesada by that time?

A Right. I -- but, I mean, that was really -- I think my main concern was, you know, somehow, this coming out that we went to Vegas a couple of days after this bank robbery, and I took a female with me. That was -- that was my only really concern. I wasn't really, you know, trying to hide that I was holding a leniency -- or I had helped her with leniency or anything like that. I mean, I guess, in the back of my mind, it might have been a concern. But my concern was my wife finding out that I had taken a female to Las Vegas.

Q Did you ever tell Mack or Martin that Quesada had a record?

A No. They had no idea who -- who she was. All they know is she was a -- a female that I was seeing.

Q BY MR. MCKESSON: Could she speak English?

A No.

Q BY MR. ROSENTHAL: When did -- when you and, uh, Sam met on the 17th, what did you guys discuss about when the Las Vegas trip would come up, and, uh, Quesada would be mentioned? What did you discuss about that?

A On the 19th?

Q I'm sorry. On the 17th when you met at the cigar club.

A Oh, we didn't -- I don't think. We didn't know we were gonna get interviewed or anything like that. I don't think we even discussed that. I think what we discussed was that we couldn't believe that he -- you know, that he had done it. We were sitting there pretty quiet. Actually, we sat there kind of quiet for a long time. It was quiet in there. It was pretty empty. We were just trying to figure it out.

But we really didn't say, uhm, when they come and interview us, let's say this or that. 'Cause I don't -- you know, at that point, that was the same day. And we weren't thinking about an interview.

Q BY SGT. PAILET: You didn't agree -- uh, because I believe you said earlier that you had agreed not to discuss or bring up Quesada's presence if you were asked by the H.R.D. investigators? You had made an agreement not to discuss that?

A But you're asking me on the day that he was arrested.

Q No, I'm saying the following day. On the 17th, the day that you meet --

A Right. We didn't discuss that then. We discussed

it, at some point, later. But the day -- in other words, he was arrested that evening. That next day, when we found out, the same day, we went to, uh, --

Q BY MR. ROSENTHAL: Smoke?

A Right. We didn't discuss, hey, uh, if they ask, uhm, -- uh, only me, you, and him went. 'Cause we really weren't thinking -- I know, at some point, we talked about it. I don't think it was that same day.

Q BY SGT. PAILET: When did you -- when did you talk about it? Because Sammy Martin is interviewed the following day.

A The following day --

Q Uh, December 18th.

A On -- on, uh, by Robbery-Homicide?

Q By Robbery-Homicide.

MR. ROSENTHAL: Let's slow down for a second.

THE WITNESS: I'm sorry. I'm a little confused.

Q BY SGT. PAILET: Okay.

A He was --

Q I'll give a time line.

A When was David Mack arrested?

Q Mack was arrested December 16th.

A I see.

Q You say you learned about the arrest the following morning.

A Right.

Q December 17th.

A Right.

Q That evening, you and Martin meet --

A Mmnh-mmnh.

Q -- to go to the cigar club.

A Right.

Q Okay. Martin is interviewed the next day, December 18th.

A Okay.

Q And you're interviewed the following day.

A Right.

Q December 19th.

A Uh, then it probably would have been the day before I was interviewed.

Q The day before you were interviewed?

A Right.

Q Okay. So, --

A 'Cause I think what happened was I think he had already been interviewed, as a matter of fact, and I had asked him did he mention the girl. And -- and he had said no. So, I said, "Okay." I think it was something like that. We definitely didn't discuss it that night. I don't -- that wasn't in our mind. Or it wasn't in my mind.

Q When did you discuss it then?

A I think it was the following day.

Q Okay.

A After -- so, he had interviewed the day before I did, or something?

Q That's correct.

A Okay. Then, it was probably after he got interviewed and that he told me what they were asking and stuff like that. Uh --

Q So, he -- he told you what questions the detectives were asking?

A Well, not what questions. They just asked him, you know, how long you'd known him. Was he a ladies man or something like that they had asked. And, you know, general -- general stuff like that. And then, he had asked -- or he said that they had asked, "Well, who went?" And that he didn't mention the girl.

Q And why did he not mention the girl?

A I don't know. But if -- if he didn't want to mention it, 'cause see that after he was already interviewed. I'm sure I would have said, yeah, don't. 'Cause it would have been from me. You know what I mean? I haven't told him don't mention it. But he had no idea who she was. Uhm, but, I think he didn't mention it before I even talked to him about it.

'Cause I -- I definitely didn't realize that they were gonna be interviewing us the next day. I think Martin must have gotten interviewed, and they said they were gonna interview me tomorrow or something like that. That's how I found out, after he got interviewed, I believe, that, uh, I was

gonna be interviewed, or something like that.

Q Okay. So, when he tells you -- you ask him, hey, I didn't mention the girl.

A He tells me that.

Q Right.

A Right.

Q But what did you say?

A I said, "Okay. That's good."

Q Okay.

A Something like that. Uh, I'm assuming that's what I said.

Q Okay.

A Yeah.

Q Uhm, and you guys go and visit David Mack in jail in Montebello on the 21st --

A Okay.

Q -- of December.

A Mmnh-mmnh.

Q What, if anything, do you ask him then?

A David Mack?

Q Yeah. Did you ask David Mack if he had talked to this police, or if he'd made a statement?

A No. I think he had told us that -- I'm not sure if it was that day. I think it was that day. He said that R.H.D. had come there to interview him or something. And he told them to get out here, or something like that. He wasn't gonna talk



to them.

But we didn't discuss -- uh, I don't think he had -- I don't think he had talked to anybody, at that point. I don't believe so.

Q Did you talk about Las Vegas?

A No. We didn't talk about Vegas. Nothing as far as anything that happened in Vegas, nothing really -- in fact, while we were in Vegas, I lost them. They were doing their own thing. And I was with Quesada the entire time.

So, I mean, Vegas was not a topic of conversation.

Q You didn't, uh, -- you didn't confirm that he had not mentioned Quesada on the Vegas trip, when you went there and talked to him in jail?

A Not really. Did I ask him if he had mentioned it? Well, he hadn't been interviewed, at that point. So, how could he have mentioned it?

Q Well, you were asking to find out.

A Oh, if -- if he gets interviewed, don't mention it?

Q That's right.

A Did I ask him not to mention it? I don't know. It's possible I might have. I don't remember, though. But it's possible. I mean, I --

Q Well, these are things you'd kind of -- you'd kind of remember. I mean, obviously, --

A Well --

Q -- A,

MR. MCKESSON: Well, I think that's -- that's a bit argumentative.

THE WITNESS: Well, no, I'm -- I'm telling you. I'm telling you as -- as I am standing here on everything else, I would absolutely tell you if I definitely told him, hey, don't mention Quesada. It sounds probable. It really does. I don't remember whether I told him or not.

But it's -- I mean, believe me. I have no reason to -- to hold that back. I, uhm, -- did I ask him, hey, don't mention Quesada? I don't remember. But if I did, -- I mean, there's a good chance I probably did. Because, obviously, I didn't want my wife finding out about this, -- you know, this person.

But do I remember actually asking him that? I really -- 'cause, I mean, we were talking through a glass, you know, interview booth. And I doubt we were talking about anything about the case or anything like that. Uhm, but it's possible. I mean, I'm really -- I promise you I'm not trying to hold that back.

If I did ask him -- if he said I asked him, then it's probably true then. And if Mack says that I asked him not to mention Quesada, then that's probably true. But I cannot -- if you ask me can I remember that exactly, I really can't. I'm sorry.

Q But when you and Martin discussed Quesada, okay --

A Mmnh-mmnh.

Q -- at what point did you guys inform -- decide, hey, we're not gonna mention her in the Las Vegas trip?

A After -- after he had interviewed already. After he had got --

Q After Martin had been interviewed?

A Right. On the -- 'cause he had told me that they had asked about -- I don't think the Vegas trip for us was like an issue. You know what I mean.

Q Okay.

A All we knew was David got arrested for bank robbery. Las Vegas was not an issue. After they talked to him, they had asked him about this Vegas trip. We didn't even know that they knew about a Vegas trip. I mean, it wasn't something that we were discussing.

After he got interviewed, uh, he told me they asked who went. And he just said the three of us.

Q Okay.

A And Mack --

Q When you're saying "he" you're saying Martin?

A Sam Martin.

Q Sam Martin --

A Sam Martin.

Q -- told you they asked about the Las Vegas trip?

A Right. Right.

Q Okay. And he -- and he didn't disclose, like you say, he did not mention her. And so you said, "Good."

A Right.

Q Did you say, "Good. Don't mention her?" Or --

A My exact words, I really -- I'm sure I said something like, yeah, good. That's good, you know. Leave her out of it. Or something like that. I -- I can't tell you what my exact words were. But I'm sure, I -- I was saying something like, yeah, I don't want nobody knowing about her, or something like that.

Q What did Sam Martin tell you when he was gonna be re-interviewed the second time about David Mack?

A I'm not even sure that I knew he was -- he got re-interviewed a second time.

Q Well, he says he talked to you about it after the interview.

A On the same day? Or --

Q No, he was interviewed on the -- re-interviewed on the 22nd.

A I really -- I wasn't interviewed?

Q No. You were interviewed on the 19th.

A What did he tell me about it? He might have told me, you know, certain things they asked him. But I really can't --

Q Did he say whether he mentioned Quesada?

A I don't remember. Uh, I really don't remember if he mentioned Quesada again or not. I don't --

Q But he knew on the 19th that you didn't want her

mentioned?

A After he got interviewed the first time, yeah, I think I said, that, "Yeah, that's good. You know, I'm not gonna say anything about her either." Or something like that.

Q Mmnh-mmnh.

A Yeah.

Q When did Sam first meet Quesada?

A When did we go to Vegas? Wa that November? Middle of November?

Q November 6.

A November 6?

Q I'm sorry. No, November 8th.

A November 8th? So, he probably met her I'll say a couple of weeks before that.

Q And where did he meet her at?

A I believe -- I believe at the cigar place. At the, uh, cigar bar. I'm sorry. I'm trying to remember it correctly.

Yeah, I think it had to be at the cigar bar. That cigar place there.

Q Mmnh-mmnh.

A I think I was there one day and he met us there. And I was there with her. Maybe a couple of weeks before that.

Q When was, uh -- initially, it was you, Martin, and Mack that were going to go to Vegas.

A No.

Q Okay.

A Initially, it was gonna be me and Sam Martin. And I was gonna bring a female. And he was gonna bring a female.

Q Right.

A At the last minute, I guess, the female that he was gonna bring said she couldn't go or something. So, at the last minute -- in fact, when we went to Vegas, I didn't even realize that David Mack was going. When he showed up, I'm like, "What are you doing here?" And he was going to Vegas. I guess, the day before he said, "I'll go."

And, uh, so I saw him that morning when we were leaving from Rampart station. That's the first I knew that he was going. But it was supposed to be the four -- four of us. Two males and two females. But Sam Martin's girlfriend, or female, couldn't go.

Q Was this the girl that lives in the Valley?

A I couldn't tell you which one it was that was going now. Any one of a number of them. But, uhm, I imagine the one up in the Valley.

Q So, he knew -- Sam Martin knew all along that Quesada was gonna go to Las Vegas with you?

A Uhm, he knows I was gonna bring a female. I don't think -- I don't know. I'm not sure if he knew which one. 'Cause I'm not sure if I knew which one he was gonna take. It was one of those things, well, you know, I'm gonna invite a female.

In fact, at first, -- at first, we had talked about

just having those females meet us over there. And, so, -- you know, as a matter of fact, we were, 'cause, uhm, there was two other females that were gonna go -- that we were gonna invite. But one could go and the other one couldn't. And they were friends.

So, we said, well, we're not just gonna invite one of them. So, we didn't invite them. And I think I ended up just asking Quesada to go.

Q Okay. And, so, then, you brought Quesada there. And he was supposed to bring the other girl. I mean, when did you -- when --

A The day -- the day -- that day of. I thought he was bringing a female. And he said, "Man, she had problems. She couldn't go." And -- and Mack showed up. So, uh, I realized like, okay, you know, you know, we're gonna be sitting in the back seat. You know, she's gonna be like the third wheel here.

So -- but, yeah, that day -- the morning of that we were leaving, I found out that the female's not going, and that Mack was going.

Q Okay. So, realistically, it wasn't that you, Mack, and Martin were all planning to go on this trip? It was --

A No.

Q It was you and a female, --

A It was --

Q -- Martin and a female, was the way it was planned. And this is just the way it worked out with Mack tagging along

and Martin's girlfriend bailing out?

A Right. Yeah.

Q Uhm, now, did you, uh -- were you with Mack when he purchased that watch over there at Ceasar's, uh, Palace?

A No.

Q No, you weren't?

A Nope.

Q Did Sam tell you about it?

A I think -- I think we talked about it on our way back. He had mentioned, uh, a watch. He -- I think Mack was describing it to me, uh, a silver watch or something that he bought. But he didn't take it with him. 'Cause he didn't show it to me. I think they had to mail it to him, or something.

Q Right. They had to mail the watch to him.

A Yeah. 'Cause he didn't show me the actual watch. Uh, he had told me -- he had told me about, uhm, a watch that he was buying, or something like that at one of the stores. I don't know which one, though.

Q Was there any reason why you didn't mention that watch purchase when, uh, R.H.D. asked you if he made any unusual purchases?

A I don't even remember them asking me that question. I really don't. But --

Q You don't recall them asking you about his spending habits?

A I think they -- yeah, they had maybe asked me if he



had any financial problems or difficulties. And I -- I don't know of any. I mean, I really don't know. He's my friend. But I don't know if he -- I mean, I don't know if he owed money to somebody, or didn't owe some money. Uh, --

Q Did Martin tell you --

A -- it really -- it really didn't -- I mean, it -- it really wasn't something that really stood out in my mind, hey, oh, by the way, uh, I remember him talking about buying a watch or something like that, or putting a watch on lay-away or something.

Q And this is -- he's telling you as you're driving back to, uh -- back home from Las Vegas?

A Yeah. Yes, sir.

Q Okay. And, again, -- now, you all drove in the same car; right?

A Right.

Q And that was your car, right?

A Right.

Q Uh, how many times did Martin meet Quesada?

A Mmnh, maybe two --

Q Las Vegas and the cigar club?

A Two or three times total.

Q Two or three times total?

A Maybe, yeah. Uhm, let me -- let me think here a little bit. I'll say no more than three times.

Q Did you ever meet Quesada on duty for lunch and Martin

tagged along?

A For lunch?

Q For lunch.

A Gosh, I really don't remember that.

Q No? Okay.

A That we met -- uh, Sam met me and Quesada for lunch?

Q Yeah.

A Did he happen to say where we went, or -- or what we did?

Q You know the Mexican Village over there on Beverly?

A No. Oh, I -- I read that somewhere. That wasn't Quesada.

Q It's not Quesada?

A That -- that -- those were two other totally different females. In fact, was that right around the -- the -- no, I read that somewhere and that you guys thought that that was Quesada. Those are two totally different females.

In fact, I just got introduced -- one of those females, her plate is like big old smile. Sam Martin --

Q Regina? Regina Gutierrez?

A Gina? Yeah. Yeah. Well, she had just introduced me that day to another female. That's not Quesada.

Q That's not Quesada?

A That's not -- that's a whole 'nother female.

Q Okay.

A In fact, they -- in fact, they talked about going to

Vegas. They were the ones that wanted to go to Vegas. Uh, but the one -- and I just got introduced to -- was gonna -- was going the following week. So, she couldn't go.

Q Okay. Uhm, -- and, uh, taken in -- in the search warrant on your locker, this picture was recovered from your property?

A Boxer. Boxer from La Mirada?

Q Boxer. Right. Boxer. Hector Juaregui.

A Mmnh-mmnh.

Q How do you know, uh -- how do you know Boxer?

A Uhm, he's the leader of the La Mirada gang. I believe he's associated, uh, -- he's not a member. But he's associated with, uh, the Eme. I think he's just a soldier right now. They're trying to recruit him in. But he's -- well, by now, I don't know. He may be in by now. But when I knew him, he was a soldier.

Uh, he was heavily into -- into drug trafficking. Uhm, I've met him twice in my life. Once we saw him in Las Vegas. And once, uhm, driving through the neighborhood.

Q Did you stop him on either occasion?

A No. Uhm, well, no, we talked to him the one time in Vegas. I'm not sure if it's the same -- no, it wasn't the same time. We saw him some other time. Me and Martin were in Vegas together. And we saw him. And I saw him. And I said, "Martin, man, doesn't that look like Boxer over there?" And it was him.

And, uh --

Q Is that right?

A Yeah. We kind of walked by him. And we said a few words. And that was about it. And, uh -- but, the other time we saw him in the neighborhood, uh, we didn't stop. Or I don't even think I was -- maybe I was working with Martin. But we didn't stop him.

Q You didn't stop him?

A No.

Q What -- what did you say to him in Las Vegas?

A What did we say? Uh, that was his first time meeting me. He goes, "Oh, so, you're Perez." And he knew Martin already. I guess he's know Martin. Martin grew up in the neighborhood there, or something. Uh, and he goes, "Oh, you're Perez. Yeah, I've heard about you. You know, you're working La Mirada gang."

That's his gang, you know, so. Uhm, and I was like, "Yeah." And we said a couple of a words. And exactly what, I don't know. Uh, mostly him and Sam- -- Sammy were talking about something that I didn't know about. Somebody they knew or something, or how's somebody doing, or something like that.

Uhm, other than that, that was about it. In fact, he was there for a fight. 'Cause he had just said he came back from a fight. And he paid like \$700 to go see the fight, or something like that. I forgot which fight it was, or when -- or when exactly when it was that we were in Vegas.

Q Now, Martin knows him you said from childhood?

A I think, yeah. Martin -- Martin grew up in the La Mirada neighborhood. He grew up right there in that neighborhood right there. Uh, you know, as a child. So, he knows everybody in that neighborhood. He's known these people since they were kids together growing up, you know, going to Marshall together.

So, he knows all these people. Uh, I think he's got a couple brothers.

Q Okay.

A Yeah.

Q Have you ever seen Martin -- uh, what other times have you seen Martin talk with, uh, Boxer?

A That's the only time I've ever seen Martin talk to him.

Q And how long did Martin talk to him for?

A While we were in Vegas?

Q Yeah.

A He talked maybe a total of five, seven minutes, maybe.

Q Didn't you meet him once over, uh -- I think, it's In Cahoots? When it used to be Cahoots in Glendale.

A Meet him?

Q Yeah.

A In Cahoots?

Q Yeah. With Sam.

A No.

Q You never met him?

A This guy?

Q Yeah.

A Never. In Cahoots?

Q Yeah. You used to go there.

A Me?

Q Yeah.

A In Glendale?

Q It might have been a different name. Well, you used to go to Jack's; right?

A I went to Jack's.

Q And, uh, you -- of course, you said Smokes.

A Right.

Q And In Cahoots used to be called --

A A club called Cahoots in, uh -- in Glendale?

Q In Glendale, yeah. It's, uh --

A I didn't even know there was a club called Cahoots in Glendale.

Q Well, what's the club you guys used to go to in Glendale? You'd go with Martin.

A In Glendale? Pasadena maybe?

Q Which one? Which club are you thinking of, and I'll tell you if it's --

A Uh, Moose McGillacutty's in -- in Pasadena?

Q No. Okay. But you're saying you never met him outside of Las Vegas, and the one time driving down the street?

A And I didn't even talk to him then. We didn't even

stop him. The only time I've ever seen this person in -- in person-to-person --

Q Right.

A -- uh, was in, uh, Las Vegas. That one -- whenever that day that was.

Q Okay. Did Martin, uh -- you're good friends with Martin, right?

A Yes.

Q Has he, uh, -- what contact have you had with him since you've been arrested? Either via telephone, uh, letters --

A My total --

Q -- somebody else?

A I'm gonna describe my total contact with David -- or with Sam, uhm, Martin. From the time I got arrested up until maybe two weeks ago, I had never even said hello to him.

Q Mmnh-mmnh.

A I haven't talked to him or nothing. Uh, a couple of weeks ago, my wife, uhm, -- uh, my wife and his wife are very good friends.

Q Okay.

A I think, uh, my wife, uh, was talking to him -- met with him. Uh, and she put me on the phone with him. Uh, well, I -- I said, "He's there?" And then, she's like, "Yeah." And I said -- she goes, "You want to talk to him?" I was like, "Well." And I said, "All right. Fine." And, uh, our total

words -- I'll -- I'll tell you exactly everything that was said.

He said, "Hey, how you doing, man?" I'm like, "I'm all right, man. How you doing? I mean, I'm hanging in there." He said, "Well, you know, keep your head up, man." I'm like, "All right." I said, "How's -- how's the kids?" "Hey, they're doing okay. They're doing good. They're growing up." I'm like, "All right." I -- oh, I told him, uh, Mary called my wife -- 'cause that's why my wife met with him, 'cause his wife had called my wife and asked my wife is her husband cheating on her.

So, my wife wanted to talk to him and tell him, listen, whatever you're doing, you're doing it wrong. Mary's calling me. Uh, and she wants to know if you're cheating. If you are, you better go talk to her.

So, I talked to him. I said, "Listen. Mary's calling my wife wanting to know if you're cheating. You need to talk to your wife. You need to talk to her and then, you know, 'fess up to whatever -- what's going on. And, you know, let her know it's gonna stop, or whatever. Whatever you need to do, you need to talk to her." And that was about it. That was the extent of our conversation since I've been arrested, uh, over almost thirteen and-a-half months. That's our total conversation.

Q Mmnh-mmnh. He hasn't, uh, asked your wife to relay any messages or anything?

A Maybe once or twice. Maybe. And she told me exactly what he said, which is the way he talks. "Tell him to keep his



head up." That's about it.

Q When Martin was -- you know, when you -- there was a while you thought you were being following, correct, before you got arrested?

A Yeah.

Q Or before the search warrant?

A Mmnh-mmnh.

Q And a lot of times you engaged in counter-surveillance driving, right?

A I have no idea what that's about and how they wrote that. I have never done any counter-surveillance, especially on-duty. I have no idea --

Q Never?

A Never. That's just the way I drive. If I was driving erratically, that's just the way I drive. I've never felt like I'm being following on-duty and I'm gonna drive crazy. There was one time, I was working with Officer Arujo. And there was a helicopter up in the air. And everywhere I would go, that helicopter was there.

And I told Arujo, "Check this helicopter out. Watch this." So, I would drive, (Sound effect heard.) across one side of the -- you know, the city and park under a building. And the helicopter would (Sound effect heard.). And I don't know if it was your helicopters or not. But, you know, it was there. And I'd drive all the way across the side again, and hide behind the building so to where the helicopter would have

to move over so he could see me, and there it was.

That's the only time that I might have driven a little bit erratically just to see if this helicopter was following me. But I know I've read somewhere that I left the station with Sam and another White officer and I was driving crazy and doing some counter-surveillance. That's not true. That's just happens to be the way I drive.

I mean, I'm not sure where we were going. We were probably going to lunch somewhere. But, uh, we definitely weren't doing any -- I wasn't doing any counter-surveillance.

Q Basically, you read that in a report?

A Yeah, I read that in, uhm, -- maybe it was the -- the log for the, uh, --

Q Surveillance.

A -- surveillance log. The surveillance report log or whatever.

Q BY MR. ROSENTHAL: It may have been in the initial investigative report.

A Right. But there was also like a log.

Q Right.

A Like the Detectives are following me or whatever says, "Driving errat- -- picked up Martin and another White officer, and he was conducting -- conducting some counter-surveillance and driving erratically." Something like that.

Q BY SGT. COOK: That would be consistent --

A Okay. Okay. Consistent with counter-surveillance.

Q Right.

Q BY MR. ROSENTHAL: One question. Prior to the time you were arrested -- so, you weren't arrested until August of '98.

A That's right.

Q Uhm, at any time, prior to that, did you ever talk with Sammy Martin and told him, uh, about Quesada's prior record and that you got leniency for her, and that she dealing dope, or anything like that?

A Prior to I got arrested?

Q Prior to -- because we've already said in November of '97, when you went to Vegas, he did not know Quesada was a dope dealer?

A Right.

Q Would you have told him anything between that date, when you went to Vegas, and the date of your arrest?

A The only thing I think I might have told him -- and I'm not sure if I did or didn't -- was the date of the search warrant, uh, --

Q Mmnh-mmnh.

A -- uh, he met me somewhere, uh, that evening. Uh, 'cause I wasn't sure what I was gonna do -- go home, what's going on. You know, I just didn't know.

So, he met me. And he called my wife. And told my wife, "Listen. He's here." And my wife was kind of upset. Uh, and then finally she said, you know, "Come home. We need

to talk or whatever."

And the next day, I think he, uh -- either I called him or he called me. And he said it was in the newspaper that I had a girlfriend. Uhm, he told me whatever was in the article, or basically. And I'm not sure if I told him, you know who it is. You know, like that's -- that's Quesada. Or that's, uh, -- that's, uh, Quesada. Or what I might have told him. I'm not sure whether I did or didn't.

Uhm, I'm sure, at some point -- well, --

Q BY SGT. PAILET: He says you did.

A I -- I did? Uh, at that point, when we met up?

Q Right.

A Okay. Then that's probably -- the day we met up, or the day the article came out?

Q The day you met.

A Okay.

Q The day -- day you told him that Quesada was involved.

A Okay.

Q Or they think Quesada is, basically, helping you.

A Oh, okay. Yeah.

Q Okay.

A Maybe that's -- maybe it was. Yeah. That evening when we --

Q That was at the Rite Aid, right?

A Well, yeah, it was at the Rite Aid. I, actually, first I was at Pep Boys. But then, he -- I told him, "Meet me

at that Rite Aid on Rodeo and La Brea."

And, uhm, I told him, uh, you know, "They -- they questioned me. They told me that they talked to my girlfriend." Uh, and I think I might have told him, -- I probably told him that it was Quesada they were talking about.

But, prior to that, I had never mentioned anything about Quesada or who she was, or any leniency, or her being arrested, or anything like that before.

Q What exactly did you tell him about Quesada? What did you tell Martin about Quesada that day?

A Uh, I still don't think I told him that I got leniency for her. I don't think, uh, I told him that she had been arrested or anything like that. I think what I told him was that they -- they think that she's my girlfriend and that -- that she's like dealing drugs for me.

Uhm, I think I might have told him that, actually, I had arrested her brother. Or something like that, maybe. But I'm -- I'm pretty sure I didn't tell him anything about, uh, getting leniency or her being arrested in the past, or anything like that.

Q Okay. And he -- he knew who Quesada was, right?

A Yeah. I mean, I told him who -- who she was.

Q Okay. So, he knew this was the girl that went to Las Vegas with you?

A Uh, yeah. Yeah, I believe so.

Q He knew this was the girl that he never told R.H.D.

about, also, just like you did?

A Well, I do. Uh, did he quote -- I mean, did he put it together? I don't know. I mean, this was -- this is what, uhm, ten months later?

Q Right.

A And he had only met her a total of maybe three times. I don't know if he put it together or not. But I'm assuming he did.

Q Again, going back. And I'm just telling you what Sam says. That you guys had discussed on, uh -- before you were interviewed, that, hey, let's not bring up Quesada. Because, as you say, I'm married. I don't want my wife to know.

A Mmnh-mmnh.

Q Do you remember discussing that?

A Like I said before, remember when you first asked me?

Q Mmnh-mmnh.

A If he didn't -- or if we talked about not mentioning her, it was my idea. And -- because, I mean, what does he care?

Q Right.

A You know what I mean? It was me. And I think I didn't even know about me getting interviewed until after he got interviewed. Uh, and I think that I had shown up to work and he said, "Hey, the detectives, or R.H.D. talked to me today, and they're gonna interview you tomorrow." Or something like that. And so, "Well, what do they want to know? What are they asking?" And he had mentioned the Vegas thing. And

he mentioned that he didn't mention the female.

Okay. And like I said, he might have said that to me. I said, "Yeah, you know what? Don't. Yeah, don't mention her. You know, we'll -- we'll leave her out of it." Or something like that.

Q Okay. So, he just tells you -- this is after he said, "Hey, Ray, I didn't -- I didn't mention her." And you're -- you're telling him, "Good. Don't mention her."

A Right. Something like that.

Q Okay.

A Yeah. My exact wording, I mean, I -- I couldn't say my exact wording. I couldn't tell you that. But if he didn't mention it, or if he did mention it later on, it was probably 'cause I told him, "Yeah, fine. Don't mention her. Let's just leave her out of it." Or something like that.

I didn't tell him why don't mention her, or anything like that. But, you know, other than that --

Q But you don't recall him mentioning that he was gonna be getting interviewed again by R.H.D.?

A I -- I don't remember that part. Did he get re-interviewed again?

Q Right.

A I really don't remember that part.

Q Okay. Anything else you want to discuss about that, or --

A No.

Q Okay. Well, that's it. We'll conclude the interview. Time is gonna be, uh, 1215 hours.

MR. ROSENTHAL: Okay. We're off the record for lunch.

(Off the record at 12:15 p.m.)

(Back on the record at 1:20 p.m.)

MR. ROSENTHAL: All right. It's 1:20 p.m. on, uh, Friday, October 1st. Mr. Perez, you're still under oath. Uh, we're going to continue the interviews. What we're gonna do, at this point, is, uhm, according to the notes of Detective Nalywaiko, uh, Mr. Perez identified on September 24th, 1999, some C.R.A.S.H. packages, uh, for additional discussion. And we've pulled the D.A. files and the arrest reports.

And, right now, Mr. Perez is in possession of copies of the arrest reports from the D.A. files. The first one we're going to discuss is, uh, Miguel Hernandez. The arrest of Miguel Hernandez. The D.R. number on Mr. Hernandez is --

THE WITNESS: 96-02-36558.

MR. ROSENTHAL: And the case number is Case No. BA140249. Uh, in this case, Mr. Hernandez was convicted, uh, by plea on November 21st, 1996 and was sentenced to six months in prison.

Q Okay. Why don't you tell us what happened on this case? Or Detective Nalywaiko?

Q BY DET. NALYWAIKO: I just had a couple. Can you give us the arrest date and the arresting officers on that case, Ray?

A On the -- the date of arrest was October 25th, 1996



at 0115 in the morning. Uhm, the location of was arrest was 3rd and Alvarado.

Q And who were the arresting officers?

A The arresting officers were Officer Durden and Officer Perez.

Q Okay. Can you tell us, uh, what happened on the arrest, if that -- is that an accurate report reflecting the activities of the arrest?

A No.

Q What, uh -- what is wrong with that report?

A Uh, the whole story is fabricated.

Q Okay. The entire story on that report?

A Other than where we got the booking recommendation from, and the fact that we booked him. Uhm, --

Q BY MR. ROSENTHAL: Who -- who wrote the report?

A Officer Durden did.

Q And, so, his name is on the top line. And yours is on the bottom?

A Yes, sir.

Q BY DET. NALYWAIKO: Okay. Why don't you tell me what happened?

A Uhm, what I'll do is, I -- I can -- you want me to say what was written on the report, basically. And I'll give you what actually happened, if you want.

Q If you could. Yeah, you can summarize it and then -

-

A Right.

Q -- and then --

A Uhm, on the report it says that, we were traveling eastbound on 3rd Street from Alvarado. And that we observed a male Hispanic, uh, standing at the mouth of the alley on the south side of the street.

Uh, Officer Durden continues to write that, as we continued traveling eastbound, we noticed the, uh, male Hispanic, uh, reaching to his waistband. His rear waistband and produce a, uh, unknown caliber blue steel handgun -- a semi-automatic handgun -- and dropped it to the floor right at the mouth of the alley. And then, that male began to walk eastbound on 3rd Street.

He continues to write that, uh, we took the defendant into custody, without any incident. And then, Mr. Durden -- Officer Durden recovered that handgun and noticed that it had one round in the chamber and fourteen rounds in the magazine. At that time, we -- he writes that we transported the male there to Rampart Station for further investigation.

Uhm, all of that is fabricated.

Q BY MR. ROSENTHAL: Uh, just for -- for our record, Miguel Hernandez was charged with Possession of a Firearm by a Felon with one prior. Uh, Penal Code Section 12021(a)(1). Okay.

Q BY DET. NALYWAIKO: Okay. Ray, do you want to tell us what happened?

A Okay.

Q What actually happened.

A On this particular day, we were end of watch. We were done working. Uhm, we were at Rampart Station, 'cause, uhm, we didn't have a ride, uh, from Rampart Detectives -- uh, somebody to give us a ride back.

Uhm, so, what we had to do was go back from Rampart Station, take our vehicle back to Rampart Detectives. On our way back to Rampart Detectives, from Rampart Station, we observed a male Hispanic, Mr. Miguel Hernandez, standing at the mouth of the alley on Alvarado and, uh, 3rd.

Uh, we had seen him earlier that day. And Officer Durden had told him to get out of there area. Stay out of the area. That he was on parole and didn't want to see him in the area. Uh, I believe an F.I. was done on him. I don't know if the F.I. was turned in or not.

Uhm, as we were on our way back, we observe him there. Uh, Officer Durden says, that's whatchamacallit. That's, uh, whatever his moniker was. I forgot what his moniker was now. But, at that point, we knew his moniker, 'cause we had seen him -- uh, we had seen him earlier -- a few hours earlier.

Uh, Officer Durden, uh, and I agreed, you know what, let's take him. He goes. Uh, we pull over, uh, where he was standing. He cooperated. He put his hands up. Uh, patted him down. Put him in the car.

Officer Durden handcuffed him and put him the car.

And we left. Uh, we left with him and went back to the station. Uhm, the handgun that was, uh, described in this, uh, -- in this report, uh, that didn't occur that way. "There was a handgun that he dropped in his waistband."

He never reached into his waistband. He never dropped a handgun. That gun was placed there, or -- that gun was already in our custody. Uh, Officer Durden had it in his custody for several -- several days. I might even say a couple of weeks. Uhm, if a check of that serial number of that handgun is run again, I believe we had run that serial number already.

That serial number to that particular gun was run prior to that date.

Q Okay.

A Uhm, he had it in his custody for -- I'm not exactly sure how long. But we -- we already had it in our custody. We had recovered it in another narcotics investigation.

Uhm, Officer Durden, for some reason, wanted to take him. And I -- I agreed. Uhm, -- uh, Officer Durden also said, "I'll write it." Because it was already end of watch. And I was like, "It's end of watch, man. We're at end of watch." And he goes, "I'll -- I'll write it all. I'll write it all." So, he wrote the report. He, uh, booked the guy. I believe he even dabised the guy. He did pretty much everything on this case, uh, as far as dabising him, booking him. He just did pretty much everything.

Because I was not -- I didn't want to be working late.

I really didn't want to be there, you know. But, I mean, I agreed to everything. I -- I went along with everything. Uh, but everything that's on here is fabricated. The weapon was already in our custody. Mr. Miguel Hernandez did not have that weapon. We knew that that weapon had been stolen from a L.A.P.D., uh, Sergeant -- from her home, uh, because we had read it in some comments, uh, after -- when you run the weapon.

Q Yes.

A It showed that it was stolen from a L.A.P.D. officer. And I knew the officer.

Q Okay. Who had -- who had the weapon? Did you have the weapon? Or Durden have the weapon?

A Officer Durden had the weapon.

Q And how long had he had it in his possession?

A From the time that we made the arrest, uh, of another narcotics dealer. And I don't know exactly the date on that one. But I think we had it for several days.

Q Do you remember the incident where you confiscated that weapon?

A Yes, sir.

Q What was the incident?

A [ \*\* CI #32 description redacted \*\*\*\*\*  
\*\*\*\* ], I believe, off of Alvarado. Alvarado south of Sunset. One street east of Alvarado. I can't remember the name of the street. [ \*\*\*\*\* CI #32 description redacted \*\*\*\*\*  
\*\*\*\*\* ].

This narcotics dealer shows up to deliver the narcotics. We had some C.R.A.S.H. officers take that narcotics dealer down. And they recovered the narcotics. Uh, they, supposedly, did a cursory search of the person, placed him, uh, in the back seat of our car. They went and picked up our car, drove our car around, placed him in the back seat.

And we were gonna transport him to the station. When we get back to the station -- Rampart Detectives -- uh, as I take him out of the car and I look in my back seat, uh, I recover the weapon. It was 92F. And I remember the bullets were not our type of bullets. They were like silver-tipped bullets. Uh, I remember that.

Q BY MR. ROSENTHAL: Now, you gave -- you talked about this last week. Uhm, have you, by looking through the books, been able to identify who that arrestee was?

A Uh, I think I did find it. Uh, I think I was still looking. I -- I kind of jumped around. But I think it -- it is in there. That -- the arrest, I would think.

Q BY DET NALYWAIKO: Would you possibly have those in the notes you took, uh --

A Uh, I don't think --

Q -- last -- last Friday?

A I don't think. No, I don't have it here. But, I believe it's in the book. I believe it's in the Rampart re- - the Rampart C.R.A.S.H. recap book.

Q Yeah.

A Uh, it was a narcotics arrest of a male Hispanic who was delivering rock cocaine. Older gentleman. About 45, 50.

Q Okay. Do you remember who the arresting officers were of this male Hispanic?

Q BY MR. ROSENTHAL: You confronted them and told them, hey, you guys missed a gun.

A Right. Uh, I can't remember exactly who it was. But, uh, what is was is we were assisting. We were assisting some other officers in this. I had the narcotics expertise. They didn't know exactly how to go about rolling over this person. They called me over. I convinced the person to give up information. This person does. We call out. We help each other out. Uh, but they were the actual arresting officers. And I can't remember who the officers were. I'd have to go through the book and look at the arrest reports.

Q BY DET. NALYWAIKO: Okay. So, the gun was recovered in the vehicle -- in your police vehicle, underneath the seat. What happened at that point, after you recovered the gun?

A Uh, -- uh, I showed it to Durden. And we were talking about it. And I -- we were like, "How in the world?" We were discussing it like, "How in the world did someone forget or didn't find this weapon on this guy?"

Uh, and I believe Durden took it. And he hung on to it. Uh, I don't know. I think he just kept it in his, uh, war bag.

Q When you say you believe, or do you think you know

for sure that he did?

A I'm -- I'm pretty positive that that's -- as far as that's how it went. I mean, that we recovered the gun. Showed it to Durden. We discussed it. Later on that day, or that evening, we, uhm, -- we talked to the officers that had, supposedly, searched the body. I believe Buchanon was one of the officers.

Q You think Buchanon was?

A I think Officer Buchanon was one of the officers, 'cause he was like, "No way. You know, you're lying." I'm like, "No. This guy had a Berretta on him." And, uhm, possibly, I believe it was Ruggiero that was his partner. I'm not a hundred percent sure on him. But I believe Buchanon was one of the officers.

Q And what did you tell Buchanon that you were going to do with that gun? Or did he ask you what you were gonna do with it? Or --

A Well, we just told -- we told him, we're just keeping it. We're not gonna -- we're not gonna book it. Because we don't want to book, uh, the guy, after we had already, you know, supposedly, searched him and didn't find anything other than narcotics. It's kind of an embarrassment actually.

Q How soon after you recovered -- you guys found that gun, uh, was the gun run? And who had it?

A You know what? I -- I won't be able to tell you. It was sometime shortly thereafter. I can't tell you, uh, exactly



when. And it was probably either Durden or myself who -- who ran it.

Q Where would you normally run a gun at? What, uh, terminal?

A Probably Rampart Detectives, downstairs, uh, the terminal that's right outside Rampart C.R.A.S.H.'s office.

Q Okay. Did you see the gun again after that particular day that, uh, you guys recovered it?

A No, Durden held on to it for I don't know how many days. But he had held on to it during that whole time. Uhm, up until this person was arrested, and he produced it and we booked it.

Q That arrest that we're talking about, is that the second time you saw it, or had you seen it previous to that, other than when you first found it?

A No. Other than when I first found it, this was like the last time -- or the next time I saw it.

Q Okay. When you approached the individual on the street and you talked to him, and you handcuffed him, at what point was the gun planted on him? Or was the gun ever put on him?

A I didn't handcuff him. Officer Durden handcuffed him. And, no, the gun was never like -- oh, look what we found. He was handcuffed and placed in the car, and drove to the station.

Q Well, what did the arrestee say, at that point?

A He didn't say anything. He didn't know what we -- he thought we were just taking him because we had told him already to stay out of the area. And, uh, we were just taking him to mess with him or whatever.

Q When you got to Rampart Detectives, what occurred at that point?

A I'm not sure we went to Rampart Detectives. I believe we went to Rampart Station. Uh, I believe we ran the gun again, got a print-out, uh, filled out some booking recommendations, and told our sergeant that we're going to be, uh, extended watch. We just got a -- a guy with a gun.

Q Did you ever tell the arrestee that he was being arrested for possession of a gun?

A I believe eventually we did tell him that. I'm not exactly sure when exactly we told him. Once we were on our way to Jail Division or once we got to Jail Division, at some point, yeah, we told him.

Q What was his reaction to being arrested for the gun?

A I really don't remember his reaction. I don't.

Q Do you know if he filled out a --

A He wasn't irate or he wasn't upset. I don't think he was -- did he fill out a complaint? Is that what your question was?

Q Yeah. Did he ever --

A I don't remember him filling out a complaint. I don't remember hearing about one.

Q Okay. Who was the supervisor who gave you booking approval?

A Sgt. Ortiz. Actually, Sgt. Ortiz wrote the report. But, uhm, I signed it. That's what we usually do. That's my signature there.

Q You said Sgt. Ortiz wrote the report, or -- or a booking --

A He approved the booking.

Q He approved the booking?

A But, uh, usually what he would do is -- 'cause he would be gone by the time, you know, that the face sheets were done, we would just sign his name to it.

Q Did he fill out the booking form?

A The booking recommendation itself was filled out by me. Also signed by me as Sgt. Ortiz.

Q But you would have -- you would tell him about the arrest. And he'd say, yeah, fine. Book him. You filled out the booking form and put his name on there. So, that's not his signature on there?

A That's my signature.

Q BY MR. ROSENTHAL: Would he have -- would Sgt. Ortiz have known that this was a bad arrest?

A No. No.

Q BY DET. NALYWAIKO: Do you know if Sgt. Ortiz ever talked to the, uh, arrestee, or interviewed the arrestee?

A I don't think so. It was right at the end of watch.

Everybody was leaving. I think he was already in civilian clothes, uh, if I remember correctly.

Q Did you ever have any other contact with this arrestee after this incident?

A You mean like testifying in court, or something like that?

Q Uh, either testifying in court or seeing him back out on the street again.

A I don't remember ever seeing him back out on the street. I'm not even sure if I testified in this case or not. Uh, I think maybe, since Durden wrote the report, I'm assuming that he even decided to testify on it.

Q Did anybody else, uh -- any of the arrestee's friends, or anybody else, uh, he associated with, ever talk to you about him being arrested with this, uh, Berretta?

A I don't remember anybody talking to me about this.

Q Or a case being put on him?

A I don't remember anybody talking to me about this case.

Q BY MR. ROSENTHAL: According to the file, uh, there was a preliminary hearing on November 7th, of '96. And Durden was the witness.

Q BY DET. NALYWAIKO: Just for clarification. When the two, uh, arresting officers initially when you recovered the 92F and you told him --

A Yes, sir.

Q -- did they tell you, either one of them tell you to go ahead and book -- book it to their -- to their particular arrestee?

A No.

Q So, as I recall, you said it was a non-spoken agreement that you not book it -- that you not book the 92F?

A Right. We just said, "We're gonna keep it."

Q Because you didn't want to suffer the embarrassment of the officers being --

A Well, yeah. Uh, basically, I had sort of like a -- a little chewing out of them. I mean, they were both kind of young officers. You know, I was kind of upset about it. You know, that there's a guy in the back seat with a Berretta up in his butt somewhere. You know, and they didn't find it. Because they were just wanting to find the dope and throw him in the car. And, so, I talked to him. And I told them, "No, I'm not joking. This is for real. I mean, there was a fricking gun in the car."

And, uh -- but we told them we were just gonna keep it. We're not gonna book it. We're not gonna mention this incident. 'Cause something like that, normally, when there's a big foul-up in tactic-wise, as far as tactics, uh, we would actually debrief it. We would talk it in roll call. And, you know, bring it to the officers' attention and to anybody that may be involved in something like this later.

You know, don't just take it for granted that the

guy's just gonna show up with dope. And you find the dope and that's it. But we didn't. Uh, I save them some embarrassment. And we just left it at that.

Q Okay. Do you recall any other witnesses being out at the arrest location?

A On this arrest?

Q At, uh, --

A At 3rd and, uh, Alvarado?

Q Yeah.

A He was all by himself.

Q Were there any open businesses or anything else in that immediate area where somebody may have seen what occurred?

A It was 1:00 in the morning, I believe. Uh, and I actually remember it being very quiet. I don't remember -- uh, where he was, he was all by himself. I mean, there was nobody around him at all. Uh, there might have been somebody way down in the alley sleeping or something. But I don't remember anybody else.

Q Did any other, uh, officers participate in this arrest, besides you and Nino Durden?

A No.

Q Did any other officers have knowledge of what had occurred on this particular arrest?

MR. MCKESSON: Other than him?

Q BY DET. NALYWAIKO: Other than him and Nino.

Q BY SGT. COOK: Had you ever talked -- and while you're

thinking about it, had you ever talked to anybody else about this arrest, or told anybody else about this arrest and what you guys, -- uh, what had happened on that arrest, the finding of the gun?

A I want to say that Officer Buchanon found out about it the next day, or something like that. Uh, 'cause we had talked about, I think the 92F. Uh, every day at, uh, start of watch, the next day at roll call, we discuss about who got arrested and what they got arrested for. Things like that. We debrief everything that we did.

And I believe we had talked to Buchanon. He had mentioned something about, oh, that was that gun, you know, that you guys had found. Or something like that. But I can't be a hundred percent sure.

Q Okay.

A I know I remember talking to Buchanon about something about that arrest. But I'm not -- I'm not a hundred percent sure. I can't be positive.

Q You're not sure if it as about this specific incident?

A Yeah. I can't be a hundred percent sure.

Q At the time that you arrested this individual, did you make any radio transmissions, going Code 6, running him at the location, or running the gun out in the field?

A I think we might have went Code 6. I don't think we ran. No, I don't think we ran the gun out in the field. Uhm, but I believe we might have went Code 6.

Q BY MR. ROSENTHAL: What's Code 6?

A Uh, showing yourself at the scene and investigating something.

Q BY SGT. COOK: Well, was he logged-in when, uh, you arrived at the Rampart Station?

A Was he logged-in?

Q In the Detention log?

A I doubt it.

Q You know if, uh, there were any other arrestees in the tank where he was placed?

A I really -- that I don't recall. No.

Q Do you know if any other officers talked to the arrestee?

A Not in my presence. Not that I can recall.

Q So, my take on this is it's just, basically, you, Nino, and the arrestee -- and those are the only -- just the three of you. You don't have any knowledge of anybody else seeing the arrestee or having talked to him -- one of the sergeants --

A There was nobody.

Q -- or supervisors talking to the arrestee?

A There was nobody else out in the scene. No one responded to the scene. Uh, there was no one else there that I can remember that would have saw what happened. No.

Q I have a hard time imagining that this guy didn't have a reaction to going to jail when he didn't have a gun.



A Mmnh-mmnh.

Q That he wouldn't say something when he's being booked for having -- being in possession of a firearm that --

A I can tell you that he was like, "M.F. you guys."

(Off the record to change paper.)

(Back on the record.)

THE WITNESS: As I was saying, I can, uh -- as I was saying, I can tell you that, you know, I don't remember him having any reaction whatsoever. I mean, I have no reason to tell you that he didn't. If he was upset, and was cursing us out, and saying you, F -- M'fers and whatever, I would tell you. He didn't have any reaction. He was about as cooperative as you can be.

Went to the station, got booked, and went to jail. That was his reaction.

Q BY DET. NALYWAIKO: At the time that the gun was found underneath the seat of -- of your police vehicle, when it was first found, the gun was on -- did you know, uh, because of it being run that it was registered to a police officer?

A Did I know that it was registered to a police officer? When we ran the gun, I knew that it was -- I even knew the officer who it belonged to, uh, because I knew her name.

Q Why did you elect not to book the weapon?

Q BY MR. ROSENTHAL: You mean when it was first seized?

Q BY DET. NALYWAIKO: When it was first seized.

A Uhm, I don't know. I mean, I think it was because

the -- the guy had already been arrested. All they found on him was narcotics. And here we are later, now at the station, and we find the weapon. And this is someone, who, you know, who was already, supposedly, patted-down for weapons. And no weapon was found.

So, I think we -- I think we just decided to just hang on to it.

Q BY MR. ROSENTHAL: Did you note in the report anywhere the serial number of the gun?

A This gun here? The serial number to the gun is -- you want it?

Q Yeah. Why don't you tell us what -- what you're looking at? What page of the report?

A I'm looking at, uh, Page 4 of the, uh, arrest report, which is a property report. Item No. 1, which is the handgun. The third column -- fourth column over, it indicates the serial number of the handgun. That serial number being C-9-2-6-6-5-

Z. Q BY SGT. COOK: Did you already give it the location [CI #32 description redacted], and the other arresting officers made the collar? What location was that where they made the arrest?

A I didn't understand nothing you said in the first part.

Q Oh, I'm sorry. At first, [CI#32 description redacted] --

A [ \* CI #32 description redacted \* ]?

Q The first -- when you -- when you recovered the 92F. That incident.

A Oh, I'm sorry. Okay.

Q The incident where you recovered the 92F, [CI#32 description redacted], could you give the location where that arrest occurred?

A I was trying to tell you the name of the street. It was on Alvarado, south of Sunset. One street, uh, -- what happened to that map that we had of -- of Rampart? I -- I can tell you.

DET. NALYWAIKO: We may have it here. Stand by.

THE WITNESS: One east of --

MR. ROSENTHAL: Let's all of us try to speak up a little bit. I think as the day's been going on, our voices have been getting lower and lower. So, let's all try to speak up.

THE WITNESS: I'm gonna take a second to find the name of the street that I believe that where that narcotics thing took place.

Okay. I believe the name of the street -- it's either one of two streets. It was either Logan or Lemoyne.

Q BY SGT. COOK: Lemoyne?

A Lemoyne or Logan. One of those two streets.

Q BY MR. ROSENTHAL: How do you spell Lemoyne?

A L-e-m-o-y-n-e. And the other street is Logan. Do we -- do we have that book here now -- the C.R.A.S.H. book?

DET. NALYWAIKO: We have it upstairs. We can make it

available.

THE WITNESS: Okay. Because I can check --

MR. ROSENTHAL: Can we get somebody to bring it down?

THE WITNESS: -- the location of arrest and the arrest prior. It was one of those two streets, I believe.

MR. ROSENTHAL: We'll get the C.R.A.S.H. book and bring it down.

THE WITNESS: Okay.

MR. ROSENTHAL: Do we want to move on to the next one?

DET. NALYWAIKO: I just -- I just have a couple of quick questions.

Q After finding the gun and you spoke with Buchanon, did Buchanon say, hey, -- did he ever tell you that he wanted to book the weapon, that we should book it? Did he ever ask your advice? What was -- what was the reaction?

A No, he pretty much just agreed with whatever was -- I was saying, or what we were saying. At first, he didn't believe that we actually found the gun, you know. He thought we were joking or something like that. I was like, "No. The guy had a gun on him."

Q Did you ever talk to the, uh, police officer that the gun was registered to?

A Yes, I did.

Q When was that?

A I believe that same night. The night that we arrested, uh, Mr. Miguel Hernandez.

Q And what did you tell --

A I called, uh, D.S.D. David Sam David. D.S.D. Uh, and told them I had recovered a handgun that probably belonged to a police officer. Uh, that I'd like to communicate with her. And, uh, they put in a page to her, uh, to call me at my office.

Q BY MR. ROSENTHAL: I'm sorry. When was that?

A On, uh, October 25th, 1996. The date -- wait a minute. I'm sorry. Actually, I did it the next day. Or the next available day. And I wanted to call her and let her know that the gun had been recovered and she can go pick it up.

It wasn't the same night. I was wrong.

Q BY DET. NALYWAIKO: Okay. One last question from me. Does anybody else have any knowledge, besides you and Nino Durden, or the arrestee, regarding this incident?

A I think Officer Buchanan and his partner might know. But other than that, I don't think so.

Q Okay.

A And the only reason they may know is by just knowing that we had booked somebody. Knowing that it was a 92F. Knowing that they knew that we had recovered a 92F sometime earlier.

So, they probably assumed, oh, that's the same gun. Or --

Q Was this incident every talked about, uh, when you would get together after work for a couple of a beers, or at a party, or up at -- up at the Academy, at the bench?

A This is very -- you know, to be very honest, it was very uneventful. I mean, it was just a quick -- I mean, this whole thing probably took an hour and-a-half.

Q Was this the first time that, uh, you or -- you and Nino Durden had been involved in an incident of planting a weapon on someone?

A I would have to look at some reports. You know what I mean? As far as the date. Because this happened on October 25th of '96, uh, about three months into us working together. I'm not sure if there was somebody before that or not.

But, I mean, if I looked at some reports I would know, obviously.

Q BY MR. ROSENTHAL: When did you join C.R.A.S.H., again?

A When did he join C.R.A.S.H.?

Q You.

A Uhm, August of '95.

Q Okay.

Q BY DET. NALYWAIKO: Okay. I don't have any further questions.

MR. ROSENTHAL: Let me take the arrest report back and put it back in the D.A. file. And we'll go on to the --

DET. NALYWAIKO: Okay.

MR. ROSENTHAL: Oh, a question?

Q BY DET. NALYWAIKO: At this -- Rich, at this point, I just -- we're gonna turn off this tape. This concludes our

interview regarding this particular arrest.

MR. ROSENTHAL: Okay. For Internal Affairs purposes.

DET. NALYWAIKO: Correct.

SGT. COOK: The time now is, uh, 1350 hours.

MR. ROSENTHAL: Oh, uh, before we go off tape. We -- we -- we go back on tape? I'm sorry. We do have the C.R.A.S.H. recap book. We'll let, uh, Mr. Perez take a look at that and see if he can identify this narcotics arrest. And we can go off tape while we wait for him to do that. Okay.

SGT. COOK: Okay. We're off tape. The time is 1350 hours.

(Off the record at 1:15 p.m.)

(Back on the record at 1:17 p.m.)

DET. NALYWAIKO: Richard, the next one is going to be Espindola.

MR. ROSENTHAL: Yeah. Octavio.

THE WITNESS: Okay. Are we --

MR. ROSENTHAL: Okay.

SGT. COOK: Back on tape now. The time is now 1352.

Q BY MR. ROSENTHAL: Okay. You've had a chance to look through the C.R.A.S.H. recap book. Were you able to identify a, uh, particular incident?

A Yes.

Q Okay.

A On October 22nd, 1996, there was a Mr. Vasquez, first name William, who was arrested at 1039 North Bonnie Brae, by Officer Cardinez and Officer Brehm, for 11351 H&S, Possession

of Rock Cocaine for Sale.

D.R. number --

Q BY MR. ROSENTHAL: Why don't you spell the -- spell the names of the officers?

A Brehm, B-r-e-h-m. And Officer Cardinez, C-a-r-d-i-n-e-z. The D.R. number is 96-02-36307. Booking number 5012810.

Q So, was it was not Buchanon and Ruggiero?

A No, I believe Officer Stepp and Officer Buchanon were also there that day. Uhm, in other words, I believe it was Brehm and Cardinez that were -- actually called us over to help them assist in this narcotics, uh, investigation.

Officer, uh, Buchanon and his partner, Officer, uh, Stepp, were also there. They helped. They're the ones that detained the guy when he showed up in the front door with the narcotics. [ \*\*\*\*\* CI #32 description redacted \*\*\*\*\*  
\*\*\*\*\* ] .

Q And this arrest was October 22nd, you said?

A October 22nd.

Q Which means then the gun would have been run on October 22nd?

A Or thereafter.

Q Or thereafter. Between the 22nd and the 25th?

A Right.

Q Okay. What makes -- what makes you, uh, -- you initially said you thought it was Buchanon and Ruggiero. What is it about seeing this that refreshes your recollection that



it was actually Cardinez and Brehm?

A No, my question -- my thing was that I thought it was Buchanan -- I was sure on Buchanan. And I thought it was, uh, Ruggiero. But it wasn't.

Q Okay.

A Now, on the other two officers, that -- that I had a question on. I know that it was their investigation. I couldn't remember which two officers it was.

Q Okay. So, --

A But this re- -- this refreshes my -- or refreshes my recollection.

Q But Buchanan was definitely there?

A Oh, yeah. I -- I remember Buchanan being there. I just didn't remember who his partner was.

Q Okay. So, Buchanan's partner, -- because you said it was Cardinez and Brehm. Where does Buchanan fall into this?

A Cardinez and Brehm are one -- one team. They were partners. Buchanan is working with Stepp.

Q Okay.

A That's another team. And then, myself and, uh, Durden were a whole 'nother team.

Q And the book has Cardinez and Brehm?

A Cardinez and Brehm working together, yes.

Q And it's your memory that, uh, brings in Buchanan and Stepp?

A The only thing I -- the only thing I questioned in my

memory was that I knew it was, uh, Buchanon, uh, one of the officers that detained the male out front. I couldn't remember who his partner was. I thought it was Ruggiero. 'Cause he was working with Ruggiero for a while. But he it was actually Stepp. He also worked with Stepp at one point.

Q Okay.

Q BY SGT. COOK: Now, did, uh, Brehm and Cardinez, do they have any knowledge of the gun being recovered?

A No.

Q And do they have any knowledge --

A I'm sorry. I believe, uh, Officer Brehm did. But not Officer Cardinez.

Q And what makes you believe that -- do you have specific knowledge that you --

A I remember talking to, uhm, Buchanon. And I believe it was also Brehm, while we were at Detectives. But didn't -- uh, we talked to about two or three people that were involved in this thing. And we tell them about the gun.

Cardinez -- there's something about Cardinez that we didn't trust. So, we really didn't talk to him a whole lot. We didn't tell him a lot of things. We always had a question about him. Uhm, but, uhm, Brehm and, uh, -- uh, Buchanon and, uh -- and Stepp, we definitely told about -- we told them about the gun.

Q So, you have a specific recollection of telling these three officers that the gun was recovered by you?

A Yeah. And I specifically talked to them, because I was upset -- very upset.

Q Now, the following arrest on Hernandez, apart from, uh, Buchanon, did either of these other officers -- Stepp, and, uh, -- and Brehm -- did they know that the gun was planted on Hernandez?

A Uh, it wasn't said. But I think a couple of days later, you know, when we talked about the arrest and what type of gun was recovered, they -- they -- they pretty much knew, you know, with the -- you know, giggles and the laughs or whatever. They -- they knew.

Q Do you have a specific recollection of telling them?

A I have a specific recollection of telling them at roll call the arrest that we had the day before. And that -- and I remember talking about the fact that it was a, uh, -- an L.A.P.D. sergeant's, uh, handgun. I remember that.

Q BY MR. ROSENTHAL: But you acted as though it was a legitimate arrest in roll call?

A Right. When we talk about things in roll call, we don't talk about how, oh, we -- we did this or we did that. We talk about it as it was written. Uh, unless it's something tactic-wise, we'll talk about the tactics.

Uhm, --

Q BY SGT. COOK: Well, excuse me. What I'm getting specifically, you recall perhaps that you told Buchanon about the arrest of Hernandez and the gun?

A Yes.

Q Do you have a specific recollection about Brehm and Stepp?

A I remember talking to Brehm. I remember talking to Buchanon. And there was one other officer. And I believe it was Stepp. And I remember talking to him about it at the -- at Detectives the next day -- the following day. The next -- next following working day, I remember talking to him about it. And the reason I remember talking to him about it, is because I was upset that there was a suspect in my back seat with a gun after he had been searched.

Q Okay. I understand that.

A Mmnh-mmnh.

Q Now, you said at the arrest of Hernandez that you had told Buchanon that Buchanon was arrested for the 92F.

A No.

Q You didn't say that?

A No.

Q I misunderstood you.

A I said that after we had discussed the arrest, and we described the type of gun that was recovered, later on that day, uh, you know, the chuckles and the little comments were made about, "Oh, that other gun." You know, the gun that we had recovered from the vehicle from that narcotics arrest. Do you follow me?

Q Yeah. That was with -- with Buchanon.

A Right.

Q BY MR. ROSENTHAL: They didn't -- did they actually say something along those lines of those words, or were they just laughing, chuckling, and you knew what they meant?

A No, it's more like a look and a, oh, yeah, you know. That type of thing. You don't sit there and discuss, oh, so that's the gun that you recovered from this guy and you planted it on this guy. You never say -- you don't talk like that.

You just don't do that. It's more like, oh, yeah. Okay. Yeah. You know.

Q And that was with Buchanon?

A Yeah. I believe that was Buchanon. And for some reason, I see Brehm's face there. I don't remember -- I remember Brehm. I don't remember Stepp's face actually on that. You know, talking about the -- you know, the arrest. But I remember Buchanon. And I remember, uhm, Brehm.

Q Okay. Can we go on to the next one?

SGT. COOK: Yeah, let's go on to the next one.

MR. ROSENTHAL: We do need to cover all these.

SGT. COOK: And that, uh, closes this interview. The time now is 1400 hours.

This is Robbery-Homicide Investigation yet to be numbered. I'm Sgt. John Cook conducting this interview. The time -- today's date is October 1st, 1999. Time now is, uh, 1400 hours.

Uhm, included in the interview is Detective --

DET. NALYWAIKO: Stan Nalywaiko. Serial Number 21100.

SGT. COOK: And we also have present, uh, Attorney Kevin McKesson. And, uh, District Attorney Richard Rosenthal. Also present is Sgt. Thompson. And we have a -- a court reporter.

THE REPORTER: Sara Mahan.

SGT. COOK: Sara Mahan.

Q BY MR. ROSENTHAL: Okay. We're going to continue, uh, questions relating to the list of cases that, uh, Rafael Perez noted on September 24, 1999 we needed to do discussion on. Uh, this one is going to relate to the arrest of Octavio Espindola. E-s-p-i-n-d-o-l-a. Uh, District Attorney Case No. BA149855. The D.R. number is 97-02-17621. And this relates to an arrest date of May 3rd of 1997.

Uh, the crime alleged was Possession of a Firearm by a Felon with one prior. Uh, this is a defendant who entered a plea and was sentenced on September 19th, 1997 to a term in state prison. Uh, we've got the arrest report from the D.A. file in front of Mr. Perez.

And Mr. Perez is looking through the C.R.A.S.H. recap book. Are you looking for the entry relating to this arrest?

A Right. There is something I wanted to mention maybe off the record.

Q All right. Is it relating directly to this?  
Or --

A Uh, right. Something I had asked before, uh, a copy of a different report to -- to make sure.

Q Okay. Why don't you just ask on the record?

A Yeah. I had asked, uhm, on one of the dates. And I don't remember which date. There was another arrest on June 20th, 1997.

Q Is that related to this? Or is that something that's different?

A It's something different. I wanted to see that report. Uh, I wanted to see that report, uh, to refresh my memory about something. I want to make sure I'm not confusing the two things. Uh, that's why I wanted to --

Q BY DET. NALYWAIKO: Who was the arrestee on that one? And the booking number, the D.R. number that's listed?

A The D.R. number is 97-02-2724.

SGT. COOK: We're missing a number.

THE WITNESS: 97-02-2724. Are you still missing a number?

DET. NALYWAIKO: Yeah. How about a booking number?

THE WITNESS: They forgot the number. 5286708.

Q BY DET. NALYWAIKO: And the arrestee on that?

A Last name is Diaz. I believe the first name is Danaliano. Danaliano. D-a-n-a-l-i-a-n-o.

Q And the charge?

A It says "Warrant" here. But it -- but it also says a .45 caliber handgun.

Q BY MR. ROSENTHAL: So, excuse me. We've discussed this before about the planting of a .45 caliber handgun. And your recollection of the officers involved in that planting

were --

A Officer, uh, Brehm, and Officer Cohan.

Q Okay. What about the one that you just mentioned?  
Who are the arresting officers in that one?

A Brehm and Cohan.

Q All right. So, what we've got to do is you need to compare the two reports to try to figure out which one involved planting of the .45 that you're talking about.

A Yes, sir.

Q All right. Uhm, what we should do then, I think is put this one aside until we can pull that file. Uhm, and then once we've pulled it, we can compare the two. Does that sound all right?

DET. NALYWAIKO: It sounds, uh -- yeah, we're gonna have to do that.

MR. ROSENTHAL: Okay.

SGT. COOK: Okay. We're gonna close this interview. The time now is 1405 hours.

MR. ROSENTHAL: Let's go off tape for just a second.

(Off the record at 2:02 p.m.)

(Back on the record at 2:03 p.m.)

MR. ROSENTHAL: All right. Uhm, as to the Octavio Espindola case, what we're gonna do is we have to locate, uh, the arrest reports on Diaz. Unfortunately, since we're missing a number on the, uh, D.R. number and the first name is somewhat illegible, it's gonna take some time. So, we're gonna skip



over that. And we'll, uh, -- we'll come back to that later and try and determine whether the .45 plant was Octavio Espindola or whether it was this Diaz case.

So, the next one we'll go to, then, is, uh, Miguel Yanez. Uh, D.A. Case No. BA144748. The D.R. number is 97-02-00529. Uh, this is another case that was identified by Mr. Perez on September 24th, 1999 for additional discussion.

Q It involves an arrest on January 22nd, 1997. And this is -- it appears to be a Possession for Sale of Phencyclidine -- PCP; is that right?

A That's the first defendant. Uh, there should be three additional -- or two additional, uh, defendants and one subject.

Q Okay. Yes.

A So, I don't know if you have the whole file on that.

Q By the case file, it only shows the narcotics arrest of Miguel Yanez. Uh, we will have to try and locate additional files for the other defendants. But why don't you tell us what, uh, -- what about this case drew your attention?

A Uh, the entire case. Uh, I read the report. I wrote the report. Uhm, there's two parts of this report. The first arrest, Defendant No. 1, Yanez, Miguel, uh, basically, everything referring to him is true, except the section that we talk about that myself and Officer Diaz were parked, uh, -- uh, west of the location.

And I think I wrote that, uh, we observed Mr. Yanez standing in front of 2506 Kent Street. And we observed him

standing next to a -- a, uh, gray Ford Thunderbird. Uh, I wrote on here that we observed him reach into the front passenger seat of the gray Ford Thunderbird, uhm, and remove a rifle, at which time he placed it inside of a, uh -- a window. He, uh, placed it inside of a window that was facing, uh, east.

Uhm, that part is incorrect. The fact that, uhm -- we had already gotten information, or I had gotten information that the rifle was in there. That this person -- person, Miguel Yanez, was in possession of a, uh -- of a rifle.

The part about how we saw him take it out of the car and put it in the window was fabricated.

Q Where did you get the information from that he had a rifle?

A Probably [ \*\*\*\*\* CI #34 description redacted \*\*\*\*\*  
\*\*\*\*\*. I can't remember exactly who gave it to me, but we -- we knew that he definitely had a rifle in his -- uh, in his room, and in his house there.

Q Okay. And what did you do, in truth?

A In truth, uh, we were parked there. Uh, we were watching him. Uh, like I said, everything else is pretty much, uh, factual, other than the fact, uh, we needed to, uhm, -- we needed to develop some probable cause to get into the apartment, or -- or whatever. And that's what we had come up.

Q Did -- according to the file here, it says that, uh, you saw the defendant with the remove the rifle from the

vehicle. Uh, which is not true?

A Right.

Q Uh, that you approached and you detained him. And then, it says that you knocked on the door. Defendant's father answered the door. And you asked for consent to search. Uh, --

A That part's true.

Q So, basically, the probable cause is okay in that you did -- you approached the location. You knocked. You asked for consent. And you got consent.

A Yes, sir.

Q Okay. So, at that point in time, what happens, once the father gives the consent?

A We recover the rifle. Yeah, the rifle was recovered right -- right there in -- in the -- the room. Uh, everything else that's written is pretty much factual. Now, we get him back to the station, and he starts -- or, he decides that he wants to talk.

Q All right. Let me take a step back. The PCP, did you actually find it in the defendant's pocket?

A Yeah. He had like a little PCP. And that -- that was true, too.

Q All right.

A That's -- I don't know why -- why he had PCP or -- 'cause it's not a popular drug around Temple Street neighborhood. But he did. Uhm, once we get him back to the

station, and I'm talking to him -- interrogating him, he starts telling me that, uhm, he had sold the gun to some other guys that live right there on Benton Way and Kent, about a block and-a-half from where he lives.

Uh, it T-intersects. His street where he lives at, T-intersects to where these people live. Right at Benton Way. He, uhm, -- in fact, I think I took him by there to have him show me which house it was. Uh, when we passed by there, we saw like two or three males standing in front of the house. He told me, "Those are them. Those are the guys -- one of those guys I sold a small caliber handgun to for a couple -- or for like 25 bucks.

Okay. We take him back to the station. I, uh, -- I get several officers, uh, teams in our unit to meet up with me. Uh, we discuss how, uh -- uh, location appeared, do a little diagram on the chalkboard. Uh, we had units set up every different direction, who's going to approach in which different way. Uhm, that part that I wrote in the report is true, as far as how we deployed on it.

Uh, where everything becomes not factual, uh, would be from the time that, uh, we approach the location. Uhm, on the report it says that, uh, once we deployed on the location, the three male Hispanics were standing out in front of 805 North Benton Way. There was only one male standing in front of 805 Benton Way.

Uhm, it says on here that I observed him -- the male

out front -- which would be Defendant No. 2, I believe. Cid Israel. Uh, right. Defendant No. 2, Cid Israel. Uh, reached into his front waistband and removed a stainless steel semi-auto handgun. That's not correct.

That's fabricated. Uh, I wrote on here that Israel then dropped the gun to the, uh -- to the ground. And I recovered it and found it to be, uh, fully loaded with one in the magazine -- or one in the chamber.

Q Speak up for the court reporter.

A Uhm, it also says in this report that Officer Richardson advised me that -- that he and his partner observed Defendant No. 3, Mr. Tse, T-s-e, Jeffrey, uh -- uh, that, uh -- let's see. On here it says that they observed -- Richardson and his partner -- observed Defendant No. 3 begin to run westbound in the driveway of the location.

Officer Richardson and his partner followed the suspect in the rear of the location and ordered Defendant No. 3 to stop. Officer Richardson advised me that Defendant No. 3 reached, uh -- reached to the rear yard fence, uh, reached into his waistband and dropped a blue steel semi-auto handgun to the ground. That's fabricated.

Officer Richardson advised me that he ordered Defendant No. 3 to the -- place his hands on the ground. And he was taken into custody. Officer Buchanon, which was Officer Richardson's partner, recovered the gun and noticed it to be fully loaded with, uh, one round in it, and, uh, with additional

rounds in the magazine.

Q That's not true?

A That's not true. Uhm, at the same time, during this, while this was happening, uh, -- uh, Defendant No. -- while No. 2 and No. 3 were taken into custody, the one that, supposedly, I met up front, and the one that Richardson, uh, and Buchanon met at the rear, Officer Montoya says that, uh, he and his partner, Officer Rios, uh, observed the subject.

That subject named Sanchez. First name Armando. They saw him, uhm, run inside the location holding a blue steel semi-auto handgun in his right hand. Officer Montoya stated that he observed Subject No. 1 run inside the location and slam the front security gate. That's not true.

Uhm, it says here -- I wrote that once Defendant No. 2 and No. 3 were taken into custody, uh, we used a P.A. system to get the people there -- the rest of the people that were in the house, out. The only person -- this -- this part is true. That the only person came out was a Asian female.

And the fact that we asked her for consent to search. That is also true. Uhm, but there was one additional subject inside. He was taken into custody. It says, on the report, that, uhm -- uhm, that, uh, Officer Montoya and Officer Rios and Officer O'Grady, -- and it says that Officer Rios recovered a blue steel semi-auto handgun on the floor of the first -- wait. Officer Rios recovered that handgun and noticed it to be fully loaded with additional rounds in the magazine.

Officer Rios and Officer Montoya both inspected the weapon and advised me that that -- that this weapon, uh, appeared to be the same handgun that they observed the subject running into the house with. And that's not true.

Q Why don't we do this. Let's, uh, take a step back. Why don't you tell us what really happened?

A Okay. Uhm, I'm gonna -- I'm just gonna start from the time that we arrived at the location.

Q Okay.

A Uhm, 805 North Benton Way. I was the lead car. So, I'm the very first officer to get out and approach the location. When we approached the front of the location, --

Q Keep your voice up.

A -- when we approached the front of the location, there's only one male out front. Uhm, and he had not -- Defendant No. 2, Cid Israel, did not have a handgun. So, that, uh, -- let me -- let me throw in there first, all the handguns were recovered under a mattress in one of the bedrooms.

That's where all these guns were recovered from. They did admit, uh, -- these defendants did admit that the guns were theirs. That, you know, yeah, you know, they were there. But they were under the bed. Uhm, --

Q So, each one admitted to a particular gun?

A Oh, I'm sorry. Two of them -- I believe, it was it was Cid and -- and Tse admitted to -- well, all three knew about the guns. Two of them admitted that one was each theirs, in

other words.

Uh, Cid and Tse said, yeah, that one's mine. And that one's mine. But they didn't have it on them as it says in the report. Those guns were under a mattress. I think when you go in the house, it's the bedroom to the left. Uh, it was in there under, uh, a mattress.

Q And you said it's, uh -- what's Cid's first name.

A Oh, Tse. I really don't know how it's pronounced. T-s-e. And his first name is Jeffrey.

Q Okay. I'm sorry. Cid?

A No, Tse. All right. One is Cid and one is Tse.

Q Okay. Cid is C-i-d?

A C-i-d. First name is Israel.

Q And the other one is T-s-e?

A Yes, sir.

Q And the first name?

A Jeffrey.

Q Jeffrey. Okay. All right. So, those two did admit to ownership of the guns?

A Right.

Q Did either one of them have a felony record or --

A I believe one of them was on CYA juvenile parole.

QQ Okay.

A Uhm, I don't remember what the other ones had. I -- I believe we -- we didn't book him for the, uh -- for actually possession of the gun. I think we booked him for Receiving



Stolen Property. I think that's what we --

MR. MCKESSON: Can we go off the record for five minutes?

DET. NALYWAIKO: We're gonna stop the tape now. And it's, uh, 1428.

(Off the record at 2:28 p.m.)

(Back on the record at 2:40 p.m.)

MR. ROSENTHAL: It's 2:40. We're back on the record. Uh, we were speaking about Miguel Yanez. Where were we when, uh, we just broke?

SGT. COOK: Talking about Cid and Tse, about how the guns -- they were into guns.

THE WITNESS: Oh, okay.

Q BY MR. ROSENTHAL: So, they admitted to having the guns. But they were, obviously, not found on the persons like who's indicated in the report?

A That's correct.

Q Uhm, what about the juvenile? What's the juvenile's name?

A Sanchez, Armando.

Q Okay. Uh, was a gun put on, uh, Sanchez also?

A Right. That's the gun that, uh, Montoya, uh, in order to put it on him, Montoya and his partner described him being out front and running back inside the house with the gun in his hand, and slammed the gate closed.

Q Okay.

A But that -- that was all fabr- -- I'm -- I'm the first

car there. Uh, as you pull up to the front location, we, uh -  
- I came in, uh, northbound on Benton Way. And we had a couple  
other units coming southbound.

But I was the first unit to pull in. I could see.  
I'm the first one there. So, I can see who's out front and  
who's not.

Q And the report was written by whom?

A By me.

Q Okay. Uhm, with respect to the entry into the  
location, where you seize the guns, so, you've said you found  
guns under a mattress?

A Right.

Q Uh, was there probable -- actual probable cause to  
get into that location? Or did you guys just make entry?

A Actually -- we actually did get, uh, consent to search  
from the -- from the lady there.

Q Okay.

A From the, uh, female. I was looking for it in here.  
But --

(Tape was changed to Side B.)

THE WITNESS: It's not in here. But, uhm, I'm -- I'm  
pretty sure that we actually had her sign an actual "Consent to  
Search of the, uh, Residence."

MR. ROSENTHAL: Okay.

THE WITNESS: Because, uh, I do remember doing that.

Q BY MR. ROSENTHAL: And -- but that does not appear to

be in the report?

A There's not a copy here. I think in the report it does say that we got a "Consent to Search" from her.

Q Okay.

A But I don't see a copy of it here. But that doesn't necessarily mean it wasn't done.

Q All right.

A We may just need another copy.

Q So, Sanchez, though, uh, there was nothing to tie the gun that you put on Sanchez to Sanchez?

A That's correct.

Q All right. Anything else on this one that we discussed currently?

DET. NALYWAIKO: Yeah.

SGT. COOK: Uh, yes.

DET. NALYWAIKO: Go ahead, John.

Q BY SGT. COOK: The -- who recovered the guns from under the bed?

A Uh, pretty much all of us.

Q All of you?

A Yeah, we're all in the, uh -- the guys were taken into custody. We're now searching the house after we had received a Consent to Search from the mother. The -- I don't have her name offhand.

Uh, but I believe it was Montoya -- most of us were in there. Uh, they were lifting. It had something to do with

you had to lift the mattress up. And there was like a board down there. And you move the board on there. And we saw the guns there.

Q Well, let me eliminate some of them. Who was maintaining custody of the, uh -- the arrestees?

A Oh, boy. Let me -- let me think here for a second who might have been, uh, assigned just to watch them.

Q If you remember. You may not remember.

A Yeah, I remember -- I remember Officer Rios being inside the -- the room. I remember Officer Montoya. I remember Officer Richardson. I remember me. I think we left Officer Diaz with the female outside -- the mother, uh, that gave us the Consent of Search. And I think she might have stayed watching the other arrestees in the car, as well.

Uh, I can't remember.

Q BY MR. ROSENTHAL: Would Diaz have know about the false information in the report?

A Uh, she knew the -- the early stage of it. Well, I'm not sure if she knew. But probably not. Uh, I'm sure she just went with whatever was said. She was kind of like a -- just whatever, you know. Uh, she doesn't know much.

Uh, she knew that it was fabricated the part about the gun in the vehicle and putting it through the window. She was with me. That --

Q Okay.

A She, obviously, knew that didn't happen. We didn't

see that, so.

Q BY SGT COOK: Who was your --

Q BY MR. ROSENTHAL: So, the -- I'm sorry. The possession of the gun by Miguel Yanez, she knew would be false?

A Right. But, as far as the guns that we recovered inside, I don't know if she knew or didn't know.

Q BY SGT. COOK: Who was your partner when you came up?

A Officer Diaz.

Q Officer Diaz?

A Yes, sir.

Q So, she knew there was only one person out on the street and all these other persons didn't have guns?

A Yeah. I mean, I didn't discuss it with her. But I'm assuming. That's why I say, I'm assuming she has to know something. I mean, because, uh, I mean, we didn't sit there and say, oh, you know, this guy really didn't have a gun. And this guy didn't have a gun. But she knows when we arrived at the location there's only one person outside. Uh, we didn't recover a gun from him.

Uhm, so, I mean, I would only assume what she knows. You know what I mean? I can't say I discussed it with her. I'm assuming she knows by what she saw.

Q BY MR. ROSENTHAL: Would she have read the report that you wrote?

A I'm sure she did.

Q Is that kind of standard operating practice?

A Yeah. You know, read -- read the report and see if I made any mistakes. 'Cause you write a -- you know, do a mistake and not even see it, 'cause you keep reading it yourself. You always give it to your partner to read over, and check it out, make sure everything is fine.

Q BY SGT. COOK: So, this was standard practice with you? You would have given her the report to read?

A Yeah. I always gave my partners. Read the report and see if I missed anything or something's wrong on there or something.

Q So, based on her direct knowledge of what happened, the narrative of the report would not coincide with what she observed?

A Right.

Q So, she would have had knowledge?

Q BY MR. ROSENTHAL: What's her first name?

THE WITNESS: Right. Uh, Lucy, I believe is her first name. Lucy Diaz.

Q BY MR. ROSENTHAL: Serial number? Can you look on the report?

A Oh, I'm sorry. Yeah, you're right. 31351.

Q BY SGT. COOK: Okay. And just to make sure we have all the officers, Lucy Diaz and yourself, Montoya and Rios, uh, Richardson and Buchanon -- were they working together?

A Richardson, uh, was working with Buchanon. Right. Uh, Richardson was working with Officer Buchanon.

Q Okay.

Q BY SGT. THOMPSON: Uh, Ray, I have a question. Of what was fabricated, was there a discussion -- a group discussion with these officers, at some point in time, where you discussed what specifically was going to be written in the report?

A Yes.

Q When and where did that take place at?

A We did that at the house. We figured out who's gonna take what. Who's gonna -- who wants credit for what, basically is what we were talking about.

Q And those officers that participated in that discussion, who were they specifically who had knowledge of that discussion?

A All the ones that were there.

Q Did that include Buchanon?

A Yes.

Q BY MR. ROSENTHAL: Would that include Diaz? Or would she have been outside with the female?

A I think she was still outside. Like I said before, well, she was another one of those officers that we really -- you know, she was given to me so that I can sort of bring her along for a little while. But we really didn't trust her with much.

So, I -- I remember there was a female out there. I remember her telling -- us telling her to stay with her and

keep her out here, you know. And I know that what -- what we talked about, as far as who saw what and who's gonna take credit for what, we discussed it inside the house, right after we recovered the guns. So, I don't think she was there.

Q BY SGT. THOMPSON: Let me ask you another question, Ray. You said that Rios and Montoya, Richardson -- Richard and yourself were in the room during the room search; correct?

A And Buchanon.

Q Okay. That was my question.

A Uhm --

Q Where was Buchanon? Was he there, too?

A I think all the -- I think the -- the only officer that was there that was outside was, I think the supervisor showed up. But he stayed outside with -- with, uh, -- with Diaz. Uh, I remember him showing up.

Q Who was that supervisor?

A Sgt. Guerrero, I believe.

Q Sgt. Guerrero?

A Yeah. But I think he stayed outside, uh, with the lady.

Q Was this arrest discussed with Guerrero? Sometimes the supervisors come up, and they arrive at the scene, they'll ask you "What do you got?"

A Right. And that's --

Q Did that happen on this case?

A I believe so.



Q Okay.

A We already had everything pretty much settled by the time he got there, as to who recovered what, who saw what, and, you know, how it was gonna go, and who was going to jail.

Q Do you recall who spoke with Sgt. Guerrero regarding this, or, in fact, that happened?

A It was probably me, probably.

Q Okay.

Q BY SGT. COOK: Did Sgt. Guerrero have specific knowledge --

A No.

Q -- of what had taken place?

A No.

Q Okay.

Q BY DET. NALYWAIKO: Did Sgt. Guerrero talk to any of the arrestees or interview any of the arrestees, at any time?

A I don't remember. I don't know if while we were writing the report or something he went and talked to them or not. I really -- once I get back to the station, I just write all the reports front in front of the computer. And I sit there and everybody's booking guns and booking stuff. And I just sit in front of the computer.

Q Uh, you mentioned -- and I don't know if I misunderstood you here -- was there an Officer Grady or O'Grady there?

A I believe there was an Officer O'Grady there.

Q O' -- O'Grady?

A O'Grady. Mmnh-mmnh.

Q And what did Officer O'Grady do at that location?

A I believe he helped us when we searched inside the apartment. When we went inside the apartment, we always, uh, do like a systematic search anyway. Just in case there's more people inside, or whatever.

He helped us with the search. Uhm, --

Q Was Officer O'Grady aware of where the guns were found?

A I think he -- he knew that some of the guns -- or some of the guns were found inside. Or, you know, he -- he knew that there was guns found inside. But he didn't say anything. Uh, he wasn't like involved in it. We -- again, we never used him to say, hey, you could cover this, or you could cover that. Because, uh, again, he wasn't a guy that was trusted.

So, uh, but I think he knew. He heard somebody talking. He was there when the search was going on. Uh, and he knew that guns were recovered in that bedroom. But he didn't know who they went on, or -- or, uh, how it was done.

Q Was he in the discussion as to when you were gonna put -- how you were going to put it together in the report?

A I don't think so. No.

Q Did he ever read the report?

A I don't know. I mean, I -- I doubt it. 'Cause, I

mean, I would be the last one to finish it. Most everybody was booked. And everybody was probably home by then.

Q Were there any other civilian witnesses at the location, besides the woman that signed the consent?

A No, that was, uh, -- that was everybody.

Q How about any neighbors? Any neighbors come out while the police are there?

A I don't know. I know there were some people that came out. But, you know, once the police got there -- but I don't -- I really don't remember, if they were already there, or, you know what I mean?

I can't remember if they were already there watching us to see what happened. I couldn't tell you.

Q Did any of the arrestees ever say anything about the charges they were being booked on?

A Not that I can remember.

Q They ever question being taken into custody for being in possession of a firearm on their person?

A I never heard any -- uh, again, I don't think I even went down to book them. I -- I probably stayed at the office, wrote the reports, while a couple of the other officers transported the bodies and booked them for us. So, if they complained, I -- I wasn't there. I didn't book them.

Q Did any other officers show up at the location?

A No. I think the ones we had there were the ones that were there.

Q And how about any discussion? Have you ever had any discussion with any other officers about this incident, or what occurred there?

A You mean, like, oh, you know, we did this and we did that? Not real- -- not really.

MR. MCKESSON: Keep your voice up.

THE WITNESS: I don't think we did. Uh, I don't remember, uh, having a discussion about it. Not really.

Q BY SGT. THOMPSON: Let me ask one more question in reference to Officer Diaz. You said that she reviewed the report and you believe she reviewed the report. Did she ever make a statement to you indicating that the report, what she knew of it -- the approach on the house, seeing the gun going through the window -- did she ever approach you and say, that's not right, or protest that it was incorrect?

A No.

Q Or indicate to you, in any way, that she knew something was wrong?

A You know what I do remember is talking to her before we got there. But it might have been -- at some point, I discussed with her what I was going to write, as far as, uh, the initial rifle, the first person we arrested.

Uh, with that, I discussed with her person-to-person to see how she was gonna -- how receptive she was gonna be. You know, she just said, "Okay." You know, but I discussed with her, you know, we saw the guy taking it out of the car.

And from the car to the window; right? "Okay. Yeah."

That was, basically, it, well, as far as her -- as far as any information she knew regarding the guns.

Q BY SGT. COOK: One last question. Just for clarification on O'Grady. And it's important because you said he was not in the loop.

A Uh-huh.

Q To the best of your recollection, was Grady there at the -- O'Grady there initially, or was -- or did he come after the scene had been contained?

A Do we know who O'Grady's partner was?

Q Not at this point.

A 'Cause I -- I'm thinking that he might have just jumped in the car with somebody else. He was just like an open -- uh, you know, an extra officer or whatever. And he might have just jumped in with somebody. But I -- I don't remember.

Q Well, my point -- my question would be, did O'Grady have knowledge that the guns were recovered from the bed, and that the plan was to put a gun on everybody -- on all the arrestees?

A Uh, did O'Grady know that the guns were recovered in the bedroom? Yes. Did O'Grady know a plan about how we're gonna put it on each person, or whatever? Uh, that was never discussed with him. I'm assuming when he sees all three people going to jail, you know. Okay. Well, they're all going to jail for these guns. You know what I mean?

Uh, was he there when this -- when the guns were recovered from the -- in the bedroom? Yes, he was there. Did I discuss with him, like I discussed with the other officers, hey, you recovered this gun and this guy ran here? Or whatever you want to tell me. And that's usually how it went.

Okay. You can just say I re- -- I recovered this guy here. He ran this way. He dropped the gun and we took him into custody. Okay. That's great.

Uh, how about you? Okay, yeah, we recovered -- we arrested that guy. He had this particular gun.

Did I ever discuss something like that with O'Grady? No. With the other officers, yes. With O'Grady, no.

MR. ROSENTHAL: Okay. Let's, uh -- why don't you give me back --

Q BY DET. NALYWAIKO: I have one question about what bedroom were the guns recovered from in the house?

A When you walk in the house, to the left, uh, there's a bedroom there. Uhm, you know, I want to say that it was like a bed. And it -- it was a, uh, maybe it was a waterbed or something, but they put a mattress in there. And it had, you know, those boards you got to put up under, in the bottom part of the waterbed. 'Cause we had to move some boards or something. And that's when we found the guns.

Q Do you know whose bedroom that was?

A I believe -- you know what? From the posters there on the wall, it had to belong to one of the kids that lived

there. Or one of the -- Cid or whoever -- the lady's son.

Q BY MR. ROSENTHAL: How did you know to search for the guns in that location? That sounds like a tough place to find guns.

A Uhm, I think it was -- was there a Officer Patel in this arrest? Let me think here for a second. But Patel just entered my mind.

DET. NALYWAIKO: You haven't mentioned him so far from reading the arrest report.

THE WITNESS: Do you still have the file for this -- this arrest?

MR. ROSENTHAL: The -- we've got right now the PCP file.

THE WITNESS: Do you have the, uh, PCD involved in that, uh -- is there a PCD in there like all the officers that were there?

Q BY MR. ROSENTHAL: Is that -- let's first take a look at the package you've got there.

A It's not in here.

Q Is there a PCD?

A There's no PCD in here.

Q Okay.

A Probable cause declaration.

Q So, there's no PCD in the file.

Q BY SGT. COOK: Ray, in the future, what we're gonna have to do is, uh, show a, uh -- show you a DFAR, or perhaps a work sheet of the officers working on it on any particular day.

A I remember there were several officers in the room. And I remember somebody going, hey, here we go. You know, something like, we found something. You know, here they are.

And right away everybody goes to the room. But for some reason, Officer Patel's face just entered my mind. And I don't know if he was working with O'Grady or something. But Officer Patel's face just -- you know, just entered my mind. And I'm not sure if he was there or not.

But for some reason, I remember him, uh, 'cause your question was, how did they find it under there?

MR. ROSENTHAL: Right.

THE WITNESS: Patel was always good for searching. He -- he -- he really dug, you know, when he searched. And I don't know if maybe that's why he entered my mind. Or -- but I know somebody found them. And there was like, hey, here it is. You know, and we all rushed in there and started taking gun after gun out.

SGT. COOK: Well, at a future time, we'll probably have to come back and revisit this.

THE WITNESS: Okay.

MR. ROSENTHAL: Okay. Let me, uh, -- I'm going to take back this arrest report package and put it back in the file.

SGT. COOK: Okay. That concludes this interview. The time now is 1500.

(Off the record at 3:00 p.m.)

(Back on the record at 3:03 p.m.)



MR. ROSENTHAL: All right. It's three o'clock. We're back on the record. Uh, --

Q BY SGT. COOK: Okay. This is, uh, R.H.D. Investigation yet to be numbered. The time now is, uh, 1503 hours. Uh, today's date is October 1st, 1999. Uh, we're on Tape No. 219047, Side A.

I'm Sgt. John Cook. We have Detective Nalywaiko with us. Uh, we have Sgt., uh -- we have Sgt. uh, Mark Thompson. Uh, also present is, uh, DDA Richard Rosenthal. And then, we have Attorney Kevin McKesson.

Q BY MR. ROSENTHAL: Okay. We're going to be talking, at this point, about a -- an arrest relating to D.R. No. 96-02-26829. Uh, this is a multi-defendant arrest that was identified by Mr. Rafael Perez on September 24th, 1999, as being a case that needed to be discussed.

There are two case files which are actually relating to this arrest. Uh, BA135752, Defendant Rafael Zambrano, charged with 12021(a)(1), which I believe is Ex-Con With A Gun. And also Ivan Oliver, uh, also charged with the same charge.

Uh, then, there is BA138148, which appears to be a refiling, apparently, of Mr. Rafael Zambrano. Uh, both defendants entered guilty pleas. Uh, Mr. Zambrano was sentenced to 16 months state prison. And Mr. Oliver was sentenced to 32 months state prison.

Okay? Uh --

A Mr. Oliver?

Q Yes. Uh, Mr. Perez, if you'll just go ahead and -- why don't you tell us what actually happened with respect to these -- this incident?

A Okay. This incident occurred on July 28th, 1996, at a little over after -- 15 minutes after midnight.

Q Who wrote the report?

A I'm sorry?

Q Who wrote the report?

A Officer Hewitt, uh, and Officer Stepp wrote the report.

Q Okay.

A Uh, this was a Playboy gangster, uh -- uh, party that was being, uh, -- that was taking place. It was gonna take place in this, uh, location 309 North Boylston. North Boylston.

Uh, I remember we met up at -- over by Wilshire and maybe Albany. Somewhere around there, we met up. Uh, we had all the units there -- everybody. Supervisors, uh, we even had some officers that were not, uh, in our C.R.A.S.H. unit, but used to work our C.R.A.S.H. unit, meet us there. Officer, uh, Villalta and Flaherty.

Uh, and we had some other -- other officers that we, uh -- we knew were good officers that also worked C.R.A.S.H. before -- Palomares, P-o -- or P-a-l-o-m-a-r-e-s; and, uh, Officer Jeff Graham.

Q You know, this may, actually help. Maybe what I can do is I could read the "Statement of Facts" in the D.A. file,

as it was indicated, which is basically a summary taken from the report. And then, maybe that's a good starting point for you then to explain what's -- what's wrong here, or what's the difference.

Uh, according to this, uh, summary in the D.A. File BA138148, it says, uh, "Defendant Zambrano is a 21-year old gang member, uh, on probation. Defendant Oliver is a 20-year old gang member, uh, who went to state prison. Uh, on 7/28/96, at 12:15 a.m., at 309 North Boylston, B-o-y-l-s-t-o-n, officers were monitoring a large gang party at this abandoned graffiti-covered house. Saw defendants with guns. Arrested and recovered."

Uh, let's see. It says, "Stepp and Hewitt were the arresting officers. They were the first officers. They saw defendants with guns. And they formulated a plan and gave descriptions to arresting officers."

It says, "Perez saw Defendant Zambrano in the back yard of the location. Saw others at the party warning him of L.A.P.D.'s arrival. Saw Defendant Zambrano drop a stainless steel, uh, semi-automatic handgun on the concrete walkway and recovered the gun."

It says, "McNeil detained Defendant Zambrano after the gun toss. And that Lujan and Veloz saw Defendant Oliver run and toss a blue steel revolver and recovered it. And Liddy and Buchanon detained Defendant Oliver after he tossed it."

So, that's the summary. Uh, what really happened?

A Okay. Uhm, it talked about a little bit in the report how most of us, uh, -- well, a lot of us responded through the back yards. We had crossed a couple of back yards. Uhm, I gonna get quickly into the very first one. The one that, uh, described me arresting.

Q Okay.

A Uh, I believe it's Mr. Zambrano. Uh, we had talked about how when we were, uh, arriving at the location, uh, people start running, 'cause they recognize the police coming. And they started, uh, -- they started screaming, "Hey, the cops are coming." And people started coming out of the house and running through the, uh, field.

And part of that is true. There was a male that came out through the back, went in by -- over by a camper-shell, removed a handgun. We couldn't tell whether it was stainless steel or whatever it was. And placed the gun down and started running off with the rest of the crowd.

Uhm, was it Mr. Zambrano, exactly? I don't know. But we did see him -- or we saw this person placing the gun there. Uh, but I think, when it came right down to it, Officer Hewitt just told me who was gonna go for it. And, uhm -- and, you know, Zambrano was the person that we, uh -- or we saw -- or that we said that placed the gun there.

Uhm, let me jump right back real quickly into this revolver, uh, that Officer Lujan and Veloz said that they recovered from Defendant Oliver, while he was running. He

tossed it in the -- in the grassy area. That gun, we recovered it inside the house over by a -- by a sink area. It was in -- if I remember correctly, it was like an old revolver. Like a .38 older, you know, dirty. That was impossible that it was recovered by a grassy area. It was recovered inside the house, 'cause I was there when it was recovered.

Q So, the gun that was put on Defendant Oliver was found inside the house?

A Yes.

Q And you couldn't put that on to a particular person? So, it was just put on Oliver?

A Right.

Q Okay.

A Again, in this -- in this, uh, -- in this arrest here, we, uh -- we all met up. We all sat there and we figured out who was gonna recover what. Uhm, on -- on -- none of these, uh, -- uh, any of these people that were arrested was actually, uh -- I believe in one of them it says Officer Hewitt saw somebody drop one. Let me see here.

Yeah, it described -- it describes Officer Stepp recovering the blue steel .9 millimeter handgun, as well as Officer, uh, Hewitt detaining him without incident.

MR. MCKESSON: Ray, take a breath. Slow down.

THE WITNESS: Okay. Uhm, I was with Officer Hewitt and Officer Stepp, uh, to the rear of the location when, uh, everybody started running. And this person didn't exist.

There was one person back there, uh, that actually that we saw. But he was placing the gun before we even moved in. Was hiding the gun by this camper-shell. That did -- actually did happen. That's why we knew the gun was there by that shell. Uhm, but this other person that they're describing, that's fabricated.

I mean, I was with them back there. We, uh, -- we approached together. We hopped the same fences together. You know, and we were looking at the rear of the house together. And once the officers in the front moved in, we were sitting back there waiting. And other than that one guy, there was nobody else.

They were running towards the field. But nobody that we saw that came out with a gun and then tossed it. All that was just put together at the end. Uh, Officer Hewitt put together as far as who was gonna go, uhm, who he wanted out of everybody that was there in the party.

In fact, if I remember correctly, he had kneeled, uh -- we had everybody on their knees along the field there. And Officer Hewitt was pointing out who he wanted. It was his arrest. And he -- him and Stepp were figuring out which -- which persons they wanted to be arrested.

I -- if I remember correctly, one of these guns were recovered outside the house by officers not from C.R.A.S.H. They kind of -- in fact, somebody had called me over and said, "Hey, by the way, there's a gun over by that tree." Uh, and I

believe that was like the stainless steel or something like that. One of -- one of those guns. And I told Hewitt. And Hewitt, uh, -- uh, recovered it. And he figured out who was gonna go for it.

But I do remember it wasn't a guy from C.R.A.S.H. It was somebody, one of the units that were there helping us. They told us, hey, there's a gun over by that -- there's a tree, uh, to the -- to the east of the house. There's a big tree there. And that's where that little --- there was a small stainless steel gun sitting on the floor.

Q BY DET. NALYWAIKO: What I'm hearing is that Hewitt pretty much was directing what was gonna happen at that location with any weapons that were found, as to who they were going to be put on, or planted on. Who was in the discussion when it came down to having direct knowledge that these guns were being planted, or the information was being given out was false, about these guns?

A I think pretty much everybody.

Q Who would that be?

A Uh, everybody that was at the scene. I can go through the report and -- but if I remember correctly -- again, I'm looking for a PCD. See if there's a PCD in here with all the names of the officers that were at the scene. And it would refresh my memory.

Q I think earlier you said that there were not only C.R.A.S.H. officers, but ex-C.R.A.S.H. officers, supervisors.

A Right. On the "Search of Activity" of Officer Hewitt's report, he puts on here -- and which reminded me that Officer Villalta, Flaherty, Palomares, Moreno, Graham, Rios, Donaldson, Byrnes, uh, all those officers didn't work C.R.A.S.H., but they were at the scene.

Uh, they assisted us with the outer perimeter of the location. Uh, the C.R.A.S.H. officer, or the actual officer that went inside, uh, and did the searching of the location, things like that.

Q BY MR. ROSENTHAL: Now, the non-C.R.A.S.H. officers would not necessarily have known that there was a false report written?

A Exactly. That's correct. Uhm, I -- I'm trying to figure out who it was that told me, "Hey, there's a gun over by this tree." But I -- I can't remember because there -- there may have been even more officers than what's, uh, indicated here.

As far as who was --

Q BY DET. NALYWAIKO: What I'm -- what I'm --

A -- who was, uh, at the meeting we discussed, uh, who -- who had what, I believe Sgt. Ortiz was there. I believe Officer Lujan was there. Officer Veloz was there. Veloz, V-e-l-o-z. Perez was there -- me. McNeil was there.

You know, it was McNeil who told me that there was a gun by the tree. Somebody told McNeil. And McNeil told me. I told Hewitt.



Q BY MR. ROSENTHAL: Would McNeil have known that the gun was -- that he found by the tree was actually put on a particular person that wasn't the person who dropped it?

A Yes. Officer Liddy was there. Buchanan was there. Patel was there. Patel, uh, is the one that actually, also recovered that, uh, revolver, if I remember correctly.

Uh, the revolver that was inside the, uh, location that was put on, uh, Oliver believe.

Q BY DET. NALYWAIKO: Who was that?

A Patel. If I remember correctly, when we were searching, Patel is the one that found that revolver. I think it was by a sink area. A kitchen sink. Uh, Officer Brehm was there. Officer Tovar was there.

Q These names that you're -- you have just given us, are these people that would have had direct knowledge that the guns were recovered at other locations other than on where the report says?

A Yeah.

Q Were they in a group? Was there a discussion?

A Yeah. Well, yeah, there was. Uhm, remember when we, uh -- when I was telling you that we had them all lined up?

Q Yeah.

A A lot of C.R.A.S.H. guys were in a little circle. And Hewitt started saying, "Okay. You'll -- you'll have this guy here. You saw him drop." You know, the same way that we discussed the other, uh, place on Benton Way. It was done the

same way. Hewitt told us who he wanted. While they're all lined up, he figured out he wants to go to jail.

And then, he, uh -- he told us, "Okay. You recovered this one, this gun, from, uh -- 'cause I didn't know these gangsters. He knows them all by their monikers and all that. We recovered it from him. He, uh -- you and you, and you and you partner recovered this gun from that guy there.

But none of these guys were sitting there waiting for us to come up and then, we see that they see us coming, and they wait for us to toss a gun, you know, as we're showing them. These guns are already, you know, tossed out, laying around, when we got there.

Q Those -- those names you gave, those are approximately ten officers I counted, who would have direct knowledge?

A I think there's more than that. Uhm, but, uh, I don't -- I don't know if he just put the name -- those officers names there, because those were the particular officers that are gonna testify to that particular gun being recovered. But I'm pretty sure we had more officers than that.

Q BY MR. ROSENTHAL: Ray, I'm a little concerned, because I think that the prior question by Det. Nalywaiko was a little too broad. I couldn't tell whether the question was, which officers would have known what actually occurred versus which officers would have known what occurred and known that it was a false report.

So, why don't we try and -- well, let me ask you specifically, of the officers you named, and there were an awful lot of officers, which officers, based upon on what you saw, would have known that the report that was being prepared, and prosecutions that resulted, would have been based on false evidence or testimony?

A Right off the bat, all the officers that -- that, uh, are described in the report as witnessing, you know, someone toss a gun, or recovering a gun, all that was fabricated.

Q Let me --

A Lujan and Veloz, it's impossible that they saw Defendant Oliver toss a blue steel revolver in the grassy area because, I mean, that didn't happen. The gun was, obviously, recovered inside. So, it's impossible for them to say, uh, yeah, we saw him as we were, you know, coming up through the back of the location, and we saw him toss the -- a gun in the grassy area.

Q So, obviously --

A Impossible.

Q And, obviously, Hewitt, because he formulated the plan.

A Right.

Q But what about Stepp?

A Stepp would know because he knows that that didn't happen. Because he was there. I mean, all of us -- most of the

-- the officers that he's describing here -- Lujan, Veloz, myself, uh, Stepp, Hewitt, uh, McNeil -- all of us came up through -- most of the C.R.A.S.H. guys came up through the rear. We were gonna be the ones waiting in the rear. Once that some of these other patrol guys, you know, and a couple of the C.R.A.S.H. guys, came through the front, to break up the party, everybody was gonna run towards us.

And, but what they did was they ran towards the open field. Instead of towards us to the back, they went towards the field. So, it was kind of difficult. And they were pronging (sic) everybody out, out by the -- this open field there.

Q Okay. So --

A So, the -- the names that he's using as far as recovering it, myself, uh, that I -- I recovered -- yeah, I did recover this gun there. I did see somebody place it there. I don't know if it was the same guy that he told me that, you know, he's gonna go.

And did -- you saw him placing it by the -- by the camper-shell. I -- you know, I know that that's not true. Uhm, my -- my partner, uh, McNeil's gonna know that that's not true. You know, because we're all there. I mean, we would know.

Q The -- the only two other names -- the one -- the ones on the fact sheet that stand out, are Stepp and Hewitt, Perez -- meaning yourself -- McNeil, Lujan, Veloz, and two others that are named as detaining Defendant Oliver after his toss -- that's Liddy and Buchanon.

Would -- what about them?

A They would know that this was -- they were right there when we were discussing who was gonna go.

Q Okay.

Q BY DET. NALYWAIKO: You had mentioned Ortiz -- Sgt. -- is that Sgt. Ortiz?

A Mmnh-mmnh.

Q Okay.

A Sergeant. Yeah. I'm sorry. Yeah, Sgt. Ortiz.

Q Would he have had knowledge?

A Yeah.

Q How would he have had knowledge?

A He was there during the discussion. Uhm, it was -- in fact, -- no. I can't say that. Because I'm not a hundred percent sure. But, uh, he was there when -- when Hewitt was talking about who's gonna go. He knew.

Q Did Sgt. Ortiz knew that weapons had been recovered other than where --

A Yeah.

Q -- other than being placed on these people?

A Yeah. He did.

Q BY SGT. COOK: Now, you gave other names. Brehm and Tovar. Did they know, or were they on the perimeter?

A No, they knew. They knew what was going on.

Q They were in the discussion.

A Yeah.

Q Patel?

A Patel knew.

Q Okay. Uh, Rios?

A Patel. In fact, if I remember correctly, like I said, Patel recovered the, uh -- the revolver inside the, uh -- the residence. So, he -- he, obviously, has to know, I mean.

Q Uh, Rios?

A I believe Rios knew. He was there.

Q BY MR. ROSENTHAL: Let me step in. Patel, there's nothing in the report that indicates Patel found the gun, right?

A Uh, obviously, not. Because then, that would have to say Patel recovered the gun inside the house. So, now, they can't put it to the guy who was outside the house who dropped it in the grassy area. I mean, that's just -- you know, you're not gonna -- he's not gonna write that.

Q BY SGT. COOK: We're at a disadvantage here. If we had a communications, uh, tape, uh, an incident history, or perhaps a DFAR, uh --

A It wouldn't show up.

Q -- showing all the officers that arrived at the scene, it would not show up? So, that would not help?

A No, we were on a tach. We had all these officers meet us. And we were probably working off of 181 Boy or another frequency. And we just respond. We don't need any -- we don't need to broadcast it. We don't need to announce it to the world. We just show up.

Q So, there's no other record that we could present to you to -- to indicate all the officers that were there?

A Maybe DFAR's for this day. You know, patrol guys and, uh -- and, you know, all the C.R.A.S.H. guys. And I'm sure their -- their, uh, DFAR's would reflect that they were there.

Q All right. We'll probably have to do that. Uh, again, going back to these former C.R.A.S.H. officers -- Palomares, Jeff Graham, Villalta, and, uh, you said, uh --

Q BY MR. ROSENTHAL: How do you spell Villalta?

A Villalta. V- -- V-i-l-l-a-l-t-a.

SGT. COOK: Villalta. I'm sorry. Villalta.

Q And you said Flaherty.

A Flaherty was working with Villalta.

Q Okay.

A He was not a former C.R.A.S.H. guy. He was just working with Villalta.

Q Did they --

A Did -- would they know what was going on?

Q Yeah.

A Uhm, I'm sure like Donaldson and Villalta, and Graham -- uh, well, Graham, too. I'm sure he knew what was going on. You know, well, you know, he knew that, you know -- you know what, if I remember correctly, we had discussed that one gun, we're not gonna book it to somebody.

'Cause I think we had just done another party before

this one. And that's why I was looking in the book where we recovered five guns, or something like that. And five people went to jail. And we said, it just looks too -- too fishy. So, I think one gun we just booked it as, uh, just on nobody.

Uh, so, there's definitely another party before this one, somewhere in there. I didn't find it. I don't know if it just wasn't log. But, uh, the old C.R.A.S.H. guys, the guys -- the guys that have worked C.R.A.S.H. before, they knew. I mean, all these guys are lined up. And all of a sudden, okay, handcuff him. Handcuff him. You know, handcuff him, and him. You know what I mean? So, they know what's going on.

Q Okay.

A But the young officers that are working with these ex-C.R.A.S.H. guys, they probably don't.

QQ Okay. So, were these four -- uh, these four names I just gave you, were they watching the, uh, group? Or were they in that group that was having the discussion?

A No, they were watching all the -- these defendants that were, uh, kneeled down. They were not in our conversation.

Q All right.

Q BY DET. NALYWAIKO: Why -- why -- why, uh, -- why did you -- why did you do that?

A Why did I --

Q Go along with it?

A Rampart C.R.A.S.H., uh -- when I arrived at Rampart C.R.A.S.H., this is not something that I was doing. Before I



arrived at Rampart C.R.A.S.H., I've never put on a gun on a person. Never. When you get to Rampart C.R.A.S.H., this is something that you're taught. This is how it goes. Uhm, when you're there, supervisors, other officers, the senior officers, they tell you what the history of Rampart C.R.A.S.H. is.

And they tell you how they do things. You're either in or you're not. If you're not, eventually, you're gonna get, you know, -- you're gonna get washed out. You know, you're gonna get -- you know, no one likes you, no one talks to you. And you're gonna go away.

Uhm, when we're in Rampart C.R.A.S.H. we're in the business of putting bad people, who were doing bad things and getting away with it -- we were in the business of putting them in jail.

When Officer Hewitt picked those four people, I guarantee you they were four guys who had been in jail before, or guys that were suspected of, you know, committing certain crimes. And the bottom line was -- and like everyone who just -- who talked to us and came to our roll calls -- supervisors, lieutenants, and captains -- you guys are doing a great job. Don't tell me how you're doing it. But you guys are doing a great job putting a lot of people in jail. That was the consensus from everybody that came and talked to us in roll call.

Every supervisor that talked to us, continue to do what you're doing. Not once did one supervisor say, oh, you

guys are putting an awful lot of people in jail. It was always, good job. Continue to do what you're doing. Just don't tell us how you're doing it.

And Rampart C.R.A.S.H., since I was there, since I arrived to Rampart C.R.A.S.H., that's how things were done. They did what they wanted to do. And they had the backing and support of most supervisors.

Q Who told you not to tell them -- not to tell them -- don't tell us how you're doing it?

Q BY MR. ROSENTHAL: Uh, I'm not -- I'm not sure that -- Let me make sure we understand that. I didn't take it, from what you said, that, uh, supervisors would actually come in and say, "Hey, you're doing a great job. Continue doing what you're doing. But don't tell us about it."

A Right.

Q I took it that that is your interpretation of how they're reacting just -- is that correct?

A Yes. Yes and no. Uh --

Q Okay.

A -- like I said, all the supervisors that we've had, uh, supervisors that we've -- that worked C.R.A.S.H. before and would come and talk to us in roll call, uh, would always come and tell us, you know, the history of C.R.A.S.H. And what you guys are doing, only a select few can do.

Uh, you guys put bad people in jail. I mean, you're not out finding the average citizen and put them in jail.

You're putting bad guys, who we know have done bad things, but they intimidate witnesses, so they don't get arrested -- they don't arrested for the drive-by. Go out there and basically do what you're doing. Keep doing what you're doing. Put these people in jail.

And it was -- if we break up a big party, it doesn't matter if we saw you, the citizen, carrying that gun. You're not the one that's gonna go to jail. 'Cause we know probably that gangster over there is telling you to hold it for him. Or at least that's our mentality.

Q Is -- it sounds to me like the -- the legitimate statements, in essence, or arguments that are being made by the supervisors, are, look, we can't get them for a drive-by, because nobody will talk, but you guys are going out there and you're finding dope on them, you're finding guns on them, you're putting bad guys in who should be put away. And who are doing even worst things, but you guys are, you know, you're doing what the average citizen can't do because they're scared.

Is that a correct -- is that a --

A Yes.

Q -- interpretation?

A Right. And -- and the thing about it is that we would have supervisor after supervisor, you know, old supervisors that worked C.R.A.S.H., uh, if it wasn't Lt. Hill or Capt. Morans -- Capt. Morans would come to our roll calls, you know, at least once a -- every other month, I would say.

And he would say, you know, I -- I read your reports when they come through. You guys are doing a great job. You know, uh, you guys got my full support. I mean, not once -- not once that I can remember can I -- did I hear a supervisor say, well, this -- this arrest is questionable. Uhm -- uhm, how is it that you guys have a party and you guys all see five of these people running out of the house and they're carrying the guns and dropped them?

Not once did a supervisor say that. I mean, it was -- and I know it's kind of difficult to understand. But when you sit there in a roll call room knowing what you just did, let's say for this party, for instance. And the next day, uh, three supervisors come by your roll call and tell you, "That was a great arrest. Good job. Put some -- five, you know, idiots in jail. That's a good job."

And you know what they're telling you. You know that they know if they even glance at the report, you know they know. You know that they know. And it's like, you know, only a few chosen people can do what you guys do. And that's why you guys are selected to work C.R.A.S.H. You know, and -- and this is what needs to be done, you know.

I know a lot of people don't want to know how it's done. But I guarantee you there's a lot of happy people that we're putting these gang members in jail. That was the consensus. That was the mentality, that we're putting these bad guys in jail.

Q BY DET. NALYWAIKO: Earlier you mentioned that's the way you were taught when you went to C.R.A.S.H. Who taught you to do work like that?

A Every time you, let's say -- let's say -- let's take this -- this arrest. And this happened, uh, July 26 -- or July 20th of 1996. Let's say Officer Tovar had been in there, in the unit -- or let's say Mc- -- McNeil. I think I was working with McNeil. McNeil had been in this unit for a month now.

And we break -- and we do this party. We debrief it. We deploy on it. He's with me, with Hewitt and Stepp. And we see everything that's going on. And this party took place and people drop guns, and we found guns other places. And then he sees us sitting in a little circle there figuring out who's going to go to jail. That was just a lesson.

This is how it's done. And this is why the sergeant's gonna reward us. This is why we're gonna have a -- a picnic over at the benches with beers, and drink beers and congratulate each other, and pat ourselves on the back. That's how the lessons start. With each arrest that -- that occurs, each, uh, debriefing that we have, that's your schooling. That's -- you're learning. And now we know that we can do this in front of you, and you can be trusted.

We know that you're not gonna go to Internal Affairs and say, uh, you know, this is happening.

Q Was there any one person, initially when you came to C.R.A.S.H. that you looked up to, or you knew was the teacher

-- the person that would tell you how things were gonna be done in C.R.A.S.H.?

A Hewitt and Martinez were probably the best at it. Uh, Richardson was very good. But I think if -- if you had to ask me who was the No. 1 guy, who can go to, uh, -- uh -- uh, 3rd and, uh, Berendo, and have us chase for him while he's doing an O.P., it's -- uh, Hewitt and Martinez were the very best at it.

When I got there, they were the most -- the hardest-working ones. 'Cause they were -- they had the 18th Street gang, so they were the busiest. Uh, and they were putting cases together every night. And every night, you know, we'd help them maybe affect the arrest on some particular case. And I see what's happening. You know, I saw what was going on.

I can tell you that the first time I saw it, I was "Wow."

Q Okay. That was just a question I had. I guess maybe we better get back. Now, we've got to get back to the specific cases.

Q BY SGT. COOK: Okay. Well, let me -- since you brought these names up. Byrnes. You said Byrnes was at the scene. What did he do?

A Byrnes is -- is nobody.

Q Okay. He wasn't in the group?

A In fact, I think that might be a female.

Q All right.

A She's a nobody.

Q Okay. Uh, Donaldson. Was he in the group? Or he was on the perimeter?

A Donaldson does -- he's a former C.R.A.S.H. guy. But old time C.R.A.S.H. guy.

Q So, he was watching --

A And Jack Rowe (phonetic) was there.

Q -- the arrestees --

A He was just watching the arrestees.

Q -- and the crowd? Uh, Moreno.

A Nobody.

Q Other than Ortiz, what other supervisor was there?

A There was another supervisor, but I can't remember. I want to say like -- uh, I really can't remember. But there was another supervisor there. I almost want to say Navarro, but I'm not positive.

Uh, Sgt. Navarro, but I'm -- I'm not a hundred percent positive.

Q Did this additional supervisor take part in that discussion?

A No.

Q No?

A No.

Q BY MR. ROSENTHAL: Well, let's, uh -- let me take back that arrest report package, which I'm going to put back in the D.A. file.

SGT. COOK: Are we done with this?

MR. ROSENTHAL: Yes.

SGT. COOK: Okay. That, uh, concludes this interview.  
The time now is 1535 hours.

MR. ROSENTHAL: Let's go off tape for a second.

(Off the record at 3:35 p.m.)

(Back on the record at 3:43 p.m.)

MR. ROSENTHAL: Okay. We're back on. It is 3:43 p.m. on Friday. Uh, Officer Perez, you're, obviously, still under oath. Uh, we are now going to talk about another, uh, C.R.A.S.H. package that was identified by Mr. Perez on September 24th, uh, for additional discussion.

This relates to Arrestee Gabriel Aguirre. A-g-u-i-r-r-e. D.R. number is 98-02-12853. We do have the District Attorney Case File BA165974. The charge is an assault. A 245, uh, alleged to have occurred, oh, on March 24th of 1998. And it's Assault with a Deadly Weapon, uh, Penal Code Section 245(a)(1).

THE WITNESS: There should be a separate, probably City Attorney file on him. I believe he was charged with at least four or five counts of -- of Battery on a P.O.

Q BY MR. ROSENTHAL: Battery on a police officer?

A Battery on a -- a police officer, yeah.

Q It's a misdemeanor?

A I believe so.

Q Okay.

A Uh, there was like four or five counts, uh, filed on



him, if I remember correctly.

Q Okay.

A So, there's probably a separate file on him.

Q Let's see if I can find -- I don't see here a, uh, -- I don't have a summary of what is alleged to have happened.

A I know that the detectives -- I know the detectives filed a whole separate case on him, uh, regarding the -- the incident -- the use of force. So, they had filed on him.

Q Okay. This one, at least the D.A. file, is an assault of -- upon Eddie Alvarado, with a knife.

A Right. Right. That was the -- the -- the actual reason we were actually looking for him.

Q Okay.

A Uh, but I'm pretty sure that he was filed on misdemeanor. Uh, in fact, I'm pretty sure he was. Uh, just the female that working on the 18th Street injunction in our office, with the one that was working with Lisa Fox. Nicole Bershan, or something like that.

Q You know -- do you know how to spell that last name?

A Nicole. I'm not even sure if I'm saying it right. Nicole Bershaw or Bershan, or something like that. Uh --

Q Is she a Deputy D.A.?

A She's a City Attorney.

Q Oh, City Attorney. Okay.

A I'm pretty sure she said she was gonna file like four or five counts of Battery on a P.O. on a misdemeanor, yeah.

Q Okay. And does that -- is -- would there be a -- another D.R. number? Or is that information contained within this report that's in front of you?

A That -- no. That -- that's not here. That would be another whole separate, uh, report. Uh, I mean, the -- that part of the, uh, incident is in this report. What I'm saying is that that City Attorney got a hold of this report. And aside from this ADW that he was filed on, she was gonna file several counts of, uh, Battery on a P.O.

Q Got it. Okay. So, uh, what's -- uh, what's the problem with this case?

A I reviewed the -- the report. I read it completely, in depth. Uh, and it's -- uh, the entire report is a, uhm -- it's a fabrication of what actually occurred.

Q Who wrote this report?

A Uh, Officer Cohan wrote the report.

Q And, uh, why don't you -- if you can summarize what does the report say, in essence?

A The report says that Officer Cohan received some information that there was some gang activity going on at 450 Witmer. W-i-t-m-e-r. Uhm, and a citizen called that information in, and that we decided that we're gonna respond to that location, uh, to see what this party, or this heavy activity of gang activity, uh, was.

What actually happened, uh, the reason why we were there is because [\*\*\*\*\* CI #9 information redacted \*\*\*\*\*

\*\*\*\*\*]. And [\* CI #9 \*] told him that the guy that Cohan is looking for, Mr. Aguirre -- Gabriel, uh, was, uh, sleeping in one of the, uh, abandoned apartments in that building.

Uhm, Mr. Cohan -- Officer Cohan writes in his report that when he arrived at the location he sees Mr. Aguirre, uh, in the hallway, on the second floor drinking a beer. Mr. Cohan -- Officer Cohan identifies himself as a police officer. And Mr. Aguirre puts the beer down and starts running.

He runs into an apartment. Uh, -- uh, or I'm sorry. He runs up the stairway up to the third floor, across the -- across the hallway, out to a window that leads to a fire escape. He says that him and his partner are behind him -- Mr. Aguirre. He -- they see him going down the stairs. They see him slip and start to lose footing. And he falls. And he has no shirt on.

And they could see his back hitting the stairs as he's going down. Uh, and they see, uh, some trickle of blood on his back. He then runs across -- or back into the window on the second floor. And runs towards the location where I was, with Officer Mesina and Officer Gomez, I believe.

That's also -- uh, all of this stuff I described so far is a fabrication. None of that actually occurred. Uhm, what actually occurred was, we arrived at the location. Uh, myself, Officer Mesina and Officer Gomez are set up in the rear of the building. Officer, uh, -- Officer Cohan and his partner, uh, Officer Chavez, come in through the front of the location.

When they come in through the front of the location,

[

\*\*\*\*\*  
\*\*\*\*\* CI #35 description redacted \*\*\*\*\*  
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\*\*\*\*\* ]. I  
forget which apartment it was. It's probably in the report.

Anyway, we kick the door down to the apartment. Uh, when we get inside, Mr. Aguirre is laying asleep on the, uh -- on the floor. Uh, waking up, but he was half asleep. Uhm, as soon as, uh, we get in, Officer Cohan and Officer Chavez -- Officer Chavez has a flashlight. Officer Cohan holds the guy down and starts kneeling him with his knee, in the back.

It's probably -- if there's photos of the injury, there's probably like round welts on his back. Those are from Officer Cohan's knee. And then there should be like long welts. Those are from the flashlight that Officer, uh, Chavez was beating with him.

Uh, -- uh, and like I said, Cohan probably kicked him, probably at least twenty times. Uh, Officer, uh, Chavez hit him with that flashlight, uh, a bunch of times -- a bunch of times. Uh, there was another male in the -- in the room with him, asleep right next to him. He was, uh, made to kneel down over in the corner. And I remember seeing Officer Chavez, while the guy is kneeling down, facing the wall, Officer Chavez kicked him in the groin area from behind.

Q What's Officer Chavez' first name?

A Uh, I think it's Manny.

Q Or do you have a serial number?

A Probably Manuel or something like that. I think we called him Manny, though. Uhm, his serial number is 30544.

Q All right. That would be, uh, Officer Michael Chavez?

A Okay. Mike Chavez. Okay.

Q Okay.

A Uh, I observed Mr. Chavez kicked this other male that was in the room. Uh, kick him in the groin while he was kneeled down. I believe that guy that was in the room, with Mr. Aguirre, is a fellow by the name of Ofelio Carnasa. And his statement was taken from him by myself and Officer Mesina.

Uhm, everything that's written in this -- that's written in this report, uh, was discussed by everybody involved. We came up with a plan. Uhm, and -- and this whole report was fabricated, I mean.

Q The, uh -- the officers then that would have been involved in potentially criminal conduct, uh, we've got -- you're saying that the Cohan, uhm, kneeling of the arrestee was unwarranted?

A Yes.

Q As well as the, uh, flashlight use by Chavez?

A This was a -- a beating.

Q Okay.

A This was not a -- the guy's laying face-down on the

-- on the floor.

Q And they beat him after -- was this one of the things where they would use the word "thumping" for? He ran so I thumped him kind of thing?

A This guy didn't run. He was not the guy that actually ran. This guy was asleep -- legitimately asleep, in this -- in this abandoned apartment. We kicked the door down, go in, and there he is laying on the floor, face-down.

Q And this is Gabriel Aguirre?

A Yes, sir.

Q Why -- why was he beat?

A Uh, Cohan was looking for him. He was wanted for ADW. He just was -- Cohan is also one of those violent-types. He's gonna beat you, especially if he's looking for you and he finds you. He's gonna beat you.

Q Okay. Now, uhm, who else would have been present during this beating?

A All of us. Everybody that was involved in this, uh, arrest were there.

Q Okay. Why don't you give us your -- give us the list then of people -- the officers who would have been present at the time that Cohan and Chavez were, obviously, doing the beating?

A Officer Cohan, Officer Chavez, Officer Perez, Officer Mesina, Officer Gomez. That's it.

Q Okay. Other than -- and then what you're stating is,

uh, Cohan and Chavez beat him. And then, Cohan wrote a false report to make it appear as though the injuries were obtained as a result of a fleeing of the officers?

A Yes.

Q That's a good summary?

A Yes. Uhm, a couple a things. Uhm, what, uh -- we knew there was a -- a complaint was gonna come down from this. Uhm, one thing that I did with this defendant was, when we started discussing about how we're gonna, uh, justify, explain all this, uh, the defendant was standing in the hallway in the corner. Uh, -- uh, when he hears me talking to Cohan, he goes, "Oh, yeah. Now, you guys are gonna cover it up."

I went over there and pushed him up against the wall. And, uhm -- and his face -- I believe either of his eye or his nose, an abrasion occurred where a little blood trickled down. That's how that actually did occur.

Uhm, when Sgt. Byrnes arrived at the location, we told him two stories. At first, we told him how -- uh, how it actually happened, how this guy was beat down. And then, uh, we told him how we were gonna explain it.

Uhm, he -- he helped in the -- in the covering up of the actual crime, if you want to call it. He suggested that we -- that we pour some beer on the fire escape. And we took pictures of the -- the fire escape to make it look like it was more slippery.

Q Who was that? I'm sorry?

A Sgt. Byrnes.

Q Sgt. Byrnes. All right.

A Uh, also he had us, or he had me, uhm, kind of thin out, a little bit, the wall. There was a hole in the wall that -- that occurred when the guy's, uh, body hit the plaster. Well, we sort of shaved it down and took pictures of it to make it look like the wall was a little bit thinner than what it actually was.

So, what we did was, you know, the plaster -- that the wall itself is shuac (phonetic). We kind of like sanded it down on the inside a little bit. And then, we took a photo of it to show that it was a very thin, thin wall. It wasn't your average thick, you know, three-quarters of an inch plaster or whatever it normally is. But it was a thinner wall.

But Sgt. Byrnes did know -- he knew what happened. He knew this guy got beat down. And then we explained how we were gonna explain it, how he ran down the fire escape. He had me pour some beer on the fire escape. And he took a photo of it.

Uhm, and you know, he -- he's one of the supervisors that you do not tell him a bologna story, uh, you know, that you're trying to create to cover it up. You tell him the truth, how you thumped this guy, or whatever happened. And then, he'll agree with you, or not agree with you, on how to cover it up. And if he doesn't agree with what you're saying, he'll help you, you know, how to -- how to cover it up or how to fix it.



Q Okay. Any other questions?

Q BY SGT. COOK: Yes. Uh, Mesina and Gomez, when the thumping and the kicking was going on, were they inside the apartment?

A Yes.

Q They were watching?

A I want to say that they both, at one point or another, at least once or twice, kicked the guy, too.

Q On which one?

A Uh, Aguirre.

Q Kicked Aguirre?

A Right.

Q BY MR. ROSENTHAL: I'm sorry. Who did?

A Both. Both of them. But it was like maybe, you know, one or two kicks to the groin. And that was about it. But they were -- we were all in the room together. All of us.

Q BY SGT. COOK: So, when Cohan went down with the knee, Cohan got up and started kicking -- kicking, uh, Aguirre?

A Cohan -- the guy was laying face-down. Cohan had his hand on his neck, had his hand like on his lower pants, had him twisted a little bit towards him -- his back towards him -- and was doing one of these to his back. I mean, just really kicking him real hard.

Q BY MR. ROSENTHAL: Okay. You're doing long swings -- full swings with your right foot?

A Right. Using his knee to actually, uh, impact the

back. And then, uhm, -- uh, Chavez was using the flashlight, just waling on him, on his back.

Q BY SGT. COOK: On his back.

A Yes.

Q And you estimate it was twenty times that Cohan was kicking him?

A At least twenty times, yeah.

Q And can you give an estimate of the number of times he was struck with the flashlight?

A About ten, twelve times.

Q What were you doing?

A I was sitting there watching.

Q Were you kicking?

A I think I might have kicked his legs open once when we first got in there. And Cohan started to get on top of him. I kicked the guy's -- the guy's legs open and the sheet off of him. The sheet was pulled off of him. And I'm watching him as everything happened.

Q And Mesina, how many times do you think he kicked?

A He kicked maybe once or twice. And that was right when everything first started. The guys -- you know, we find the guys.

Q And Gomez, how many?

A Same thing. Maybe two or three times.

Q The legs or the back or both of them?

A Kicking the leg/groin area.

Q Both of them?

A Yes.

Q Were there any -- other than this person Ofelio -- was there anybody else in the apartment?

A Let me -- no. Let me get back to Mr. Ofelio -- I don't want to forget the statement that he wrote. Mesina took most of the statement. I went in there a couple of times to write the statement. All of this is fabricated. He was told what to say, basically.

And then, what we did was we actually first talked to him outside in the scene with Sgt. Byrnes. Myself and Sgt. Byrnes talked to him. We, basically, got a rough story from him. And we decided, no, here's what he's gonna say. This is what he needs to say. So, we decided to transport him to the station to have him fill out his statement. And Mesina came out and went over it with him what he needed to say, the part that he was the only one in the room by himself and he heard. All of that was fabricated.

The part about that I have no complaint and the manner in which they treated me -- the police officers treated me -- all of that is totally fabricated. Page number -- it doesn't have a page number. But that's the --

Q BY MR. ROSENTHAL: Let me describe it for the record. That's a translation his written statement from Witness Ofelio Carnasa, O-f-e-l-i-o. C-a-r-n-a-s-a. Shows an interview of March 26th, 1998 at 2:40 hours, taken by C. Mesina and R. Perez.

And we've got a writing in Spanish. Is this actually his writing?

A Yes, sir.

Q So, you would, basically, tell him what to write as he was writing?

A Mesina did. I would tell Mesina what was going to be said. And Mesina related to him. The very last thing we told him was to disappear.

Q All right. The statement -- it's a short statement. So, I'm just going to read it into the record. It says, "Today at approximately two o'clock in the morning, I'm at Spider's at approximately 2:20 hours in the morning. I was asleep by myself in Apartment Number 303. And I heard strong footsteps in the hallway like someone running. Footsteps that I heard sounded like those of one person running.

After one minute, the police came to my door, took me out of the apartment. I don't have any problem with the police. And I have no complaint in the manner that they treated me."

What actually happened in there, they were actually inside the room with Spider.

Q Spider is Gabriel Aguirre?

A Yes, sir.

Q Okay.

A I know he was placed on his knees in the farthest corner.

(Off the record to check tape.)

(Back on the record.)

Q BY MR. ROSENTHAL: It's 4:04. We're back on tape. Uh, I just read the statement of, uh, Ofelio Carnasa. Uh, Mr. Perez, why don't you just tell us what, uh -- what actually happened, as opposed to the statement?

A The statement that's -- that's reflected on that statement form is accurate. And it is, basically, uh, what Mr., uh, Carnasa's was told to write, uhm, by myself, uh, and Mr. -- uh, Officer Mesina and, uh, Sgt. Byrnes.

Q And he, -- basically, what you're saying is he was there during the beating?

A Yes, he was.

Q So, uhm, -- so, he's a percipient witness to what occurred?

A Yes.

Q But, in order to make sure that he wasn't a, uh, witness who could be trusted, you want to make sure that you had a statement from him saying everything was fine?

A Right. We -- we made sure that -- how we were gonna, you know, write the story would match his story. So, when he says that he heard one -- that he was sleeping by himself, that's one -- you know, that's part of the story.

That he heard one footstep, you know, running. And then, he heard, you know, a minute later, officers running in. That's also part of the story to fit our story.

So, all -- all of this is he was just, basically,

told what to say. And that's what happened.

QQ Okay. Anything else about this one? Or can we move on to the next one?

DET. NALYWAIKO: I have two quick questions.

SGT. THOMPSON: I just have --

DET. NALYWAIKO: Go ahead, uh, Mark.

Q BY SGT. THOMPSON: I was out of the room. Maybe it was already asked. Who -- who, uh, gave you booking approval on this arrest?

A Sgt. Byrnes. That's right. He was -- he was the supervisor there. Yeah. We called him out to the scene.

Q Who, uh, signed the, uh, arrest report?

A Uh, Sgt. Byrnes.

Q Is that his signature on there, as far as you know?

A Yes, it is. Well, it looks like his signature. I'm not sure if Cohan or Chavez forged his signature. But it looks like his signature.

Q Does it look like the same signature on the booking approval?

A Right. I'm not sure if it's his or not.

Q Okay.

MR. ROSENTHAL: Okay.

Q BY SGT. THOMPSON: I just have one more question on this thing. Ray, I think you made the comment you knew this would go to be a complaint. Did this turn into a personal complaint?

A Yes, it did.

Q It did?

A Yeah.

Q Who handled that complaint?

A Somebody -- I thought it was somebody in our -- in our Rampart, you know, Complaint Unit. But, uh, I can't recall. I know it turned into a big complaint.

Q Do you know how it was adjudicated?

A Yeah. I was the only one that took a hit for it. Everything else was exonerated. They got -- or they got me for not resolved for the -- what was it? It was all either exonerated or unfounded. And I think I got one unfounded. Or I'm sorry, not resolved. Uh, but nobody took any -- any heat for it. You know, nothing serious.

Q When you say you "took a hit for it" what was sustained?

A In other words, the -- the only thing that he remembers was me -- me doing something. He remembers me pushing him in the wall. Uh, and he couldn't remember, uhm -- or because there was no independent witnesses, it was my word against his. So, it was not resolved. Everything else was like exonerated.

Q Did you say this was an abandoned building?

A No.

Q It was abandoned? Or was not?

A It was an abandoned apartment.

Q Abandoned apartment.

A Right.

Q Okay. Uhm, when you -- when the door was kicked and you went in, you said he was laying on the mattress?

A He was laying on the floor. There were sheets on the floor.

Q On the floor.

A Some blankets and a -- a comforter.

Q Prior to him being, uh, struck, did he -- Mr. Aguirre -- did he offer any resistance whatsoever? Try to get up and flee, uh --

A No. There was, uh, parts in the report that said that he was flailing his arms, hit several officers. Uh, all that's made up. Uh, I do remember him saying, uh, "Officer Cohan, what's up? You know, why? What's going on, you know?"

He knew Officer Cohan by -- by face. And he was shouting out Officer Cohan's name. Uh, but he was still gonna get -- he was getting beat down.

Q Was he handcuffed or unhandcuffed when that beating occurred?

A He was not handcuffed?

Q Okay. And while the beating's taking place, is he calling out, doing anything, you know, yelling out, screaming out, asking for help, anything like that, trying to draw attention to this?

A He was, you know, obviously, showing, uh, you know,



sounds of pain. But right when Officer Cohan started kicking him, uh, or kicking him with his knee, you know, he started saying, you know, "Officer Cohan, what's up?" You know, like --like he's, you know, trying to tell me, uh, -- or trying to tell him, you know, why you beating me, man. What did I do? That type of thing.

Q You -- you briefly touched on the visible injuries that you saw -- or you saw that he sustained. Could you tell us, again? I know you talked about his back with the flashlight was hitting his back. Were there other -- you talked about his face from pushing him into the wall.

A Mmnh-mmnh.

Q Uhm, were there any other visible injuries, uhm, that --

A Well, he had -- like I said, I think he had like these round welts on his back. Those were from knees, uh, being kicked in the back with the knee. And the marks from the flashlight, the injury to the nose.

Q Did he have a shirt on?

A No. He had no shirt on.

Q BY MR. ROSENTHAL: Let's -- let's do this. Obviously, each one of these cases are going to be, -- uh, an investigator will be assigned to them and follow-up statements will probably have to be taken. But let's move on because we still have another five cases that were identified from the C.R.A.S.H. list, not even to mention the two dozen, uh, narcotics cases

we're not gonna be able to get to today.

So, let's, uh -- let's finish with this one. If you'll please give me back the, uh, arrest report to put back in the file. And we'll go through now --

SGT. COOK: We'll conclude this interview. The time is now 1612 hours.

MR. ROSENTHAL: And the --

THE WITNESS: Can we go to this one? But, uh, give me about two minutes to just go through it?

MR. ROSENTHAL: Sure. We'll go off tape for a minute while he gets a chance to review the -- the report on Samuel Bailey.

(Off the record at 4:12 p.m.)

(Back on the record at 4:18 p.m.)

MR. ROSENTHAL: We're back on tape. It's 4:18. Uhm, you're still under oath. And we are now going to talk about another, uh, case which was identified, uh, by you on September 24th, for additional discussion. This is, uh, -- we've got a two-defendant case -- Samuel Bailey, B-a-i-l-e-y, and Otto Castillo -- C-a-s-t-i-l-l-o. Uh, D.R. number is 96-12-26394.

And we've got a case file -- a D.A. case file, BA137221. Uh, these are both gun charges alleged to have occurred -- and I'm looking for the complaint.

THE WITNESS: August 23rd, 1996.

MR. ROSENTHAL: August 23rd, 1996. Uh, Count 1 against Samuel Bailey is Possession of a Firearm by a Felon. Count 2 against Otto Castillo is a Possession of a Short-barreled

Shotgun -- a rifle.

Q Uh, what's -- what's the problem with this case?

A You -- you didn't get into Defendant No. 3 and No. 4?

Q Oh, it's -- it looks like the filing, in this case, was only on Defendants 1 and 2.

A No, I think --

Q Uh, there are -- there are other individuals?

A Yes. There's a Defendant No. 4. Uh, Roy Montes. I know he went to jail for narcotics in the same case. You said that you had two, uh -- you had two files on that.

Q Let me look on this. I'm sorry.

A You said there was two separate files.

Q Let me take a look. I may be -- that may very well be correct. Yes. Yes, you're right. Let me look. There is Roy Montes.

A Right.

Q Yes. Okay. We also have Roy Montes the same D.R. number. This is BA139729. And, in this case, Roy Montes is charged with Possession for Sale of Cocaine Base.

A Right.

Q And that's also August 23rd of 1996. So, these cases were filed separately. Uhm, and you've got a fourth, uh, arrestee on the --

A I don't know if he was filed on.

Q -- report?

A But there is a Defendant No. 3, in this case, uh,

Vasquez, Humberto. Was he not filed on? Or do you know what happened with him?

Q We'll have to check. But as of now, it does not appear that he was filed on.

A He was arrested the same day. But I don't know if he was filed on. I'll start, if you'd like, with the Montes -- Roy Montes. He was filed separately --

Q Okay.

A -- for the narcotics charge. Uh, in the report, it indicates that when we, uh, deployed -- and this actually occurred in 77th Division. We had -- I had received some information that a clique of the Temple Street gang that hangs out in 77th Division were, uh, gonna be having a party. Uh, we went down there, uh, observed it, noticed that they were gathering. And it looks like there was going to be a party.

So, we had everyone in the C.R.A.S.H. unit, uh, meet down there. We discussed it -- how we're going to deploy on it. Firstly, let me say that, uh, everything that's in the report, as far as how evidence was recovered, and how, uhm, officers, uh, had certain, uh, observations, were all fabricated.

Q All right. The summary, from the D.A. file on Mr. Montes, is very simple. It says, "Officers responded to the location regarding a tip that a wanted 187 suspect -- a wanted murder suspect -- was to be there. Upon contacting some of the group, Officer Durden saw defendant drop a bindle containing

thirty plus pieces of rock cocaine."

And you're saying that that's, uh --

A That's all a fabrication.

Q -- that's all false?

A That was narcotics that Officer, uh -- uh, Durden had on him. And he, uh, -- he planted that evidence on Mr. Roy Montes.

Q Who wrote the report?

A Uh, I wrote this report. I wrote this report.

Q Why -- why don't you explain how that happened and why?

A Uhm, Officer Durden made that decision solely, uh, on himself. When we broke up the party -- the way it's written on the report, when we -- when we arrive we see a Mr. Samuel Bailey out front. And the gun is tossed. That's inaccurate. Or when he says that he saw -- when we arrived at the location, he observed Roy Montes dropping the bindle, that's -- all that's fabricated.

All these people were taken into custody first. After they were taken into custody and detained, that's when it was decided on who's going to jail.

Q Okay. Now, the Statement of Facts, actually on the other case, the case against Bailey and Castillo, is a little bit more extensive. So, let me read that. And -- and, for the record, the Statement of Facts is, basically, a synopsis of what's in the police report.

And it says, "On August 23rd, 1996, at 3:00 p.m., C.R.A.S.H. officers received information that Temple Street gang members were partying at 52nd and Figueroa, and a wanted murder suspect, Stymie, would be present."

Now, is that correct?

A Yes, sir.

Q Okay. Uh, "A dozen C.R.A.S.H. officers deploy on 527 West 52nd Street to set up an obs- -- observation post to observe forty gang members loitering."

Is that accurate?

A Yes.

Q "At 10:20 p.m. officers deployed on location and suspects started scattering."

Would that be accurate?

A Yes, sir.

Q Uh, "Officers observed Defendant 1, -- which is, uh, Bailey -- uh, throw a loaded .32 caliber revolver. Defendant 1 refused to waive. Uh, officers observed Defendant 2 pull a short-barreled shotgun out from under a couch in the driveway. Then, drop it when ordered, and flee."

And it actually says, "Defendant 2, uh, waived his rights and signed a confession." And that was Otto Castillo.

Okay. So, what's, uh -- what's false about this?

A That? Everything. Uhm, firstly, uhm, the information about a shotgun under the couch, we -- we had that information before we even went in. What we had was an

informant [ \*\*\*\*\*

\*\*\*\*\*  
CI #6 description redacted

\*\*\*\*\*

\*\*\*\*\* ].

[ \*\*\*\*\* CI #6 description redacted

\*\*\*\*\*

\*\*\*\*\* ]. [CI#6] did tell me that they did have a sawed-off shotgun out in front, uh, under a couch that's out along the side of the house.

So, we knew that shotgun was there before we even went to the location. Uhm, -- uh, it describes me and when we arrived at the location, uh, observing Mr. Samuel Bailey out in front. Uh, and that he, uh -- he, uh, put his hand on his waistband, as we arrived. Uh, we told him to stop. And he turned around and started to walk away. As he walked away, we could see with his right hand he drops a, uh, revolver. And then, he complies with the rest of the commands. And he's taken into custody.

All that was fabricated. That weapon was recovered inside the house somewhere.

Q And then, put on Mr. Bailey?

A Yes, sir. The same thing goes for Mr. Roy Montes out front. Mr. Durden says that he observed him dropping a bindle with rocks. All that was fabricated.

Q All right. The officers that are identified -- we've got you identified as writing the report; uh, that you received

the initial information; organized the O.P.; you recognized defendant as a parolee -- Defendant Bailey; ordered him to get his hand off his waistband; observed Bailey to throw a gun; arrest and recovered the gun.

So, that's false?

A Yes, sir.

Q And you wrote that in the report, even though it was false?

A Yes, sir.

Q Uhm, and then, they also have you arresting Defendant Castillo in the attic of his house. And you received a loaded shotgun from Officer Liddy, and you booked the same.

A Right. I believe there's a statement in the report that Officer Liddy says that while he's positioned, uh, one yard -- one yard -- in other words, one back yard -- to the rear of the location, uhm, he observes a male Hispanic, uh, Defendant No. 2, uh, reach under a couch that was on the driveway and remove a sawed-off shotgun.

That's incorrect. Uh, that shotgun we knew was already there. That's just the story we gave in order to put Mr. Castillo in jail.

Q What about, uh, -- we've got Detective -- Detective Sammy Martin apparently.

A I'm sorry?

Q Detective S. Martin.

A Where's that at?



Q Uhm, well, this is in my file. Detective Samuel Martin, 26058. Uh, according to this, he obtained a Miranda Waiver from Defendant Castillo.

A That's -- that's probably after -- a couple of days later. After we've arrested him, the detectives talk to him and interview him, or whatever. That's -- that's not done the same day.

Q Okay. But, uh, it says that Castillo admitted the shotgun belonged to him.

A It probably did. I think that's why he went to jail. We -- we -- the house that we arrested the guy, that's -- that's where he lives.

QQ Okay.

A We knew by -- according to what the informant told us, that, uh, the shotgun belonged to, uh, Castillo. Uh, but, uh, the -- the information that's written on here about Officer Liddy, uh, observing him removing the shotgun and placing it back, or whatever, that's all fabricated in order to, uh, establish possession.

Q All right. So, you're saying that it is -- that it is certainly possible that Castillo, uh, was, in fact, the person who was in possession, or owned the shotgun, but just nobody saw him in possession of it?

A Right.

Q Any questions?

Q BY SGT. COOK: How many officers were there at the

scene? You're saying the entire unit?

A How many total officers?

Q Yeah.

A I would have to -- uh, is there a PCD? I want to see if there's a PCD. Probably not. I can go by the report and read off the names that are described on the report. Because we had some outside help. Uh, 77th C.R.A.S.H. assisted us in the outer perimeter of the location.

But, according to the report, all the officers that were present, at that location, were -- you want the 77th C.R.A.S.H. officers as well?

A No.

Q No?

Q BY MR. ROSENTHAL: Could we -- okay.

A Just the officers that were involved in the arrest, and the Rampart C.R.A.S.H. guys that went into the location?

Q Why don't -- why don't we just save that for another time?

Q BY MR. ROSENTHAL: Yeah, well, right -- right now, the question is from what you've said so far, the officers who have been involved in criminal conduct --

A Mmnh-mmnh.

Q -- are yourself, Officer Durden, Officer Liddy. And any others?

A Uhm, Officer Rios, I believe. Was he with, uh --

Q BY SGT. COOK: What part did he play?

A Was he -- he was with Officer Liddy, I believe. Or let me see. Let me -- hold on for a second.

Oh, Officer Richardson also. Officer -- uh, on Officer Richardson, I don't know what happened to the third defendant for this case -- Mr. Vasquez, Humberto. But on the report it says that "Officer Richardson recovered a blue steel .9 millimeter semi-auto handgun from Defendant No. 3's front waistband." I don't know if he was just filed, uh, misdemeanors or it was maybe in the City Attorney's.

MR. ROSENTHAL: It may be a misdemeanor.

THE WITNESS: But that gun was also found inside and it was just put on that person.

Q BY MR. ROSENTHAL: What's the name of that person again?

A His name is Vasquez, Humberto. His, uhm, -- it's not even in here. It must have been filed misdemeanor, 'cause none of the -- his -- his report is in here, as far as his face sheet.

Q So, that's likely a misdemeanor.

A Right.

Q What -- what about the, uh, -- with respect to the .32 caliber revolver on Bailey --

A Mmnh-mmnh.

Q -- do you have any reason to believe that that was actually Bailey's gun?

A No. Him was a whole 'nother reason. He was involved,

uh, also in -- according to our informant, he was involved in a conspiracy of wanting to kill a police officer. And he had made some details as to how he was gonna do it.

Q And would that be you?

A Yes.

Q Is there any other questions on this one, at this point?

(No audible response.)

MR. ROSENTHAL: Okay. Let's, uh, -- let me take back the, uh, arrest reports, which go into the D.A. files.

SGT. COOK: This interview is concluded. The time now is 1631.

MR. ROSENTHAL: I actually think this will work. Because this gives us enough information to assign people to cases. And then, come back for follow-up. Uh, let's check --

SGT COOK: Are you ready?

MR. ROSENTHAL: We can go off tape for now.

(Off the record at 4:31 p.m.)

(Back on the record at 4:35 p.m.)

MR. ROSENTHAL: Okay. It's 4:35. We're back on tape. You're still under oath.

Q Uhm, one of the files that you did identify on September 24th, for additional discussion, is D.R. Number 97-02-12247. Defendant Juan Torrecillas, T-o-r-r-e-c-i-l-l-a-s.

And we have a District Attorney File BA148066 with a charge of -- a gun charge, 12031(a). Uh, now, we were talking

about, from the very beginning, or a number of times during the course of our interviews, we've talked about a .45 that was planted on a defendant, you said by Officers, uh, Cohan and Brehm.

A Yes, sir.

Q Correct? And you initially identified as a -- it's possible entry in the Rampart C.R.A.S.H. arrest book, an entry relating to Octavio Espindola.

A That's correct.

Q And we've given you a copy of that report. You also previously said it might have been a, uh, entry relating to -- and it's -- the first name is illegible. But it starts with a "D". And it's Diaz, D-i-a-z. Booking No. 5286708.

I -- and we've also given you a report of a Juan Torrecillas. Now, between those three entries in the Rampart C.R.A.S.H. arrest book, all three show .45's. And I believe all three are -- show arrests by Cohan and Brehm?

A Yes, sir.

Q Okay. Can you tell, at this point, uh, which one of those three entries would be the occasion that you were thinking about and that you previously told us about?

A Yeah, after hearing a couple of the reports, the one with the Juan Torrecillas is the one that's, uh, in my mind that I recall. Uh, one of the things that I remember about the, uh, report was that he arrested, uh, both people in the vehicle. And we had made a joke about it, how he took two

people to jail for one gun.

Uh, and the location is -- also, uh, refreshing my memory -- is down at the south end. Uhm, and the fact that they -- that they were in this vehicle, uh -- uh, a large vehicle. Let me see here. I remember they were in a vehicle when they saw him. They tossed something out. It was a Cadillac.

Q And the, uh, -- it looks like the Espindola case just involved one male Hispanic gang member, uh, at looks like -- well, let me see. I don't know if this is a name "Taxi Bar" or if it's a type of car.

A Right.

Q Uh, you're saying that does not fit with the, uh, recollection you had of two guys, one gun, one car?

A Right.

Q Okay. Why don't you, uh -- well, with respect to Juan Torrecillas then, uh, what I've got, as far as the summary in the D.A. file is it shows that it's occurring on March 15th of '97. It shows Officers Cohan and Brehm, uh, at Venice Boulevard and Albany. And it says, uh, "Officers see a Cadillac with no headlights after dark. They illuminated from behind. They see the rear passenger pass a stainless steel handgun to driver who tosses the same once the car is stopped."

Uhm, according to the summary, they will testify that they could see the item and hand it to the driver by, uh, Defendant Torrecillas. They can see it's a handgun, although,

they can't clearly distinguish the caliber. Uh, the driver, co-arrestee Villanueva, V-i-l-l-a-n-u-e-v-a, subsequently tossed the handgun, which Brehm recovered. It was a .45 caliber semi-automatic loaded, two live rounds in the magazine and one in the chamber.

Uhm, and that is it. So, what is it about this case that makes you believe that there's a problem?

A Uhm, several things. Initially, uh, during back around this time, [ \*\*\*\*\*  
\*\*\*\*\* CI information redacted \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\* ].

[ \*\*\*\*\*  
\*\*\*\*\* CI information redacted \*\*\*\*\*  
\*\*\*\*\* ], they had recovered several different guns. And they had them in their possessions.

On a couple of occasions, they had shown me some of the guns they had. They had a couple of .45's. On this occasion, I remember when they, uh, arrived at the station, with, uh, the handgun. I remember them putting it on the table. And I remember them -- I remember them, uh, -- uh, talking about the arrest. And I remember, uh, us joking about it that he was gonna put, uh, two people in jail with one gun.

Uh, he, uh, -- I remember him saying something about that this guy was in the gang that he was in charge of. But didn't know him very well. Uh, but he said he had priors or

something. And he had to go, or something. 'Cause he didn't know him, so he must be dirty. And he must be out doing things, and leaving the neighborhood, or something like that.

Uhm, I remember that we -- we had made some joke about, uh, is it, you know, is this one of the guns that, uh, [ \*\* CI information redacted \*\* ]. And he had said, "Yeah."

Uh, I remember --

Q Well, when you say you actually asked -- because this doesn't seem, uh, in accordance with what you said before, you wouldn't actually directly ask a question like that.

A Right. I mean, you discuss little things. I mean, you -- I -- I didn't ask him, oh, did you plant this gun on him from the -- I wouldn't. I mean, it was like -- I mean, we're sitting there at Detectives. And we talked about it. I mean, a little bit about it. A little bit. And it was, yeah, it was one of those. You know, and it was real brief stuff. But we did talk about it.

Q Okay.

A Yeah. And the reason it stood out in my mind is because I remember him talking about it, how -- how it happened, uh, or how he said that he was gonna write how it's gonna happen. And -- and the .45. I remember that, you know, when he put the .45 down, we looked at him like, oh, this is one of your informant ones, right? And he was like, "Yeah." You know, it was one of those quick things.

Q Okay. You don't remember the exact words? Or can



you tell us what the conversation would have been, basically?

A It started when he walked in the office, in Detectives, and put the gun down on the table. And we had -- I had seen it already. I know, I think my partner had seen it already. And we knew it was one of the guns that he had in his possession. I mean, he had had it.

Uh, he had it -- he had several guns in his possession, 'cause the informant had given it to him, or, you know, told him where to find them. And he just held on to them. And when he was ready to put somebody in jail, that's what he would do.

Uh, so, when he walked in and we saw the gun, I know I had seen it before. And it was like, oh, you know. Sort of like just, you know, referring to, oh, you know, that's one of those guns, you know. He goes.

And I -- and for some reason, I remember him saying that he didn't know this guy very well. He -- he was in the gang that he was in charge of, but he didn't know this guy very well.

Q Any other questions on this one, at this point?

Q BY SGT. COOK: Could you describe the gun again?

A Uhm, well, there was several. Uhm, when he had showed me the guns, uh, he had in his car, he had probably four. I'll say four or five guns. Uhm, he had a couple of .45's. That's why I wanted to see the reports.

He had a couple of handguns, like small caliber .25

or something like that. Uh, I know he had at least -- and -- and I can't comment about this report here. It was right around the same time. But there is also a .45 involved. So, I don't know if you guys still want to talk to this guy. I can't comment on it, because I don't remember it. Uhm, but, uhm, -- uh, when I saw the guns --

Q BY MR. ROSENTHAL: You're referring to the Octavio Espindola report?

A Yes, sir. Uhm, I had saw a, uh, -- a blue steel, uh, .45; a stainless steel .45; I believe it's a stainless steel, uh, small like, uhm, -- like a Raven .25 auto or something small like that; and a couple other, uh, handguns.

SGT. COOK: Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: Next one?

MR. ROSENTHAL: Okay. Uhm, why don't you give me back those reports.

SGT. COOK: That concludes this interview. The time now is 1645 hours.

THE WITNESS: You want the Espindola one?

MR. ROSENTHAL: Espindola and Torrecillas. Uh, we can go off tape for a second.

(Off the record at 4:45 p.m.)

(Back on the record at 4:45 p.m.)

MR. ROSENTHAL: Okay. It is, uh, a quarter to five. Uh, Mr. Perez, you're still under oath. And you did note there is

one, uh, case, an Elmer Cruz. C-r-u-z. Uh, the D.R. number is 98-02-23804. This was, uh, a D.R. number that you gave us on 9/24. And you mentioned was, uh, needed for additional discussion. It's a gun charge against Elmer Cruz. Officers involved are Cohan and Brehm.

But you told us, off the record, that having reviewed the report, uh, that there is no information to give on this case that, in fact, you were just looking at it because it was a similar-type case to the Torrecillas and Espindola case. Is that right?

A That's correct.

Q Okay. Uh, that last one that you identified on September 24th, for us, is a D.R. No. 98-02-00662. Uh, this is a Rene Mationg, M-a-t- -- looks like i-o-n-g. And we've got a case number of BA165792. Uh, this appears to be -- I don't have the, uh, -- the writing in here is a little bit illegible. So, I can't tell the officers involved.

Uh, and I'm looking for the criminal complaint. Oh, here we go. Looks like Perez and Arujo. A-r-u-j-o. F. Arujo. Serial No. 27101. Uh, it looks like this would have been a report that you wrote. It's a -- charged on March 21st of 1998. The crime being Possession of a Firearm by a Felon, with two priors.

Uh, what is the problem with this case?

A It's really hard for me to remember this one, particularly, real well, as to the involvement of the other

officer. Uh, on this case, it states that I recovered a handgun from Officer -- or Mr. Rene Mationg.

Q You need to speak up.

A A small caliber handgun. I believe it says it was a, uh, .25, uh, caliber semi-auto with wood grips.

SGT. COOK: Richard, you just stated the time was, uh, 1740 -- 1645?

MR. ROSENTHAL: Yes.

SGT. COOK: Okay. Today's date is October 1st, 1999.

MR. ROSENTHAL: October 1st, 1999.

SGT. COOK: Right.

THE WITNESS: That gun was planted on Mr. Rene Mationg by me.

Q BY MR. ROSENTHAL: And how do you remember that?

A Because I was -- I was there. I mean, I was -- uhm, I remember the incident. What I'm trying to remember is how much knowledge Mr. Arujo -- or Officer Arujo had.

Officer Arujo knew. Officer Arujo knew that Mr. Mationg did not have a gun. He knew that when we detained him and we placed him in handcuffs and put him in the car, he said, "What is he going for?" And I know I -- I told him, "He's going for a gun."

And that's where we left it at. And I think he remember me going into my trunk and recovering a handgun. I think somebody else -- yeah, there was somebody else arrested for a warrant or something like that. That was nothing. That

was just a warrant. So, the other guy doesn't play any part in any of this.

Q That's Francisco Perez?

A Yes. Uh, so, the only other person that had any knowledge as to this, or what went on with this, was, uh, Mr. -- uh, Officer Arujo.

I think, later on -- maybe a couple of weeks later, I talked to Durden about it. I told him that I, uh, -- I booked, uh, Husky -- this guy, Rene Mationg -- for a gun.

Q But I don't recall, uh, -- well, actually, yes. We did talk about Arujo before. We went over. Uh, was Officer Arujo in the loop, or just on the outskirts?

A Arujo is the one that I said that was -- no one voted him in. A supervisor, you know, voted him in. And Byrnes wanted him in the unit. And Sgt. Byrnes, you know, asked me to work with him. Sgt. Byrnes said he was solid. So, I took him in, at that time.

Q BY SGT. COOK: Who wrote the report?

A I wrote the report.

Q But he reviewed your report?

A Yeah, I'm sure he did, because I always did. I always gave my -- I always gave my partners, you know, the report to review, just in case I made some kind of mistake, or just to make sure they were in agreeance (sic) with what we wrote.

Q Okay. So, that's his knowledge, by reading the report, he'll know that it didn't go down the way that you wrote

it?

A That's correct.

Q BY MR. ROSENTHAL: I'll just point. This case was actually dismissed in lieu of a probation violation. But it does appear the defendant may have been violated for this.

DET. NALYWAIKO: Were there gun charges behind the guns?

MR. ROSENTHAL: Yeah. I will have to check and see. Any other questions on this one, at this point?

DET. NALYWAIKO: Uh, I have one -- a couple. Just a couple quick questions.

Q Uh, where did you get the gun from?

A That's what I was trying to remember.

Q And if you can back up while you're thinking about that, who knew that you had that gun?

A If I remember correctly, -- and I don't -- I'm not real clear on it, I recovered that gun somewhere before that. I don't know if we, you know, chased some suspects through an apartment building, or -- or what. But I know I had it. And I wasn't working with Durden. I had it. And it was in my bag. I don't remember where I recovered it from, though.

Q Okay. Mark, anything?

(No audible response.)

SGT. COOK: Okay. That's it. That concludes the interview. It's, uh, 1705 hours.

MR. ROSENTHAL: Okay. Uh, I think we're done for the day then. And, uh, we will make arrangements to set up another,

uh, interview date. So, we're off the record.

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