

STATEMENT OF

RAFAEL ANTONIO PEREZ,

TAKEN AT THE INTERNAL AFFAIRS SOUTH SECTION, 441 W. EXPOSITION,
LOS ANGELES, CALIFORNIA.

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

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LOS ANGELES, CALIFORNIA, WEDNESDAY, APRIL 5, 2000; 1050 HRS

MR. ROSENTHAL: First of all, today's date is April 5th, 2000. These are the continuing interviews of Rafael Perez. It's now 1015 in the morning. Before we begin, Mr. McKesson wanted to put something on the record.

MR. MCKESSON: Yes, I wanted to put something in the record today. First, I want to put something on the record that I do think it was a good thing that Officer Denny -- or Officer Fuller -- is moving these debriefings around town, because I think that does add to the security.

And security is my biggest concern for my client, at this point. But as I was talking to Officer Denny, there was something --

MR. ROSENTHAL: Detective Fuller.

MR. MCKESSON: Detective Fuller, I'm sorry. As I was talking to Detective Fuller, something came to my attention that had caused me some concern. As everybody is aware, the plea agreement my client entered into obligates him not only to participate in these debriefings, but also to testimony in any -- any matter that may arise as a result of these investigations.

And one of these matters now includes criminal and civil. But it also includes administration proceedings. And it's been reported in the L.A. Times that Chief Parks is taking immediate action against several of the officers that my client has given testimony against.

And my reading, and my understanding of the agreement, is my client is going to be obligated to testify at these individuals Board of Rights hearings. What Detective Fuller brought my attention to, and what enhanced his concern, is the pending Board of Rights hearings.

And what really caused his concerns, is the fact that he said some of the officers, whom my client is going to be giving testimony against, have not be relieved from duty. They have been assigned to home. He is very concerned about armed police officers being in the same room with my client, whom my client's giving testimony against. And that is a grave concern of mine.

I had no idea that my client would be giving testimony in the same room against individuals who will be armed at the same time. And I don't -- I want to bring to the attention of everybody involved. And if I have to go to court to see to it that individuals that he's testifying against are not on while he is testifying against him, that's something I might have to do.

MR. ROSENTHAL: Well, let me just say, I've spoken to Detective Fuller. One, many of the Board of Rights, Mr. Perez will not be needed as a witness. I'm going to be monitoring each Board of Rights and determine at which point Mr. Perez will be necessary as a witness. I've been told that Detective Fuller is trying to arrange a situation where Mr. Perez can testify by closed-circuit television. So, he would not be in the same room with any of the accused officers.

And, obviously, that's something we want to -- uh, we are all concerned about. We're going to make sure that Mr. Perez' security is maintained, even if he is to testify in front of Board of Rights.

All right. Let's go off the record for now. I'm going to have Mr. Perez review some police reports prior to going on the record.

(Off the record at 10:21 a.m.)

(Back on the record 10:23 a.m.)

MR. ROSENTHAL: All right. We're back on the record. It's 10:23. These are the continuing interviews of Rafael Perez. Mr. Perez if you could please 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.

RAFAEL ANTONIO PEREZ,

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

EXAMINATION BY MR. ROSENTHAL:

Q Thank you. What we're gonna do is go through eight cases which have come to our attention by means of a letter from the Alternate Public Defender. And we need to check and verify whether any of the allegations in these letters are true.

The first one relates to People vs. Delsey Portillo. First name, Delsey, D-e-l-s-e-y. Last name, Portillo, P-o-r-t-i-l-l-o. This relates to Case Number BA141315. And it's a three-defendant case. Defendant No. 1 being Pedro De Leon. No. 2 being Mr. Portillo. No. 3 being Rocio, R-o-c-i-o, Gutierrez. And this is D.R. No. 96-02-38527. And this is a case, or a report, where you actually were shown the report

previously. You did not choose it as being a report that needed to be discussed.

In the letter from the Alternate Public Defender, they state --

THE WITNESS: Can we go off the record for a second?

MR. ROSENTHAL: Oh, sure.

(Off the record at 10:26 a.m.)

(Back on the record at 10:27 a.m.)

MR. ROSENTHAL: Back on the record. According to the letter from the Alternate Public Defender, dated March 10th, 2000, it says that, "Officer Perez -- and this is a Perez/Durden arrest. It says, "Officer Perez claims he saw the defendant stuffing drugs into the gear shift box area of a car in which she was a passenger. He also claims that she then gave him and Durden written consent to search the residence, where they found more drugs.

It is the position of the defense these claims are not true. Rather, the defendant was not aware of the drugs that were found in the vehicle and the residence. Neither of which were hers. And further, she was told to sign the written consent to search after Perez and Durden and already searched the residence without the consent."

The question pending on this is, having an opportunity to review the report, are the allegations raised by the Alternate Public Defender true? Or are there any problems with this arrest?

MR. MCKESSON: Well, that's two different questions.

MR. ROSENTHAL: Yes.

MR. MCKESSON: Okay. Answer the first one.

THE WITNESS: I can answer the first one, that there was no evidence planted. And there was no, as far as the allegations that are raised in this letter, all these allegations are false. MR. ROSENTHAL: Okay.

THE WITNESS: I would like a chance to review the report for a possible different issue.

MR. ROSENTHAL: Certainly. Here.

THE WITNESS: There is one possible issue that may be involved in this case. But I'm not a hundred percent certain. I think maybe we should discuss it --

MR. MCKESSON: On the record.

THE WITNESS: -- on the record.

MR. ROSENTHAL: Okay.

THE WITNESS: There is a technique that we used while at Rampart F.E.S. by way of trying to avoid doing -- uh, doing a search warrant on a phone number, or a pager, what we would do is, there was these people that worked at a -- I believe it's sort of like a bail bondsmen/private investigator agency. Dean Gizzi at Rampart F.E.S. is the one that had the initial contact. And then, I started using them quite often.

What they would do for us is, we would obtain a phone number. And like I say, instead of doing a search warrant, we would call them and they had some kind of machine that would

shoot the number in. And they would call us back in two minutes and tell us the address and who -- who the phone number is registered to.

You know, and, of course, later in the report, we'd say that we obtained the information from a confidential informant who knew this person, or something like that.

But in the report, you know, that's what we'd write. But, in actuality, we'd actually use these phone busters. And when was I shown a copy of my Field Officer's Notebook, that came out of my locker, that number was in there, uh, the number that we used to call. I think we called it the "phone buster" or something like that.

But it's a 1-800 number that we'd call. Normally, they would -- they would charge like, you know, 30, \$40. But they wouldn't charge us anything because any time they were looking for certain felons that were out on parole, or out on bail, we would help them look for these people.

So, they, basically, gave it to us for free. You know, they -- they wouldn't charge us anything for that.

Q BY MR. ROSENTHAL: And how does that relate to this case?

A I'm a little confused only because it talks about a phone number that we called here. And after these people delivered it, we did a follow-up. I don't know if we already had the information as to where they lived. Or we obtained some information somewhere in their property as to where they

lived. 'Cause, again, it's kind of ambiguous in the report.

And, of course, that's the whole intent. But I don't remember -- I don't remember whether we did it that way on this one or not. I know we did it on many of them. Gizzi was usually the contact person. And he would usually call them up.

At one point, Gizzi went on vacation, so, I started being the one who called them up. And then, there was two people over there that would -- we would work with.

If we gave them the phone number, they'd call us right back.

Q And they were bail bondsmen?

A I think they were sort of like a bail bondsmen/private detective agency type thing. I know it was a 1-800 number that we would call on that. And that number is in that Field Officer's Notebook.

DET. TYNDALL: Okay.

Q BY MR. ROSENTHAL: And you used them to get --

A Information.

Q -- subscriber information? Home address and phone numbers?

A Home address, name, things like that. You know, whereas, normally, we would have to get a search warrant on it, and, you know, do the whole thing. We would just bypass all that, get it that way. And then, say, that a confidential informant gave us the information.

Q All right. And you could get that even for unlisted

numbers?

A For everything, yeah. Even cell phone numbers, anything. Any phone number that was registered, or that was in use.

Q Okay. But you don't remember if that's what you did on this case?

A On this one, no. Again, you know, it would real difficult for me to say which ones we didn't do it, unless it was one of my particular, you know, something that I really particularly remembered doing.

Q Right. Okay. That will conclude our discussion with respect to this case.

MR. MCKESSON: So, as soon as you tell them that, they're gonna say, oh, you know, there's another portion to this.

MR. ROSENTHAL: All right. The next case involves -- this is a one-def- -- or a two-defendant case. Defendant 1 is Carlos Pena, P-e-n-a. Defendant 2 is Manuel Ferrera, F-e-r-r-e-r-a.

The case number is BA145491. We have a letter from the Alternate Public Defender that states "Officer Perez and Durden claim that after receiving information from a anonymous Rampart citizen -- this is a Perez/Durden case -- they entered a hallway and saw both defendants drop canisters containing drugs.

It is the defense position that these claims are untrue. Rather, the officers knocked on the defendant's apartment door, and when the co-defendant answered the door,

they pushed their way in. The officers then cuffed the defendants and searched the apartment without just cause and without consent.

We suspect the justification for investigating defendants include vague information from a so-called Rampart citizen was fabricated as well."

The -- I'm going to show you the arrest report, which is D.R. No. 97-02-08243. And this is, apparently, a case -- a file that you had not been previously shown.

MR. MCKESSON: Let me see the letter?

MR. ROSENTHAL: Sure.

MR. MCKESSON: Thanks. Richard, can I ask that these letters be attached to the transcript?

MR. ROSENTHAL: We can do that. All right. What we'll do then is -- I'm trying to think how we're going to mark these. Let's go off the record for a moment.

(Off the record at 10:34 a.m.)

(Back on the record at 10:37 a.m.)

Q BY MR. ROSENTHAL: Okay. We're back on the record. This does relate to D.R. No. 97-02-08243. Is there -- and there's, as I mentioned before, this, apparently, is a report that you had not been previously shown before. Is there anything that we need to discuss about this arrest?

A The allegation where it states that we received some information from a so-called citizen informant, that's actually correct. We did receive some information from [* CI Info ****]

[*** CI Information Redacted ****] gave us the information about the narcotics being at the location.

However, the allegation that they talk about that we responded to the location, knocked on the door, and made our way in, is also correct. The report indicates that we observed the two males standing out front, they both dropped film canister is incorrect.

What actually occurred was, we found the narcotics inside the apartment. They were -- they were the narcotics dealers. However, the narcotics was found inside, without any consent to search form.

Q BY MR. MCKESSON: Without?

A Without.

Q BY MR. ROSENTHAL: So, there was no search warrant, no consent to search. Based upon the information from this informant, you went in -- you forced entry, and then, you found the narcotics in the location?

A I wouldn't say we forced entry. We knocked on the door, he opened it, and we made our way in. So, --

Q Okay.

A -- we -- we entered without consent.

Q All right. And you did not see the defendants dropping or actually in possession of the narcotics?

A That's correct.

Q All right. Okay. That'll do it for this. What we are going to do is, I'm going to mark and asked to be attached

to the transcript the letter with respect to Defendant Portillo, will be marked as Exhibit 21A, as it relates to this transcript, Volume 21. And the letter, as it relates to this Defendant Manuel Ferrera, will be marked as (Exhibit) 21B and attached to transcript.

All right. Let's go off the record for a moment.

(Off the record at 10:39 a.m.)

(Back on the record at 10:43 a.m.)

Q BY MR. ROSENTHAL: We're back on the record. This next case relates to an Israel Jaramillo, J-a-r-a-m-i-l-l-o. This is a three-defendant case, BA152524. It relates to D.R. No. 97-02-23201. Defendant No. 2 is Marisa Mancinas. And Defendant No. 3 is Juan Jaramillo.

We've already discussed this case before. And you identified this as a dope switch case. And I think that in the prior interviews you indicated that there was nothing else wrong with the case, other than the fact it was a dope switch.

A No, there was. I believe Durden had taken some money out of the safe that was transported.

Q That's right. I'm sorry. So, there was, in fact, a theft. But at least the underlying charges you had said that were legitimate. That's my recollection. We do have a letter dated March 21st, 2000, which I'll mark as (Exhibit) 21C.

A Just because I don't want to leave anything out, one thing I did discuss with it was that, on the report, we said that we went there, knocked, identified ourselves as police

officers, and saw the narcotics in plain view.

What actually occurred was Durden showed up at the front door dressed as a postman. Did we talk about that?

MR. MCKESSON: With like a clipboard? Yeah.

MR. ROSENTHAL: That was another case.

THE WITNESS: That was another one? This one as well.

MR. ROSENTHAL: Okay. I don't think we've discussed that on this case.

THE WITNESS: I think we did once.

MR. ROSENTHAL: Because the -- the only one that I recall --

THE WITNESS: Is the one on Sierra Madre --

MR. ROSENTHAL: Lopez and Flores.

THE WITNESS: Right. But this one, too, we discussed it. 'Cause I -- I -- that was one of the issues I brought out. 'Cause it was the very first time that I had brought up this postman thing. And then -- this was early on. A long time ago we discussed this. Probably back in October or something.

Q BY MR. ROSENTHAL: Okay. Well, we'll be able to look at the transcripts and figure that out. In the meantime, however, we -- what we have is the allegation from the Alternate Public Defender. And I'll give you a copy of the report.

And what it says is, according to the report, Officers Perez and Durden state a male Hispanic gave consent to them to enter the premises, which they searched -- subsequently searched. They also claim the defendant was Mirandized and

made an admission. And they're representing Defendant Israel Jaramillo.

"It is the position of the defense that the officers claims are untrue. The male Hispanic, Ulysses Hernandez, disputed that claim. Hernandez testified in a Suppression Motion that Officers Perez and Durden used a rouse to get him to open the door, at which point in time, the officers forced their way inside and immediately handcuffed them.

The defense also disputes the officers claims that defendant was Mirandized and that he made a statement to the officers."

This actually seems -- the rouse certainly seems to fit in with what you just said about Officer Durden dressing up as a postal employee. Why don't you -- do you need to review the report any more? Or can you discuss the allegations here now?

A I've seen it before. No, I -- I did say postman. He was delivering -- he was giving away free newspapers. I'm -- I'm wrong. On this particular one, he had a stack of newspapers and was, supposedly, giving away free newspapers for -- to try get a subscription.

Q Okay. So, we did not --

A I got it mixed up.

Q So, we did not discuss that about this case before?

A No. About delivering newspapers, yes, we did talk about that.

Q How -- you know, what we'll do --

MR. MCKESSON: Do you have the transcripts on this case?

MR. ROSENTHAL: Yeah, I -- I'm going to -- I'll identify the transcript. I'll take a look. Because I don't have a recollection of that.

THE WITNESS: We talked about this case a couple of times, on several occasions. I think on the second occasion that we discussed it, I had remembered that how exactly we went about getting in. And it was the thing about Durden acting as a newspaper delivery guy.

Q BY MR. ROSENTHAL: Okay. Let's go off the record for a moment will he reviews the report.

(Off the record at 10:47 a.m.)

(Back on the record at 10:47 a.m.)

Q BY MR. ROSENTHAL: All right. Sir, you've have an opportunity to review the arrest report, as well as the letter from the Public Defender. Are there any truth to the allegations raised by the Public Defender?

A The only truth is, as far as the rouse that was used to have them open the door. Because there was a -- or, if I remember correctly, a screen door and then a wooden door. And we figured it would be difficult if we just went up there knocking. They'd open up the wooden door, but not the screen door.

So, what we had was, Officer Durden show up at the location and act as though he was giving away free newspaper

subscription and, you know, for -- and giving away a free newspaper. And when the person opened the door, we made our way in.

Q Okay. When you say "they opened the door", did you force your way in?

A When Officer Durden was talking to him, he then -- he told me that he could clearly see. There's a glass table right as you open -- as you open the door, right in front of you, there's a glass table.

On that glass table, there was a bunch of rock cocaine like already cut up. And it was sitting there in plain view. And -- and it was. The person never told us we could come in. But, Durden said he did see the -- the narcotics right there.

Q All right.

A When -- when the door was open, and the door -- when the person opened the door for Durden to give him the newspaper, Durden waved me in. I walked in right behind him, and then, we detained the person.

MR. MCKESSON: Sara, let me just put on the record that this is one case, just during some problems indexing things, my client was unable to be provided with the transcript that he gave of this. This has been a long time ago. He would like to have had to his memory refreshed by reviewing the transcripts on this issue. And he would like to revisit this issue at our next meeting, so he can look at it again with the transcripts to make sure that his memory has been totally refreshed.

MR. ROSENTHAL: Okay. We'll conclude this case. The next case relates to a defendant, Diego Barrios. D-i-e-g-o. Last name, Barrios, B-a-r-r-i-o-s. Case No. BA126209. The D.R. No. is 96-02-05208.

This is a report that you have been previously shown and had not chosen to be discussed. It's a Perez/Martin -- or actually the report would be written by Officer Martin, with you as the partner officer. We've received a letter, which I'll mark as (Exhibit) 21D. And this is from an attorney who represents Mr. Barrios.

And, according to this attorney, their client alleges that Officer Perez planted a gun on him in 1996. He alleges that Officer Samuel Martin testified falsely at the preliminary hearing. And Officer Perez testified falsely at the 1538.5 Motion to Suppress.

They say that they have a number of witnesses who stated that there was no gun found on Mr. Barrios. He was searched in the parking lot, along with a number of other witnesses. And that -- and those are the allegations.

MR. MCKESSON: Can I see the letter?

MR. ROSENTHAL: Let me show you the report and the letter.

THE WITNESS: Oh, I know this one. Yeah. This was a three-defendant case? Four-defendant case maybe?

MR. ROSENTHAL: Well, there was only one defendant charged in this D.A. number.

DET. TYNDALL: It's a four-defendant case.

THE WITNESS: Is it? And I -- I remember this real clearly, because I thought it was pretty amazing.

MR. ROSENTHAL: This is a multi-four arrest.

THE WITNESS: Yes.

MR. ROSENTHAL: Okay. All right.

THE WITNESS: It's a multi-four arrest. And it was a little bit of everything, if I remember correctly. Let me --

MR. MCKESSON: Do you have a copy of the 1538.5 motion?

MR. ROSENTHAL: The motion, or the transcript?

MR. MCKESSON: The transcript of it.

MR. ROSENTHAL: I do not believe the transcript is in here.

MR. MCKESSON: Do you have a indication in the file of how many witnesses testified to the 1538.5?

MR. ROSENTHAL: No. Let's go off the record for a moment.

(Off the record at 11:00 a.m.)

(Back on the record.)

Q BY MR. ROSENTHAL: All right. We're gonna go -- we're gonna go back on the record.

Mr. Perez, you've had a chance to review the report and the letter, and the allegations by the defense counsel?

A Yes.

Q Okay. Is there any truth to the allegations made by defense counsel?

A No. And I didn't read all the allegations. But I remember this case, because I remember thinking, or telling them, that they were dirty all the way around. How could they

be hanging out? Because I remember it was in a Jack-in-the-Box parking lot. I remember pulling in and we thought they were just out there drinking. But they were dirty all the way around. I mean, everybody had a little something.

And -- and this wasn't a case where we were trying to put something on somebody, it was -- it was, I mean, everybody had something. I mean, from PCP where you don't see it too often in Rampart, to, I think it was a juvenile that had some bullets in his pocket, and the gun.

But there -- there was nothing -- it doesn't talk about here about any Admonition of Rights, or anything like that. I don't remember that. But it isn't in here. But, other than that, there is -- there's nothing to this case.

Q All right.

MR. MCKESSON: Can I have a second?

MR. ROSENTHAL: Sure.

THE WITNESS: I'm just gonna review a little bit more of the letter from the Deputy Public Defender. Okay.

Q BY MR. ROSENTHAL: Okay. That will conclude our discussion of this case. And the next case is a two-defendant case. Gregorio Vasquez. G-r-e-g-o-r-i-o. Vasquez, V-a-s-q-u-e-z. And Monique Cottalorda, C-o-t-t-a-l-o-r-d-a. Case number is BA153479. The D.R. No. is 97-07-27034.

This is a report that you had not previously shown. Although, there is no signature on the face sheet -- oh, here we go. It is a Perez/Durden arrest. We have a letter from the

Public Defender. It says that, "According to the reports, Officer Perez claims he conducted a consensual encounter with the defendants. That they consented to being searched. The co-defendant implicated the defendant, and drugs were found on the defendant.

It is the position of the defense that none of these things occurred. Rather, the defendants were stopped on the street, without just cause, the residence was searched without just cause, and drugs were planted on the defendant."

Let me show you this report.

A Is that the completed report? I think it's just a face sheet.

Q Yeah.

A But that's the last page right there?

Q Here we go. And -- and, again, it does appear this one may simply be because it was a 07 number. This one has not been shown to you before.

A Okay.

MR. MCKESSON: You're going to attach the letter, too?

MR. ROSENTHAL: Yes. This letter will be attached as (Exhibit) 21E.

MR. MCKESSON: Can I see it, Richard?

MR. ROSENTHAL: Yes.

MR. MCKESSON: Thank you. Looks like a form letter.

MR. ROSENTHAL: We'll go off the record while he's reading the report.

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

(Back on the record.)

Q BY MR. ROSENTHAL: All right. Mr. Perez, you've had an opportunity to take a look at the arrest report relating to Mr. Vasquez and Ms. Cottalorda.

Is there any truth to the allegations raised by the defense attorney in the letter?

A As far as her allegations, it's a half right. Everything that we wrote in the report, as far as the phone call, the arrangement, and the narcotics talk that we made, as far as, \$30 worth of heroin at 6th and Oxford, all of that is correct. When they arrived, we formed the opinion that these were the people that were supposed to deliver heroin to us.

However, we could not find any heroin on them. The part of the report where it says that the girl told Durden that he had narcotics in his front waistband is incorrect.

What actually occurred was, we found out where they lived. We did a follow-up to their residence. At the residence was an older gentleman, who I believe he said was the father of the female.

Once there, we asked him if we could search around their apartment. And he said yes. While searching in the bedroom where the female and the male reside, we found a stuffed animal. Inside that stuffed animal, we found a large piece of tar heroin. About \$600 worth of tar heroin. That is the heroin that we attributed to Mr. Vasquez. And that is the heroin that

was used as evidence against him.

Q BY MR. MCKESSON: This is the first time you've reviewed this, correct?

A I believe so.

MR. ROSENTHAL: Yes.

THE WITNESS: I don't remember seeing it.

Q BY MR. ROSENTHAL: All right. So, let me just go through the report. According to the report, you paged a particular number. This is after -- you spoke with the Rampart citizen, who wished to remain anonymous, regarding narcotics activity. And that citizen advised you the suspect selling the heroin is a male Hispanic with a description. And he gave you the pager number; is that true?

A That's true.

Q Then, you paged the above number?

A Yes.

Q And it says, "About ten minutes later, I received a return call from a male Hispanic who identified himself as Goyo. G-o-y-o." Is that correct?

A Yes.

Q And the male Hispanic asked, "How much do you need?" And you asked for \$30 of Chiva, C-h-i-v-a?

A Meaning heroin.

Q Okay. You don't usually deal in heroin.

A No, very rare.

Q But you've been told that this particular defendant

was a heroin dealer, so that's why you're doing that?

A Yes, sir.

Q All right. Now, you were then told to meet the caller at 6th and Oxford in fifteen minutes. And you went to that location, correct?

A That's correct.

Q So that's all accurate?

A Yes, sir.

Q All right. Once at the location, the report says you saw a male and female walk up to the southeast corner. And they stand there as though they were waiting for someone. And that's how you formed the opinion that they were the suspects delivering the narcotics, is that true?

A That is correct.

Q According to the report, when you walked up to the male and female and you asked if you could talk, the female asked, "What's going on?" And you told them you were police officers conducting a narcotics investigation. Is that accurate?

A Yes.

Q You then asked the female if she was on parole or probation. And she did say she was probation for narcotics. That's correct?

A Yes.

Q And it says here that you then advised her of her Miranda Rights.

A I don't recall that.

Q Okay. Is it possible you did? Or you -- you don't think you did?

A Most likely, I didn't. I mean, in a situation like that, she's on probation, I -- I truly don't know whether -- I don't recall whether I did or didn't. That's the only thing I can really say.

Q All right. She then, according to the report, the female then said, "He has heroin in his front waistband area." And you're saying that did not -- she did not make that statement?

A No, sir.

Q And, in fact, he did not have heroin in his right front -- in his front waistband area; correct?

A That's correct.

Q According to this, Officer Durden searched the male.

A Right.

Q And from what you're saying, it sounds like he did, in fact, search the male, he just did not find any narcotics.

A That's correct. I don't think on the report we wrote anything about doing a follow-up to their residence.

Q No.

A I think if you were to there, there would be an older gentleman who would claim that -- well, he says he is the father of the female. And he was aware of her involvement in narcotics, as well as the other gentleman's involvement in

narcotics. And he would be able to testify that we searched the apartment. And I think he even saw us recovering a -- the narcotics inside the teddy. It was like a teddy bear. Some type of stuffed animal.

Q So, why do you think he didn't have heroin on them, if these were the two who were responding to the caller. Was this, do you think maybe just a coincidence?

A I think he may have had heroin. He probably had it stuffed up his butt. Or, you know, in the -- because he was leery as to who he was delivering it to. He might have put it in the bushes before he walked up to us, just to see who it is.

All right. And then, say, okay, you're cool. And then, go back to pick it up. You know, anything could have happened. I don't know why he didn't.

Q Okay. All right. Any questions, Detective Tyndall, or --

DET. TYNDALL: No.

MR. ROSENTHAL: Okay. We're just going then --

DET. BURDITT: No.

MR. ROSENTHAL: -- that will continue the interview with respect to this request.

Q BY DET. TYNDALL: Correction. You said he was an older gentleman? About?

A About 55.

MR. MCKESSON: Okay.

THE WITNESS: I call anything older than me older.

Q BY DET. TYNDALL: As old as your attorney. What -- do you know the address that you followed-up to?

A No. But on the arrest report face sheet, is there an address? It maybe might jar my memory.

MR. ROSENTHAL: Sure. The arrest report face sheet shows an address of 538 South Oxford Avenue, Apartment No. 1 and 2.

THE WITNESS: That's possible. It was nearby. So, that maybe the address.

Q BY MR. ROSENTHAL: There would be no reason for you to put a false residence address on that report?

A No, sir.

Q So, -- so, that would make sense that that would have been the address you went up to?

A Yes, sir.

Q Okay. Anything else?

DET. TYNDALL: That's it.

Q BY MR. ROSENTHAL: Okay. All right. The next case is a one -- or a two-defendant case, Fernando Carrera, C-a-r-r-e-r-a. And Saul Mendoza. First name, S-a-u-l. Saul's last name is M-e-n-d-o-z-a. Case No. is BA158350. D.R. is 97-07-38513. This is a report that you have not seen previously. It's a report by Coronado. So, I don't know if you have information on this.

Oh, yes. All right. According to the defense letter, they state that "Officer Coronado claims he purchased \$20 worth of marijuana from the defendants. Officers Perez and Durden

were also involved in defendants' arrests. Perez claims the recovered marijuana from that area, to which the defendant had access.

It's the position of the defense that the defendant was not involved in the sale of marijuana or in any possession for sale."

So, let me show you this report. It sure looks like we're gonna have to come back to it, because there is only a face sheet of the report in the file.

A Can I see the face sheet, sir?

DET. TYNDALL: Could I see the letter?

MR. ROSENTHAL: Sure.

THE WITNESS: I -- I prefer to have the see the -- the rest of the report. But I do remember this incident. It's clear in my mind.

MR. ROSENTHAL: Let me just, at least, read to you the summary according to the D.A. file. And -- oh, here we go. I found the report. It's a short two-page report. So, that's how it got lost in the file. And we will mark this letter as (Exhibit) 21F.

DET. TYNDALL: Two defendants.

MR. ROSENTHAL: Yes.

THE WITNESS: Okay.

Q BY MR. ROSENTHAL: Okay? The allegations in the defense letter, are you -- are these correct, to your knowledge? Or do you have knowledge on this arrest?

A I have knowledge on this arrest. The knowledge is that I've read the report, and everything on this absolutely accurate. There is nothing falsely written or misstated.

Q So, you did, in fact, recover marijuana from an area to which the defendant had access?

A Yes.

Q And you're not aware of anything false in the report?

A No.

Q The D.R. No. is 97-07-38513.

DET. TYNDALL: Thank you.

Q BY MR. MCKESSON: Let me just ask you a question. This is a report that was authored by Coronado?

A Yes, sir.

MR. ROSENTHAL: Yes.

Q BY MR. MCKESSON: And asking that, is that an individual that you personally like?

MR. ROSENTHAL: We've gone over it with Coronado before. I think the prior statements speak clearly. All right.

Last one. This is a letter also from the Alternate Public Defender, which I'll mark as (Exhibit) 21G.

This relates to Martha Fuentes, aka, Claudia Gutierrez. And there are two cases that they are -- they are asking about. All right. Let's start with -- the first case is BA158021. And this was a Perez/Durden arrest. D.R. No. 97-02-34636. And it appears that you arrested Martha Fuentes on October 15th, of '97. And then, there's an additional arrest.

This one's -- the report written by Detective Gizzi, G-i-z-z-i, and then, Officer Canister. But I think there is reference to some activities by yourself. And this date was on -- the date of this arrest was January 13, of '98. So, it would have been about three months after the -- the first one.

We'll go through with the first one first. And this particular report, 97-02-34636, you had previously been shown. And the allegation, with respect to this one, is, it said -- it states that, "Officer Perez claims he conducted a consensual encounter with the defendant on the street near 3rd and Normandie. That the defendant consented to being searched, that guns were found in her purse, and that she confessed there on the street.

It's the position of the defense that none of these things occurred. Rather, defendant was stopped on Kingsley without just cause, she was confronted with ownership of a wallet containing drugs that was found nearby, that she was taken to her apartment with the officers and then searched without cause."

And I believe we may have discussed --

MR. MCKESSON: We did. He wants to see the transcript.

MR. ROSENTHAL: All right.

THE WITNESS: And this was actually someone who we had -- the first very time we detained, we recovered a large number of narcotics and a large amount of money. And we never booked her. She was supposed to help us later. And we -- we retained

everything.

MR. ROSENTHAL: Mmnh-mmnh. Okay.

THE WITNESS: So we did discuss this. This is one of the cases, or --

MR. ROSENTHAL: Okay. It's under the name --

THE WITNESS: This is Veronica Quesada's aunt. We discussed this several times.

MR. ROSENTHAL: Yeah. Let's go off the record for a moment.

(Off the record at 11:24 a.m.)

(Back on the record at 11:26 a.m.)

MR. ROSENTHAL: All right. This is a case that has been discussed before. It does not show up on my index, for some reason. So, what we're going to do is we're going to save this for Monday. And, in the meantime, locate the portion of the transcripts where we have previously discussed this.

MR. MCKESSON: Are we using all her names, so we know if we have the right index?

THE WITNESS: You know, she may be under Carla. But I don't know if we've used that -- or have you guys heard that name? Carla? This is Martha. But her name is also Carla.

Q BY DET. TYNDALL: Claudia?

A Not Claudia.

Q Gutierrez? Not Claudia Gutierrez?

A Now, I'm getting confused. I think it was Carla -- she's used several names.

Q BY MR. ROSENTHAL: This wasn't the one that was in the paper? The female with the apron, was it?

A No, that's Alvarado.

Q All right. We'll have to -- we'll have to do a search of the transcripts and see what we can find. So, we'll put this off until Monday.

Q BY DET. TYNDALL: It's not under Gutierrez, Richard?

MR. ROSENTHAL: No.

Q BY MR. MCKESSON: She use a lot of last names?

A She -- she probably had like ten aka's on her rap. You know, and he may have arrested her on something. But they may actually, you know, "What's your true name?" And she changes it. And so, they'll change it on the report. That happens all the time. I'll get a subpoena under a name. And I'll say, "Who is this?"

MR. ROSENTHAL: Okay. And then, there's just one other letter that, unfortunately, there appears to be no D.A. file attached to. So, we'll just discuss that on Monday also.

All right. Do you want to take a short break? And then, we'll start with each one of these detectives?

It's now 11:26. And we're off the record.

(Off the record at 11:26 a.m.)

(Back on the record 11:58 a.m.)

MR. ROSENTHAL: All right. It's 11:58. We're back on the record.

DET. SHAW: Okay. It's April 5th, 2000. It's 11:58 in

the morning. I'm Detective Tim Shaw, No. 25588. I'm here to interview Rafael Perez.

And he's here represented by Mr. McKesson. And Detective Tyndall, Detective Burditt, Deputy District Attorney Rosenthal is also present, along with the court reporter.

MR. ROSENTHAL: And let me just point out, Mr. Perez, you're still under oath, as you will remain under oath during the entire course of the interview today.

THE WITNESS: Yes, sir.

Q BY MR. SHAW: What I'm here to discuss with you is the Miguel Hernandez case, which we previously discussed. And just prior to this interview taking place, I was showing you a transcript of Rampart Communications frequency on 10-25-96.

And, specifically, a transmission that happened at 0050 in the morning. 0050, yes. And this was a transmission from 2-CRASH-30, which was Sgt. Peters. And he was requesting the status of your unit, which was 2-CRASH-17.

And, essentially, he requested that you land-line the station, which in our lingo is make a telephone call to the station. And your unit, 2-CRASH-17 acknowledged that. Do you remember this radio transmission taking place?

A I vaguely remember that we were going end of watch. We were the last ones going end of watch. And that we were contacted about if we were gonna go to end of watch. I think we did make a phone call. But, if we did, it was a real quick phone call. It was one of those, "Are you guys end of watch

yet?" That type of thing.

And it would have been shortly after this time, after we acknowledged the call to -- or acknowledged the radio call, to make a call to the station, that we went to Rampart Detectives. 'Cause that's where we have to turn our vehicle in.

From there, we probably would have called him. And I believe the question was, "Are you guys end of watch?" And I think we just said, "Yeah."

From Rampart Detectives, that's when we decided that we didn't have a ride -- or we realized we didn't have a ride back to Rampart Station. So, we went in our -- in the detectives vehicle.

Q Okay.

A But I vaguely remember what the conversation was. I think it was about whether we were end of watch or not.

Q Okay. Do you have any recollection whether you made that call or your partner made the call?

A I think I might have called. And one thing I do remember was that there was nobody left at Rampart Detectives.

Q Okay. While you made the call, then, do you remember what your partner was doing, at the time, trying to think back?

A I know that that was right around the time that -- that the gun was run. I know before we came back to the station, the Rampart Station, not the Detectives station, but the Rampart Station, the gun had already been ran.

Because when we got back to Rampart Station, after we

realized that, you know, we needed a ride back, when we got back to the station, we went on our way back to the Detectives. And that's when we saw the -- Mr. Hernandez.

Q Okay.

A So, the gun had already been ran while we were at Detectives.

Q Right. And do you have any recollection of running the gun, at that point? Whether you ran the gun before the phone call was made, or after the phone call was made?

A Oh, that I couldn't tell you --

Q Okay.

A -- whether it was before or after. I know that we realized that the gun was stolen and it belonged to a police officer. We knew that.

Q Okay. But you also remember because you needed to transition cars, you remembered that there was no one else at the Detectives station?

A To give us a ride back to the station. That's why we ended up going from Detectives to Rampart Station.

Q Okay. So, then, no one would have been around for the gun-running?

A That's correct.

Q Okay. Do you have anything else?

DET. TYNDALL: No.

DET. SHAW: I don't have anything else. That's going to conclude this interview. It is 12:03 p.m. Thanks for your

time.

MR. MCKESSON: That's the only case you have?

DET. SHAW: That's the only case I have. Thanks.

(Off the record at 12:03 p.m.)

(Back on the record at 12:47 p.m.)

MR. ROSENTHAL: Okay. It's 12:47. We're back on the record. And you're still under oath.

THE WITNESS: Yes, sir.

Q BY SGT. MATTHEWS: Okay. This is the tape-recorded interview for Complaint Investigation CF No. 00-0479. Today is, let's see, 4/05/00. And we're going to use 1247 hours as our time here. Location of the interview is South Section Internal Affairs Group. Person to be interviewed is Rafael Perez.

The interview is being tape-recorded on Tape No. 229380, Side A. I'm Sgt. Ted Matthews, 22482. And my partner today is Sgt. Gregg Strenk, 24702. And we work for Internal Affairs.

Also present in the room is Det. Mike Burditt, 24454. He's also from Internal Affairs. Also present in the room is Richard Rosenthal from the D.A.'s Office. Also present in the room is Kevin McKesson, Attorney at Law, representing Rafael Perez. And also stenographer from the D.A.'s Office, Sara Mahan. I think I got all -- everyone involved.

Ray, you had an opportunity to review a -- an interview that occurred on November 17th, 1999; is that correct?

A Yes, sir.

Q Okay. And the incident that -- that I'm investigating, or looking into, is an incident involving an arrestee named Elvis Ponce De Leon. Ponce De Leon was arrested by Officers Stepp and Veloz.

A Yes, sir.

Q And this was -- occurred after an officer-involved shooting at Rampart.

A Yes, sir.

Q Does that all ring a bell with you now?

A Yes, sir.

Q All right. What I need to do is clarify some issues in -- in your statement and ask you if recall some other incidents that may have occurred, that's not covered in -- in your statement.

First of all, let me draw your attention to Page 99. And we're looking at Lines 1 -- 1 through 5. In that -- in those lines, you referred to Ponce -- uh, Stepp and Veloz kicking his butt -- his being Ponce De Leon -- pretty good.

A Yes, sir.

Q Okay. I need to clarify what -- what you meant by "kicking his butt" or what -- what are we talking about when you use that term? Or what's your understanding?

A He -- he got -- I don't know what other terminology to use, other than, you know, gotten beaten up. He -- he --

MR. MCKESSON: They want you to describe what happened to

him.

THE WITNESS: Well, I think I could only describe what -- basically, you know, what was told to me. As far as terminology, I think, is what the problem is.

SGT. MATTHEWS: Right.

THE WITNESS: Right. The terminology of "kicking butt pretty good" --

MR. MCKESSON: Then, I misunderstood. I apologize.

SGT. MATTHEWS: Yeah. It's okay.

THE WITNESS: I don't know what other -- if I say "thumped" that's another thing I have to clarify.

Q BY SGT. MATTHEWS: Beaten up?

A He got beaten up pretty good. He had -- when they took him into custody, he came -- he came out between some house, while we're setting up the perimeter. When he came out, they took him into custody. And they -- they thumped him pretty good. You know, this is the guy who, supposedly, pointed a gun at a -- at a police officer. And they -- they put the boots to him. They -- they beat him up pretty good.

Q Well, let me -- let me see if I -- let me throw some terms out to you. Because in the Internal Affairs world there is no such allegations as "kicking somebody's butt". We need to be more specific.

Where -- is it your understanding that he -- when he was beaten, was it beaten with fists? Was it fists and feet? Or can you recall?

Q BY MR. MCKESSON: Just one question. Did you observe the beating?

A No, I got described. I got told that the guy got beat up, you know, when they took him into custody. So, to answer your question, whether it's with feet or hands or batons, or, no, I couldn't answer that, because I wasn't present. I could only tell you that I was told that he got beaten up --

SGT. MATTHEWS: All right.

THE WITNESS: -- by the two officers.

Q BY SGT. MATTHEWS: Would it be fair to assume, on my part, that -- that Ponce De Leon was struck in some fashion, either hands, feet, or a -- not -- not batons. You don't know of any baton?

A I don't. You know, we --

Q He was struck, that's all we know --

A Right.

Q -- about that? Okay. All right. We've kind of alluded to it. How did you learn that this -- and I think it was brought out that you didn't witness this -- this altercation, this beating. How did this come to your attention?

A Uh --

Q Go ahead. I'm sorry.

A By speaking with Officer Stepp, and also a few times with Officer Veloz.

Q Okay. And where did this conversation take place?

A At Rampart Detectives.

Q Okay. Was this immediately after? Or was this sometime later after?

A While this whole thing was going on.

Q Okay. So, after -- when he was taken into custody -

-

A Right.

Q -- and taken to O.S.D.?

A O.S. where?

Q O.S.D.

SGT. STRENK: Rampart Detectives.

SGT. MATTHEWS: Rampart Detectives.

THE WITNESS: Okay. I've never known it by O.S.D.

SGT. MATTHEWS: Oh, that's the new -- that's the new name for the darned-gone thing.

Q So, that occurred in that squad bay area or somewhere in that location in the Detectives area?

A Detective area, yes, sir.

Q Okay. And, again, he was not specific on what type of force we're talking about, or what the altercation was, other than there was some type of "got his butt kicked"?

A Right. He did not describe to me how many times he punched him or socked him, or -- or any of that, other than him telling me that they kicked his butt or beat him up.

Q Did you observe anything on either Veloz or -- or Stepp to indicate that they had been struck, and that they had been in some type of altercation?

MR. MCKESSON: Well, that's two different questions, though.

SGT. MATTHEWS: Okay. Well, we'll take the first one.

Q Did you observe anything on Stepp that indicated to you that he had been in some type of altercation? Any injuries? Dirty uniform? Anything that would go along with something like this?

A At which point?

Q When he's telling you this. When he's telling you this.

A After he's taken into custody and I -- and they tell us they got him in custody, and I respond over there, I can see that they're -- they're a little out of breath. I can't see any physical marks on there. Like I don't know if you're asking me did he have marks on knuckles, or -- or red hands or something like that. No, I didn't see any of that.

I can tell you they were both a little bit out of breath. But other than that, no.

Q Okay.

A And that's at the scene still.

Q And we're talking -- this is the nighttime hours?

A Yes.

Q Okay. You indicated later in your -- your statement that you go to Rampart Detectives, you speak with Veloz and -- and Stepp. I assume sometime while you're there?

A Yes, sir.

Q Did you observe anything in that lighted more controlled environment that they had been in some type of altercation?

A No, sir.

MR. MCKESSON: You mean, uniforms, anything like that? Wait a minute. I think he's thinking right now.

THE WITNESS: When my attorney said "uniform" or you might have said it too, for some reason, it just entered my mind that somebody had a dirty uniform. But I can't remember who it was, or what exactly. I want to say it was Stepp. But, you know, those little details that I'm not really worried about, I wasn't really thinking. But, for some reason now I'm thinking that somebody did have a dirty like -- they might have gotten soiled on grass on dirt, or something like that. But it's a vague remembrance.

Q BY SGT. MATTHEWS: When you responded to the location where Ponce De Leon was taken into custody -- and I think that's Olympic and Blaine, if I'm not -- and it's not that important. But you responded to the location, were there any other officers there?

A When I initially responded, I saw the -- I saw Officer Boyd, the mobile officer.

Q Okay.

A He -- he described to me which way the -- the vehicle had gone. And I went in that direction.

Q Okay.

A And we can see the vehicle T.A.'d on the east side of the street, just north of the -- 12th, I believe. Or 11th, I'm sorry.

And we're setting up -- we -- I stayed right there. And we started -- I started -- we -- several officers were already there. We all got there about the same time and started setting up a perimeter.

Q Okay. But my question is, I think you indicated that once Ponce De Leon was taken into custody, there's either a broadcast or somehow -- way you learned that he's in custody. And you respond to that location where Ponce De Leon is now in custody, correct: Am I right?

A Right. This is -- he's taken into custody a short time after we're already there. We're setting up a perimeter. Veloz and Stepp advised us that they had the suspect in custody. I then go over -- and drive over to their location.

Q When you arrive there, do you see any other officers there?

A Yes. I think there was a least -- I think there was -- when I arrived, I don't know if they arrived just shortly before me. But I know I saw Officer Veloz and his partner. And then, there was at least one other unit there. And then, I arrived.

Q Okay. Do you recall who the -- who the officers were in that other unit?

A No. I think they might have been just patrol guys or

-- it wasn't a C.R.A.S.H. unit.

Q Okay.

A I remember seeing some people I don't really know.

Q How long did you stay there at that scene where he was arrested?

A Up until he was going to be transported, and I followed them over.

Q During that period of time that you were there, did you see a sergeant respond to that location?

A I think -- somebody -- after the guy was in custody, eventually, a lot of people started coming over. Was there a sergeant? I believe there was. I just couldn't tell you which one. I remember some -- for some reason, I want to say a couple of supervisors came over. But I don't remember which ones. I know that everybody wanted to come over and look at them.

Q Do you know Sgt. Guerrero?

A Mmh-mmnh. Yes.

Q You know who I'm talking about when I say Sgt. Guerrero?

A Yes.

Q And he -- the work sheet indicates that he was 2-CRASH-20 that particular night.

A Yes.

Q Do you recall him coming to the location?

A I remember him during the whole incident that night. Do I remember specifically him coming over to the, you know,

when he was taken into custody? Not really. I remember him being at the incident. But was it when we initially, you know, when we started setting up the O.P? Or was it -- I don't remember him actually coming over to see the body after he was in custody.

Q You said in your November 17th, 1999 interview that you reviewed the arrest report, if I'm not mistaken.

A Okay.

Q To kind of help give you some background information. Were you aware that a Use of Force was completed or done?

A I had no idea what happened with that. I was just, basically, a responding officer. I have no idea what was done, if the guy ever went to --

Q Paper work?

A Well, actually, I know that I saw him while he was in custody. I saw him in jail. We stood next to each other. But I don't know whatever happened with the case itself.

Q BY MR. ROSENTHAL: When you say you stood together, was that after you were arrested?

A After -- when I was in -- after I was in custody, when I was coming to court on one particular day, we were up against the wall standing there, I looked to my left, and it's Ponce De Leon.

Q But this -- this butt-kicking that you referred to, you're referring to this out at the scene; correct? And I apologize if I'm repeating myself.

A Yes, sir.

Q Were you ever aware that -- that a -- a Use of Force was completed for that?

A I have no idea if one was done or not.

MR. MCKESSON: Does it say if he was shown one the last time?

MR. ROSENTHAL: No, I don't believe he was shown one before.

MR. MCKESSON: Connected to the police report?

SGT. MATTHEWS: Mmnh-mmnh. Okay. Let's jump now over to Rampart Detectives.

Q When you arrive at Rampart Detectives, obviously, Veloz and Stepp is there, and Ponce De Leon. And your partner that night was Durden, correct?

A Yes, sir.

Q And I got your log if you need to -- who else do you remember there at -- at Rampart Detectives?

A There was people there. There was more people there. I just can't off the top of my head say who was there. Unless there was a specific incident or something that was said, I just -- I know -- I know that, you know, eventually, there was a lot of people there. When we first got there, there was a few people there. I couldn't tell you who they were.

Q Do you remember seeing Sgt. Guerrero?

A Like I said, Sgt. Guerrero was there eventually. But he -- he got there probably after we got there.

Q Okay. And the choke-out incident would have occurred, from your recollection, before Sgt. Guerrero arrived at that location, or arrived at the Detectives?

A If I had to venture a guess, because I would be guessing, I would say yes.

Q Okay. Do you know who Officer Wilbur, who was assigned to the unit?

A Yes.

Q Was he there during that period of time?

A I'm not going to say no. There is a possibility. But it just doesn't stand out. I mean, there's just -- I mean, you got to remember, I see these people probably -- I mean, you're asking were they there during the incident, and he might have shown up a few minutes after. He might have been off in another room. You know what I mean?

Q And -- and Harper was his partner.

A Right.

Q Do you recall if those two were there?

A You know, at some point, yeah, they were there. Were they there when the incident took place? I don't -- I don't know.

Q All right. As you indicated in your statement, an R.A. unit is -- responds to the -- to the station?

A R.A. being a Response Ambulance?

Q Yes.

A Uh-huh.

Q Response Ambulance. And they were there for the purpose of providing medical attention to Ponce De Leon?

A Yes, sir.

Q Do you recall how many fire fighters appeared? Was it just two paramedics? Or was it many fire fighters that appeared?

A It may not be accurate, but I remember like four. At least four. Maybe five. But I mean I can't say that definitely. There might have been some that stayed in the trunk. I don't know. You know.

Q I'm leading up to a question here. My records indicate that a engine company responded. Then, a few moments later, the rescue ambulance responded. So, minimum number of six fire fighters at that location.

A Okay.

Q That much fire equipment, which is a lot for the Fire Department, I'm talking a fire truck and an ambulance. It would difficult for that two pieces of equipment to get into the parking lot of the Detectives.

A They definitely wouldn't have pulled up into the parking lot.

Q Right. It would have been difficult for them, correct?

A Yes.

Q It's a one-way in and one-way out.

A Right.

Q It's very tough. So, I'm surmising -- and correct me if I'm wrong -- if the fire truck most likely would have parked on one side or the other of the Rampart Detectives. Either on 3rd or maybe Union, or somewhere right there to -- and I'm just asking you to speculate.

A Yeah. And, again, it would be a speculation. I don't remember where particularly they parked their truck. And you're right, it would be on 3rd or Union.

Q So, my question to you is if other C.R.A.S.H. officers came to Rampart Detectives, it would be difficult for them to miss fire equipment parked around that --

A Yeah, you can't miss the fire engine or fire -- you know, an ambulance. I mean, yeah.

Q Okay.

A It would be difficult to miss.

Q All right. During the time you were there at the Rampart Detectives, did you ever speak with Ponce De Leon?

A Off the top of my head, I can't remember a specific conversation that we might have had. I just can't remember any.

Q Do you recall him being placed on a back board, maybe a gurney, and taken out of the facility?

A Mmnh-mmnh. Yes.

Q Okay. And that would have had to have gone out through the double doors at the back of the facility, am I correct?

A Right.

Q Because, if not, you had to go upstairs.

A Right.

Q Right? Okay. Just the way you word it. Does that ring a bell, seeing him put on that gurney?

A Does it ring a bell to the --

Q To the extent that they --

A -- extent that he would put on a gurney or the conversation?

Q Well, I'll -- I'll get to that. But do you remember him being taken out on a gurney?

A I remember him being, you know, strapped up and, you know, that board -- that long board they put on you, you know, your brace and all that.

Q Right.

A I mean, I do remember that. Does it refresh my memory on anything else?

Q My follow-up question, then, would be, when he was being wheeled out, did you speak to him?

A You know, I -- unless I might have asked him something about a weapon, "Where is the weapon?" or something like that, I definitely would have -- you know, with the R.A. people there, carrying him and all that, I really doubt that I would say something to him important about the case itself.

Q What I'm leading up to is in February of this year, Ponce De Leon was interviewed. He picked you out of a photo

line-up, along with Stepp and Veloz. He indicates that he's on the gurney on the way out the back doors, when you leaned over and spoke to him. Does that ring a bell?

A No.

Q He says that you -- you told --

A I'm sorry, no, I don't remember that.

Q He says that you said to him, "You better not say anything." Something to that effect.

A I definitely -- I mean, I don't -- I don't -- it wasn't my case. I haven't done anything. It's not my problem. And I definitely wouldn't say it in front of a couple of firemen and stuff like that. So --

Q So, that's not correct what he's saying?

A Unless he's confused as to who might have told him that. I definitely didn't tell him that.

Q Okay. The last issue that I have to clarify for my purposes is, I have your DFAR. And I apologize for the poor quality of that DFAR. Did you prepare that DFAR that night?

A No, sir, Officer Durden did.

Q And -- and how do you know that that's not your DFAR?

A It's in --

Q What indicates that on that?

A It's in his handwriting. And the first name listed on the report is his, which would indicate that he authored it.

Q Okay. What I'm referring to, again, we're going to share this together. It looks like -- where are we here? I

want to say at 2330 hours to 0030 hours, it's Bellevue. And I cannot make out that other street.

A It's Tularosa.

Q Okay. There for sixty minutes on an officer's source investigating a 415 Group. No evidence, so on and so forth. Three warrant checks, uh, Cortez plus two. And then, at 0030 hours, you show that -- or I should say Durden shows -- that you go out to Rampart Detectives, admin. duties, complete I -- I-Cards. You -- and you're there until about two o'clock in the morning, for ninety minutes.

To your recollection, was that the period of time you were there when -- when Ponce De Leon was at the station?

A I can tell you that, first of all, these -- these logs are done like in the roll call the next day. We don't do them as we go along. We fill out a lot of this information like 415 Group, you know, Cortez plus two -- and that's just a phantom name we use.

Q Okay.

A If you -- if you checked our status and see if anybody was run that day, and you can see that no one was run during those hours, especially by that name. That's just something we do to fill up our logs.

Q Okay.

A The -- the part about if those are the times that we were at the station, yeah, most likely.

Q Okay.

A Like I said, all these things -- a lot of -- most of the logs are just -- unless, there's something specific we did, an arrest that we made, it's -- just usually we fill it in, you know. Because we basically go up and down the city and if there's nothing going on, we just make a log.

Q We'll get back to that in just a second. But the issue that I have, and I have to clarify, is that the Fire Department response sheet, Emergency Medical Service Report they call it, --

A Mmnh-mmnh. Yes.

Q And I also have the incident history, was provided to me by the Fire Department. They indicate that the rescue ambulance came to Rampart Detectives at 2255 hours. I'm sorry, were dispatched the call. Arrived at 2306. And at 2330 hours, they, then, transported Ponce De Leon to County hospital.

So, my question to you, since your log shows you going out at 0030, how do we account for the discrepancy of the time in your log and this and the event that you've just relayed to us?

A Because these logs, like I said, we, basically, do these logs the next day. We just fill in the blanks. We throw a couple of names in there, a couple of locations. And that's about it. But I mean --

Q So, it's inaccurate? The logs, is what you're telling me?

A Yeah. Right. It's completely inaccurate.

Q Okay. Gregg?

SGT. STRENK: No.

Q BY SGT. MATTHEWS: Anything else about this incident, since we've rehashed it now, probably what the third time now, in your recollection, anything else that I should be aware of?

MR. ROSENTHAL: Second time.

SGT. MATTHEWS: Second time.

THE WITNESS: According to the D.A.

SGT. MATTHEWS: Right.

Q Anything else about this incident that Internal Affairs should be concerned about or interested in?

A No. If I do, I'll be sure to bring it up.

Q I'm sorry. I just caught one more question here. In reviewing all of the other C.R.A.S.H. officers DFAR's, and you have indicated that you recall C.R.A.S.H. officers there during this incident, but not specifically who it was, all the DFAR's that I've looked at, none of them show out to the station.

Are those DFAR's inaccurate also?

A Most definitely.

Q Are they done in the same fashion as Durden's DFAR, to the best of your knowledge?

A Right. That I can remember, there's maybe one or two units that actually do their log as they go along. Everyone else, when you're in roll call the next day, that's when they're sitting there, "Hurry up." 'Cause the supervisor is usually upset. "Get your log. You know, get your log done. I need to

do a -- you know, the Sergeant -- or a Sergeant's Log."

And that's when usually we're finishing up our logs, right then and there, at roll call. I mean, that's -- that's usually how it went.

Q Okay. Anything else, or anyone else in the room?

(No audible response.)

SGT. MATTHEWS: Okay. With that, I'm gonna go ahead and conclude the interview. It's 1310 hours.

(Off the record at 1:10 p.m.)

(Back on the record at 1:10 p.m.)

SGT. MATTHEWS: Okay. This is the tape-recorded interview for a Personnel Complaint Investigation 00-0482. Today's date is 4/05/00. It's 1310 hours. Location of this interview is South Section Internal Affairs. Person to be interviewed is Rafael Perez. And the interview is being tape-recorded on Tape No. 229381, Side A.

I'm Sgt. Ted Matthews, 22482. Also in the room present with me is Detective Mike Burditt, 24454, with Internal Affairs. Also present is Richard Rosenthal from the D.A.'s Office; Kevin McKesson, who is Rafael Perez' attorney at law; and Sara Mahan, who is the stenographer from the District Attorney's Office. I've identified everyone.

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

THE WITNESS: Yes, sir.

Q BY SGT. MATTHEWS: Ray, you had an opportunity to review a statement that you -- that you had made on November

17th, 1999, involving a trip to Las Vegas, more specifically, the Rio Hotel; is that correct?

A I have reviewed those transcripts, yes.

Q I just have a few questions just for clarification involving that.

A Okay.

Q When you went -- when you went up to the Rio Hotel, did you actually rent a room there? Or did you stay in the Winnebago?

A No, myself and Officer Martin had a room.

Q Okay. Do you recall some of the officers sleeping or staying in the Winnebago, as opposed to renting a room?

A After we ended up -- after they ended up getting thrown out?

Q No, when you first got there.

A Oh, when we first got there?

Q Yeah.

A No, I think we made provisions for everyone to be able to stay in the room. In fact, we said if someone has to sleep on the floor, that's what we'll do, you know. Unless it was by choice, for whatever reason, everybody was inside. We made sure that all the C.R.A.S.H. guys at least had a place to stay.

Q All right. Did -- did you or Durden, or someone in the group, make those arrangements? Or did each officer make their own arrangements?

A No, once we were there, and, you know, we met up, and everybody was hanging out, we made sure, especially the people that rode up in the Winnebago, that everybody had a place to stay. I mean, everybody tried to get their own rooms, but if someone at the last minute decided that they're gonna go but haven't made room arrangements, we were gonna find a way for everybody to have a place to stay.

Q Okay. This incident, as it's related to us, involving the gun in the Club Rio, were you directly a witness to the events that you relayed in this?

A No, sir.

Q Okay. So, someone told you the events; am I correct?

A Right.

Q Okay. Who was that?

A That's what I was about to say. We all talked about it. We were all --

Q Okay.

A It was a big -- you know, when they came upstairs and grabbed their things, we were like, "What's -- what's going on? What happened?" You know, and they started telling us the whole story about the gun dropping on the floor, everybody going -- uh, screaming. The security coming and grabbing all of them, and handcuffing them.

Q Okay. But you didn't physically see any of the events that were relayed to you by the other officers?

A No.

Q The -- and being more specific, did you see them removed from the club? Did you see security handcuff them? Did you --

MR. MCKESSON: And answer one at a time.

THE WITNESS: When me and Officer Martin -- all the guys were there. Me and Officer Martin had broken off from them and we were involved in talked to some other people over here on the other side of the club.

Q BY SGT. MATTHEWS: Okay. Were you in the club?

A On the other side.

Q Okay.

A We noticed that there was some type of ruckus on the other side of the club. And like people getting pushed out, stuff like that. We didn't realize it was our guys. We stayed in the club talking to whoever we were talking to. And later on that evening, we were walking out of the club to go back to the tables, or do whatever we were gonna do, and we see all our guys up against the wall and filed into a little -- what looks like a little interview room. A small room. And they were handcuffed.

And we're like, "What is going on?" And then, Sgt. Ortiz is the one that's relaying to me that -- it was something about that somebody knew somebody that -- somebody -- maybe not everybody may have to get arrested, or anybody going to get arrested, Metro was on their way. But that the manager -- or the manager/owner was going to figure out a way to just have

them not come back.

They were going to take everybody's Polaroid photo, and advise them that they couldn't come back to this hotel. And they had to leave the premises right there.

Q When you saw this group of officers being led off, you were out in the casino proper? Outside the club?

A Yes, walking out -- as soon as you walk outside the club, you have to make some -- we were walking somewhere. It's in a hallway. It's not out in the casino area where all the tables are at. It's like in a hallway before you get out to the tables, or something like that.

Q Now, I've done a walk-through of the location. They have an area where you can leave the club and only employees go in. It's the typical hotel brick walls, unpainted, you know what I'm talking about? That kind of thing.

A Right.

Q That leads to a security room.

A I wouldn't have gone through that direction. I wouldn't have gone through that direction. I would have definitely have gone out through where you normally go out to where there's tables.

Q Out to the club itself? Out into the night? Out into the casino, I'm sorry.

A Right. As soon as you walk out of the club, which leads out to the -- right into the tables, right there. The small section where there's tables. Right before you get into

the club. I know we walked past that and started walking down the hallway. And that's where we saw them lined up and getting put into a interview room.

Q Okay. And -- and it's your recollection that everyone in the C.R.A.S.H. unit, or was handcuffed and being led in there? Or can you give me a specific number of bodies that you saw?

A Right. At least the ones that I saw were handcuffed.

Q Okay.

A I can't make the statement that everybody was handcuffed. But I'm assuming everybody was. The ones that I saw had their hands behind their back.

Q And how many individuals were there? One? Two? Three? Five?

A I remember seeing at least four or five people who were handcuffed.

Q All right. You indicated that Lucy Diaz had taken - - or had gone on this trip. Had gone up in the Winnebago, correct, in your statement?

A Her, her friends, and a few other of her friends. Females. Yes.

Q I showed you on page -- of my transcript starting on Page 151, Line 26 through 28. And then, on the next page, 152, Lines 1 through 7. And in those lines they're -- they're asking the -- the investigator is asking, "Do you know the names off-hand, referring to the girlfriends?" And your response was,

"Yeah, I know it. But I can't tell you right now."

This can be interpreted a couple of ways. And that's just clarifications. You know what their names -- as we said off tape -- off tape, are you protecting the lady's reputation by not telling us, or that you don't know who the individual is?

A No, I know the individual. I just couldn't -- I know her name. I just couldn't remember it, at the time. I still can't. If you told me the name, I'd tell you, yeah, that's it. But, you know.

MR. ROSENTHAL: Let me just interrupt. The pages that you referred to in the transcript, that is an old transcript.

SGT. MATTHEWS: Correct.

MR. ROSENTHAL: Before they were re-paginated. So, the conversation that you are referring to can be found in Volume 9, currently marked as Pages 1421 through 1430.

SGT. MATTHEWS: Thank you.

Q And you indicated just a few moments ago that, at some point in time, everyone comes up to your room, or a number of the C.R.A.S.H. officers come to your room. Is that your correct recollection?

A With security.

Q With security. Okay. And, at that point, the discussion of what had occurred in the hotel, or at least there's a lot of discussion going on what occurred; correct?

A Yes.

Q Okay. Do you recall who was in the room with you -- coming into the room?

A Everybody. Lucy Diaz was there. Her friend was there. I was there. Sammy Martin was there. Ortiz was there. There was a lot -- I mean, most of the guys either had a room there, or a room down the hallway. But, for some reason, a lot of them came into the room while security was waiting. You know, everybody was trying to grab their stuff. And they ended up, at some point, most of them were in the room that we were in, with Lucy Diaz and her friends.

Q Okay. What was the reason for them coming to your room, as opposed to anyone else's room?

A It wasn't my room. It was Lucy Diaz's. It was her room. We had a room up there, too. But we were in there room, at that time.

Q Well, what was the purpose of selecting one of the room to meet at?

A I have no idea. I know they came in there to -- to talk. I know they came over and we discussed some things. I think that everybody was just gathering their stuff and they were just waiting there. You know what I mean? Like let's say somebody else had a room there, and they grabbed their stuff, 'cause security wanted everybody to grab all their stuff. And they were gonna escort them out of the building.

Q Oh, okay.

A So, I think what happened was, a couple of the people

grabbed their stuff, and they came by the room that we were at, me and Martin, and whatever other people -- Lucy and her friends. And they just stopped -- stayed by the door where we were at. And that's what everybody else was doing, too. They'd come by our door and wait there for everybody else to grab their stuff.

Q All right. The --

MR. ROSENTHAL: I'm sorry. I just want to make sure you guys stop between each question and answer.

SGT. MATTHEWS: Okay. When this gathering of belongings of took place, was the Las Vegas Metro Police Department present, or any of their members present?

A No. I think it was just Hotel Security, or whatever they are.

Q Did you ever actually see any Metro police officers there?

A After I talked to Ortiz and them, and, you know, they said that it was gonna be -- it would probably be settled, we went upstairs and we waited for them upstairs. So, I don't know if Metro eventually came downstairs, or where they were at, or not.

Q Would it be a fair statement on my part to say that Sgt. Ortiz was acting somewhat as the spokesman in relaying events to Hotel Security?

A Yes.

Q Okay.

A Him and, I believe, -- I believe it was Richardson -

-

Q Okay.

A -- that were doing most of the talking.

Q Okay. And by that, was this an attempt to kind of smooth things over and make things right so no one went to jail? Would that be correct in that?

A That was the -- the understanding. In fact, I -- that was definitely the -- the mission or what they were trying to accomplish. And I think they had brought up saying, you know, that -- or the words were used that "We'll never come back. We won't bother you guys again. We're sorry." You know, that type of thing. That was the whole objective.

Q Okay. I've compiled a list from your statement that you -- that I've been working from, of individuals you believe were there. Let me run through them very quickly. And what I'm leading up to is a follow-up question.

So, you indicated that Officer Buchanon was there?

A Yes.

Q Ortiz?

A Yes.

Q Durden?

A Yes.

Q Richardson?

A Yes.

Q Rios?

A Yes.

Q Cohan?

A Yes.

Q Montoya?

A Yes.

Q Veloz?

A See, for some reason --

Q And -- and in all fairness to speed this up, you were not hundred percent sure in your other statement if he was there or not.

A Yeah, and I'm still not a hundred percent sure whether he was there or not. I just can't see his face, for some reason.

Q Lucy Diaz?

A Yes.

Q Okay. Sammy Martin?

A Yes.

Q Brehm?

A Yes.

Q And Stepp?

A Yes.

Q Were all of these individuals in the Winnebago that came up and eventually returned to Las Vegas?

A No.

Q I'm sorry, Los Angeles. Thank you.

A No.

Q Okay.

A Sammy Martin flew out.

Q Okay.

A For some reason, I just don't remember Veloz in the Winnebago. And that's not to say that he wasn't. I'm just maybe blocking him out for some reason. I just don't remember him driving out with us.

Q Okay. Pretty much -- so --

A I think everybody -- I'm looking at the names upside down. But I think everybody else was with us in the Winnebago.

Q Okay.

A Other than Martin and Veloz, I'm not sure about.

Q My question to you, then, was on the way back to Los Angeles, the five hours I assume, something, drive back or more, was this incident discussed in the Winnebago?

A Yeah. And, you know, I didn't mention -- and I don't know why I'm mentioning it now -- but we drank the whole way there and the whole way back. And everybody took turns driving. And we -- we stocked that whole Winnebago up with alcohol. And we were -- at one point, I mean, we did some dangerous things. At one point, Richardson was driving the Winnebago with no hands/no feet type of thing.

But we did some stupid things. I mean, when we were out there in that big stretch of the freeway, and we -- and it turned into a joke, "Look mom, no hands." That type of thing.

Q Mmnh-mmnh.

A I mean, we were driving the Winnebago, and we were drinking, and everybody was drinking, throwing each other beers and he got up, you know, from driving and just -- just doing this type of thing. And no one behind the wheel. Just -- and it -- you know, we're doing this thing, swerving. And it got pretty crazy. But you're talking about coming back, did we discuss it?

Yeah, we joked about it. We drank about it. We talked about it. Yeah, I mean --

Q Let me ask you for an opinion, since you were there, would it be difficult for someone that was in that Winnebago not to have heard or at least know the details of why you were ejected from the hotel, the issue with the gun and the club?

A There should be no question about it. Because we all talked about it. I mean, it was the topic of discussion several times. I mean, we -- we talked about it while we were there at the scene. We talked about coming back. We talked about -- you know, we talked about it several times.

Q So, it would be difficult for an officer that was in the Winnebago, to tell me that he doesn't -- didn't know anything about this incident?

A It would be difficult. You know, I think the following year, we went to Vegas again. And we thought that they would forget the incident. And as me and Martin were going into the club, they were escorting Rios and I think Ortiz out, because they remembered them and told them, "We remember you

guys. You can't come in."

So, I mean, you know, it's one of those things that, you know, it left a lasting impression on everybody. You know, you'll remember this.

Q Okay. That's all I have, unless anybody else have anything?

Q BY DET. BURDITT: Yeah, I have one question. And it may -- was anyone in Los Angeles, from the LAPD contacted --

SGT. MATTHEWS: Thank you.

Q BY DET. BURDITT: -- by security or the hotel, or anyone, relative to what occurred, or that you're aware of?

MR. MCKESSON: That's he's aware of?

Q BY DET. BURDITT: Separate from the people that were physically there.

A I don't know why, and I don't have no direct knowledge of anybody contacting, but for some reason, I thought I remember hearing Ortiz saying something -- there was something about somebody knowing somebody, during this whole thing. And that's why they were gonna be released.

And I want to say that somebody contacted somebody from LAPD out here. I don't know if it was a lieutenant or a captain that maybe somebody knew over at the Rio. But, for some reason, and I don't know who it was, somebody was contacted. Somebody knew somebody and made a phone call, you know, hey, call this guy, you know, he'll vouch me, that type of thing.

But I just can't remember who it was.

Q BY SGT. MATTHEWS: A follow-up question. The days that followed this trip, back at work, was this a topic of roll call discussion, or locker room discussion, or discussed at Rampart Detectives?

A It was discussed, you know, several times, I know that. I know I -- people discussed it with me several times, you know, laughing -- you know, laughing and joking. And we'd go to the Short Stop and talk about it. We'd talk about what happened this weekend at -- you know, at Vegas, you know. Oh, you guys can't go back to Vegas. Oh, you guys at Rampart. It figures. You know, that type of stuff. So, yeah, we talked about it.

Q Anything else?

(No audible response.)

SGT. MATTHEWS: Okay. With that, I'm gonna conclude the interview. It's now 1430 hours.

(Off the record at 2:30 p.m.)

(Back on the record at 2:44 p.m.)

DET. BURDITT: Okay. This is a tape-recorded interview for an Internal Affairs investigation. The CF No. is 99-4627. Today is April 5, 2000. And I have 1444 hours. Location of the interview is Internal Affairs Group, South Section. Present to be interviewed is Rafael Perez.

The interview is being recorded on Tape No. 226068, Side A. The interview is being conducted by Detective II,

Michael Burditt. My Serial No. is 24454, of Internal Affairs; and Detective II, Barry Kirschenmann, Serial No. 23496, also of Internal Affairs.

Also present is Winston McKesson, the private attorney for Rafael Perez; District Attorney Richard Rosenthal; and Stenographer Sara Mahan.

The case we'll be discussing is LAPD D.R. No. 98-02-00816. And it's a -- was a multi-three arrest. The first arrestee was George Alfaro. He had a D.A. Case No. of BA159394. Second arrestee was Danny Tapia. He had a Juvenile Court No. of FJ-14197. And the third arrestee was Juan Gutierrez, Juvenile Court No. FJ-16676.

Okay. For the record, Mr. Perez, prior to us going on tape, you had a chance to review not only your summary, but the transcript of your prior interview, which was dated October 11, of 1999. Is that correct?

A That's correct.

Q And I also presented you with a number of photographs which are pictures that were taken at the arrest location, which was 1826 West 11th Street. Did you have a chance to review those?

A Yes, I reviewed the photos marked A through F. And then, a photo of Mr. Alfaro.

Q And, for the record, the photo of George Alfaro is his booking photo, which is dated May 19, of 1998. And that is an 8x10 enlargement. Did -- did you recognize these photographs

that I showed you of the arrest location?

A Yes, I did.

Q Okay. Just for a quick summary on this, this case is -- was a multi-three arrest in which Officers Cohan and Brehm arrested these three 18th Street Gang members. They arrested George Alfaro for violation of the court injunction. They arrested the juvenile, Danny Tapia, for sales of cocaine. And they arrested Juan Gutierrez for a violation of the court order.

Before we go any further, I want to show you these three photos. The first photo is of George Alfaro, which is the normal size booking photo. And do you recognize him?

A Yes, I do.

Q And the second individual is Danny Tapia. He had a street name of Little G or Gangster. Do you recognize him?

A I do.

Q And back to Alfaro, just momentarily, he had a street name of Chato?

A That's correct.

Q Chato. C-h-a-t-o. And the third arrestee is Juan Gutierrez, with an aka of Baby Luckee. And do you recognize him from his photo?

A I do.

Q Okay. The first thing I want to ask you is when I obtained the daily work sheet for the date in question, which was May 18 of 1998, per the line-up, it showed that you were working with Officer Ruggiero on that day.

I can show that to you. And it indicates, under 2-CRASH-23, yourself and Ruggiero. And I obtained the -- the Daily Field Activity Report for the same date in question. And if you can take a look at that. Can you tell me who it indicates that you were working with that day?

A Ruggiero.

Q If you can go to the second page, I've highlighted in yellow an incident which shows yourself and -- it shows you guys responding to the arrest location for transportation. Do you recognize that?

A Yes.

Q Is this your handwriting?

A Yes, it is.

Q Do you recall if Ruggiero was at this arrest location that evening?

A I don't remember him for some reason. I don't remember his -- I just do not remember him at the location.

Q Okay.

A I don't know why, but I just don't remember his face.

Q Is it possible that you could have responded to that location by yourself, and Ruggiero wasn't there?

A No. I definitely wouldn't have responded by myself. We don't -- we don't work that way in C.R.A.S.H. But it's a possibility that I might responded with somebody else in their vehicle. You know, let's say my partner Ruggiero was handling something at the station, and we -- we hear a request by Cohan,

and let's say it's a -- a, I don't know, Lassak and Guerra, or, I don't know, any other unit are responding, and I say, "I'm gonna jump in the car with you. My partner is doing some admin stuff." That's possible.

Q So, it is possible that Ruggiero was not there?

A It's possible.

Q It's possible that because he wasn't there, he wouldn't have any knowledge of this incident?

A It's possible. I just don't understand why -- why I would go without him. I mean, especially, when a unit's requesting somebody else. I mean, we drop everything and we just go. But, again, anything's possible, you know.

Q Okay. Does this log refresh your memory as to how you ended up responding to this location?

A If I went by this log, we both responded.

Q Okay. Do you remember -- do you independently remember why you went to that location that night?

A I was going to go back Cohan and Brehm.

Q Do you recall if they asked you over the air to respond?

A I know somehow I had to made -- made aware of it. So, it had to be a -- a radio communication type thing.

Q Is it possible that they could have called the station, if you were at the station, and requested additional officers to come out?

MR. MCKESSON: You mean Cohan and Brehm?

DET. BURDITT: Cohan and Brehm.

THE WITNESS: That's possible. But why -- why get on the cell phone and do all that? I mean, they will just get on the radio.

Q BY DET. BURDITT: When you arrived at the location, and I've shown you the photos, and you recognized that, the photos of the location?

A Yes, sir.

Q Do you recall where you parked?

A No.

Q Okay. When you arrived at that location what police officers were present, besides yourself?

A I remember seeing Cohan. I remember seeing Lassak. I remember seeing Brehm. And there was somebody else there. I just can't remember who it was. Probably Lassak's partner, whoever that was.

Q Okay. For -- for the record, Lassak's partner that evening was Guerra.

A Mmh-mmnh.

Q Do you recall -- do you specifically recall Guerra being there?

A Do you have Guerra -- uh, Guerra's photo? Do you have the officer's photo?

Q Yes.

A May I see it?

Q Absolutely. Can we pause for just one minute?

It's 1353 hours.

(Off the record at 2:53 p.m.)

(Back on the record at 2:56 p.m.)

DET. BURDITT: Okay. We're back on tape. And it's 1456 hours.

Q Ray, this is a photo of Officer Guerra. Do you recognize him?

A Yes.

Q And just for continuity here -- just for continuity, I'll show you some other photos. I'm sure you're gonna recognize these people. Who is this?

A That's Officer Brehm.

Q And that individual?

A Officer Cohan.

Q And him?

A Officer Lassak.

Q And that officer?

A Sgt. Torsney.

MR. ROSENTHAL: If you're going to do this, why don't you have Mr. Perez read off the serial numbers of the officers, if it's on the photos?

DET. BURDITT: Sure. Not a problem.

THE WITNESS: Is this the best photo you have of Sgt. Torsney?

DET. BURDITT: Yes.

THE WITNESS: Twelve years old?

DET. BURDITT: Yes.

THE WITNESS: A twelve-year old photo. I started to say he looks like a kid here. It's a twelve-year old picture. He's got a Beatle haircut.

MR. MCKESSON: They want you to read it off.

THE WITNESS: Oh, I'm sorry. Okay. I'm looking at Sgt. Torsney's photo that's dated 9/07/88, with his name on it. And his Serial Number 25383. I'm looking at Officer Cohan's booking photo with Serial Number 30614. Officer Guerra's booking photo with Serial Number 30949. Officer Brehm's booking photo, Serial Number 30982. And Officer Lassak's booking photo, 30835.

Q BY DET. BURDITT: When -- when I showed you this photo of Guerra, did that refresh your memory as to whether Guerra was present --

A Yes.

Q -- at the scene?

A Yes.

Q And your answer is that he was?

A Yes.

Q When you arrived at that location, were the three suspects there, that we -- that I had -- that I had you identify?

A Yes.

Q Gutierrez, Tapia, and Alfaro?

A Yes.

Q Okay. When you arrived at the location, where were these individuals, the three arrestees?

A Mr. Tapia and Mr. Gutierrez were out front. Mr. Alfaro was out back.

Q Okay.

A To the rear of the location.

Q When you say that Tapia and Gutierrez were in the front, where exactly were they?

A Eventually, or from what I remember, 'cause I -- I went straight to the back. 'Cause I was told that the officers went to the back and there was another suspect back there. But when I first remember seeing them, they were sitting -- do you want me to refer to the photo?

Q Please.

A Photo Number AC234188. The first photo in the upper left-hand corner, pointing at the sidewalk. They were seated on the -- on the floor on the sidewalk here.

Q And were there -- were they handcuffed?

A I believe so, yes.

Q And were there police officers also present with them?

A Yes.

Q Do you recall which police officers?

A I believe Officer Cohan and Officer Guerra was out front.

Q Okay. Did -- when you arrived did one of those officers direct you to the rear of the apartment building?

A Someone said that there was officers to -- some

officers in the rear with another possible -- another body.
And that's why I went straight to the rear.

Q Do you recall who it was that told you that?

A No.

Q How much -- how long were you in the front of the building before you walked to the back?

A A few seconds.

Q Before we continue on that line, let me ask you a question about these three arrestees.

A Yes, sir.

Q Had you had prior contact with any of these three arrestees before that night?

A All of them, yes.

Q In what manner?

A Working capacity, making field contacts with them.

Q Okay. Do you know what gang they're affiliated with?

A They were with 18th Street, I believe. I thought they were Red Shield. But I could be wrong. But 18th Street's not my gang. But I think he has an older -- uh, a brother that was -- he, uh, Gutierrez, Baby Luckee, his brother is also -- was a gang member who got killed not too long ago. A few years ago.

And I think -- I'm pretty sure that he's from Red Shield. But, again, I'm not -- I wasn't running 18th Street, so.

Q BY MR. MCKESSON: Is Red Shield a branch of 18th

Street?

A It's a clique. They have PeeWees, different -- CLCS. They have different cliques for 18th Street. CLCS.

Q BY DET. BURDITT: In May of 1998, when this occurred, were you assigned Temple Street?

A Yes, sir.

Q And who was assigned 18th Street?

A Officer Cohan and his partner, Officer Brehm.

Q And were they the primary officers on this case?

A Yes, sir.

Q You had mentioned, in a prior interview, that there was a female gang member that was present when you responded to the location. Do you recall who that individual was?

A She's a female that lived at that apartment there at this location. Referring to Photo No. A, upper left-hand photo, the window on the right-hand side, this apartment here.

Q Okay. And, for the record, that would be the west side of the building in the front. The front bottom?

A That's correct.

Q Okay. Do you know her name?

A Offhand, no.

Q Would you recognize her from a photograph?

A Possibly.

Q Okay. Before I show you the photograph of her, had you had any prior contact with -- with this female, before that night?

A I want to say that I had been to this location. I mean, I had been to this location before. I want to say that on one of those occasions, she was outside. But I'm not a hundred percent sure. But I believe I had made contact with her before. Q Okay. About how old was she?

A I want to say she was 35 years old, 40.

Q Okay.

Q BY MR. MCKESSON: Gang member?

Q BY DET. BURDITT: That's what I was going to ask. Do you know if she had any gang affiliation?

A I know her husband was a Eme gang member. And she referred to the guys, you know, homies -- homeboys. She was talking the gang slang. And it appeared to me that she was involved in -- at one point or another -- was involved in gangs. She had a extensive rap sheet. And she had talked about being a third-striker and not wanting to take a case for anybody.

Q Before that evening, did you have knowledge that this female was a third-striker?

A No, sir.

Q Before that evening, did you have knowledge that this female was associated or had an ex-husband who was Mexican Mafia?

A No, sir.

Q Who told you that information? Or how did you come about finding out that she was a third-striker?

A Officer Cohan.

Q And was that during conversation at the scene?

A Yes, sir.

Q And relative to who her ex-husband was, and the relation -- the fact that he was possibly Mexican Mafia, how did that information come to you?

A From Officer Cohan.

Q Was it that evening also at the location?

A Yes, sir.

MR. MCKESSON: Just for the record, Detective, when you say Mexican Mafia, you're referring to La Eme?

DET. BURDITT: Yes. Yes.

Q I'm showing you a photograph of a female. Do you recognize her?

A She looks a little bit better in this photo. Cleanliness or whatever. But it appears to be the lady that was in front of the location that day.

Q BY MR. ROSENTHAL: Do you have some kind of identifying number on that photo?

A Yes. I'm looking at booking photo with the Booking Number of 6229991. And the name Batista. Batista written underneath it. B-a-t-i-s-t-a.

Q BY DET. BURDITT: How sure are you that this is the person?

A I'm not a hundred percent sure. It just appears to look like her. But --

DET. BURDITT: We'll be off tape at 1505 hours.

(Off the record at 3:05 p.m. to change paper.)

(Back on the record.)

MR. MCKESSON: Sara, just for the record, I want to reflect that my client has taken --

DET. BURDITT: Are we back on?

MR. MCKESSON: Yes.

DET. BURDITT: Okay. We're back on at 1506 hours.

MR. MCKESSON: Just for the record, I would like the record to reflect that my client took a long pause while the last question was pending, which I believe was, it was a positive that the photograph where the young lady listed as Batista, was he positive that she was the one at the location at the time; is that correct?

DET. BURDITT: Correct.

THE WITNESS: You know, I have a problem with that word "positive". It could be her twin sister. It could be her cousin that looks that her. Again, this was several years ago. And it appears to be her. But I'm not a hundred percent positive.

Q BY DET. BURDITT: Okay. For the record, the photograph that I showed Perez, the female's name is Judith Batista. When you responded to that location, do you recall a young female Hispanic being there at the scene?

A Yes.

Q Do you know who that individual was?

A I believe it was her daughter. A young female. I

believe she was telling me that she was half Puerto Rican or something like that.

Q Do you know what that individual's name was?

A No.

Q Do you think you'd recognize this female from a photo?

A Maybe. I'm not positive.

Q Okay. So, from what you've told me, you had a conversation with her, at some point, during this arrest?

A At the scene.

MR. MCKESSON: Her being a young female, now?

DET. BURDITT: The young female, yes, I'm sorry. I should clarify that.

Q I'm going to show you a photo of a -- a female juvenile and see if you recognize this individual. And, for the record, it is a -- it's a Los Angeles Police Department booking photo of a young female Hispanic juvenile, with the name of Rios, R-i-o-s.

A What's her first name?

Q Jessica.

A Again, it appears to be her. But I can't be a hundred percent positive.

Q Okay. Have you ever heard of a male Hispanic tagger that went by the name of Wally? Does that sound at all familiar to you?

A I don't know where. I believe I've heard the name before. I didn't know the fact that he's a tagger, I wasn't

aware of that. But that name, I've heard it before. Wally.

Q During this arrest, obviously, we know that Alfaro, Gutierrez, and Tapia were there, because they were all arrested. I know, from my investigation, that Judy Batista was there. I also know that Jessica Rios was there.

MR. MCKESSON: Are they mother and daughter?

DET. BURDITT: Yes, they are. And, for the record, Jessica Rios is the daughter of Judith Batista.

Q Do you recall any other individuals that were at that scene that were detained by the officers present?

MR. MCKESSON: Were those two detained?

DET. BURDITT: Judy Batista was not, technically, detained. She was questioned. Jessica Rios was not.

MR. MCKESSON: Well, I was just asking, are you including them in the group that was detained? That's why I asked.

DET. BURDITT: No. Let me restate that. I'm referring to male suspect, male individuals, not female.

Q Do you recall anyone, besides Tapia, Gutierrez, and Alfaro?

A From what I remember, outside of these three gentlemen here, and the mother and the daughter, I do not remember anybody else.

Q Okay. I'd like to show you a photograph of an individual who's alias or street name is Wally. His true name is Walter Aviles. A-v-i-l-e-s. Showing you that photograph, do you recognize that individual? And, for the record, it's a

Los Angeles Police Department booking photo.

A No, sir.

MR. ROSENTHAL: What's the booking number?

DET. BURDITT: The booking number is 5629155.

Q Would it be correct to say that you do not recall this individual Walter Aviles at this arrest location?

A I do not.

Q Okay. Do you know an 18th Street Gang member with the street name of Cartoon?

A I've heard the name, yes.

Q Okay. Would you recognize that person from a photograph? Cartoon?

MR. MCKESSON: Could I just ask this?

DET. BURDITT: Sure.

MR. MCKESSON: Is Cartoon a typical name, though, for a gang member?

DET. BURDITT: Yeah. You know what? That -- no, that's a good point.

Q Let me show him the photograph and see if he recognizes the person. For the record, the photograph that I'm gonna show Mr. Perez is of Delbert Carrillo, C-a-r-r-i-l-l-o. It's an LAPD booking photo. Booking Number 5685520, dated June 10 of 1998.

A Can we back up just a little bit?

Q Absolutely.

A When -- when she showed up --

Q BY MR. MCKESSON: She being?

A Jessica Rios. When she, uh, Jessica Rios, showed up, she showed up with somebody else. I remember her being on the street in front of the location. I was talking to her right about here. And she was standing out -- standing out in the middle of the street.

Q BY MR. MCKESSON: Here being in front of the photograph marked A, on the top left-hand corner.

A Correct.

Q BY DET. BURDITT: For clarification, that would be in -- in the street, in front of the arrest location?

A Exactly. She showed up, from my impression, she showed up well into the whole interrogation part, while they were sitting on the sidewalk here. She showed up. For some reason, I -- I want to say that she showed up with somebody else. She showed up -- I just can't remember who it was that she showed up with. And that just kind of came to my mind as I'm sitting here thinking about it. I don't know if it was him or not. But I just don't remember it.

Q BY MR. MCKESSON: Him being Wally?

A Him being Wally -- uh, Walter Aviles. I don't know if they showed up together. I know that when she showed up, I had a discussion with her.

Q BY DET. BURDITT: Okay. And we'll get to that.

A Okay.

Q Okay. I'm going to show you a photograph of Delbert

Carrillo, and see if you recognize that individual.

A No.

Q Okay. You don't recognize Delbert Carrillo?

A No, sir.

Q So, would it be -- would it be a fair statement to say that you don't recall Wally or Cartoon being Delbert Carrillo or Walter Aviles at this arrest location?

A That's correct.

Q That evening?

A Correct.

Q Now, going back to when -- when you arrived, you indicated that one of the officers directed you to the back of the building?

A Yes.

Q Do you recall which side of that building you walked down?

A I walked down the east side of the building.

Q Okay. And when you looked at these photographs, did you see a photograph of the east side of the building here?

A Yes, I did.

Q And which photograph is that?

A Photo Number --

MR. MCKESSON: F. F.

THE WITNESS: Wait a minute.

DET. BURDITT: This would be the front of it.

THE WITNESS: Yeah, Photo Number F at the bottom photo

depicts the walkway that leads to the rear of the building.

Q BY DET. BURDITT: Okay. And does that appear, from the photograph, to be the driveway?

A Yes, sir.

Q As compared to a sidewalk?

A That's a driveway.

Q Okay. When you walked to -- you walked to the back of the building, correct?

A Yes, sir.

Q Were you by yourself?

A Yes, sir.

Q When you got to the back of the building, what did you see?

A Officer Lassak and Officer Brehm. I was, basically, catching them at the tail end of -- again, uh, roughing somebody up. You could tell that Mr. Alfaro had just been beaten up. They were bringing him down some stairs, kind of tugging him, pulling on him. He was out of breath. And kind of like -- the officers having to hold him up, 'cause you could tell that his face and his whole demeanor, his clothing, uhm, you could tell he had just been beaten up. And you can tell the officers are out of breath. So, you can tell that something just occurred.

Q Now, when I showed you these photographs, did they depict -- did you see photos of the stairway you're referring to?

A Yes, sir.

Q At the rear of the building?

A Yes, sir. D -- C and D depict the stairway. The wooden stairway. That one there.

Q Where -- where did you walk to at the back of that building when you -- when you went to the rear, in relationship to the steps?

A I walked into this, uh --

Q BY MR. MCKESSON: This being the bottom steps on C?

A Right.

Q The bottom photograph on C, I'm sorry.

A Right. The stairs that lead up to a second floor that's boarded-up now. That's in the rear of the location in the rear -- or the bottom photo on Page C.

Q BY DET. BURDITT: And it was Lassak and Brehm?

A Yes, sir.

Q And George Alfaro?

A Yes, sir.

Q And where did you first see them on these steps?

A Coming down the stairs.

Q Were the two officers with Alfaro?

A Yes.

Q Was Alfaro handcuffed?

A Yes.

Q Now, you had described what you -- you said that it was obvious that he had been roughed-up?

A Yes, sir.

Q What -- what did you see on George Alfaro that indicted to you that he had been roughed-up?

A He was struggling to remain on his feet. He appeared to be out of breath. His clothes appeared to disheveled. I mean, just out of place, like he had just -- sort of like somebody would look like when they get beat up and they're just totally out of -- disoriented somewhat. That's what he looked like.

The officers were pulling on him, bringing him down the stairs. They appeared to be, you know, out of breath. I know there was a comment made. I know there was a comment made by one of the officers, and I can't remember what it was, but it was something about having a -- you know, they had a fight with this guy or something. Or they had to do something to him. And I don't even remember what the comment was.

Also, just by visually looking at him, you could tell that he had been, you know, roughed-up. His face had several scars and marks on them.

Q Referring you to the 8x10 photograph of George Alfaro, do you note any injuries to him, in that photograph?

A On the 8x10 photo, I can see that there's at least 10 to 12 visible scratch marks, large scratch marks, several abrasions and contusions. Yes.

Q Did you see either Officer Lassak or Brehm strike Alfaro?

A No, sir.

Q Did -- you indicated that -- that one of these officers made some type of a comment to you. Do you recall which one it was?

A No, sir. It was sort of when we were bring Mr. Alfaro back around. One of the officers, either Lassak or Brehm, were, you know, fixing themselves up. And he made a comment about having to thump him or do something. And I just can't remember what it was, though. It was as he was -- we were returning back to the front and them having to square themselves away.

Q Do you recall George Alfaro saying anything? Do you recall him making any comment relative to anything that might have occurred to him?

A I believe he made some comments. But I couldn't tell you what they were. It didn't really matter to me. I didn't pay much attention to it.

Q Did you see anyone else, at the back of that building, besides Lassak, Brehm, and Alfaro?

A I don't remember anybody else.

Q Okay. And you indicated that when you arrived at the location, that Gutierrez and Tapia were already detained in the front?

A Yes. Now, that's not to say that Tapia or Gutierrez were in the rear earlier than that. But when I got there, they were -- already had been brought to the front. And Mr. Alfaro was the only one remaining in the rear.

Q Okay. Besides the comment that one of those two officers, either Lassak or Brehm, made to you relative to George Alfaro, at any time after that comment, did either of those officers say anything to you about what had happened to George Alfaro?

A Ruggiero was there. I just remembered. Ruggiero, at one point, when we were -- when we were coming back down and leaving the rear, Ruggiero did show up in the rear. I just remembered that. Ruggiero was there. I don't know if he stayed in the front while I went to the back. But, eventually, when we were coming back around, Ruggiero had come to the rear when we were bringing this guy back around.

Now, what your current question was?

Q After the comment that you recall either Lassak or Brehm making to you something about George Alfaro in the back, you said one of them made a comment that "We had to rough him up" something to that effect.

A Right.

Q Did either of those two officers, at any time after that, tell you anything about what happened to George Alfaro?

A No.

Q Okay. George Alfaro was brought to the front of the building, is that correct?

A And sat on the sidewalk, yes.

Q Where in proximity to Tapia and Gutierrez was Alfaro placed?

A They were all shoulder-to-shoulder.

Q Okay. Danny Tapia had made allegations, after this arrest. He initiated a personnel complaint against a couple of the officers involved in this arrest for Excessive Force.

And he had indicated that he had been beat up by these officers prior to being him set down there on that sidewalk. Do you have any knowledge, any personal knowledge, as to if there was any use of force against Tapia?

A I have no personal knowledge.

Q Okay.

MR. MCKESSON: Now, Officer Burditt, when you say "personal knowledge" did he see it, or --

DET. BURDITT: We'll do that as a follow-up question.

Q Did you, at any time during this arrest, did you see any officers strike Tapia?

A I never saw that, no.

Q Okay.

A I was not in a position to see it. You know, in other words, when I got there, he was already sitting on the sidewalk. So, whatever happened before that, I was not there.

Q And I know I asked you this before. But when you -- you did not see any officers strike George Alfaro, correct?

A When I was arriving, they were just --

MR. MCKESSON: That's a yes or no answer. Did you see anybody strike Alfaro?

THE WITNESS: I guess it depends if you say they got him

by the shirt and they tugged, you know.

MR. MCKESSON: He was punched. A punch or strike.

Q BY DET. BURDITT: Correct.

A Okay. No.

Q What you're describing to me is that, from what you saw of George Alfaro's condition, and the demeanor of the officers as they were bringing him down the steps, it appeared to you that George Alfaro had been beat up?

A By the way they were tugging and pulling on him, and his demeanor, yes.

Q Okay. Do you know how Danny Tapia ended up in custody out at the front of the building?

MR. MCKESSON: When you say, "how do you know" what charge or how did he get there?

Q BY DET. BURDITT: How did he -- how Danny Tapia got to that front sidewalk.

A When I got there, he was already seated on the sidewalk.

Q All right. There was -- there was a contradiction during my investigation on this case as to whether Danny Tapia, when he surrendered to the police, if he came down the back steps of the apartment building, or if he came down a -- inside an air duct leading to the bathroom of Judy Batista's apartment. Do you have any knowledge as to the manner in which Danny Tapia gave up? How he exited the building.

A I remember that there was some conversation about him

going through what -- what appeared to be some type of air duct, and led down through to the ground, that led up to a ceiling, that led to a bathroom. And I remember looking in there. But I don't know if that's where he was actually brought out of. I don't know that.

Q Do you recall if any of the other officers that were involved in this, discussed with you, or told you how Danny Tapia gave up?

A No.

Q Okay. During the time that you had contact with, or that you saw George Alfaro at the arrest, did it appear that he was under the influence of drugs?

A Not really. They were all seated there. They were all responding to Cohan's questions, you know. Not to me, anyway.

Q Okay. Did it appear that Danny Tapia or Juan Gutierrez were under the influence?

A Not to me. Not at that time.

Q Okay. During this arrest, during the time that you were there, how would you describe the demeanor of Judy Batista?

A She was upset. First of all, she was upset at, supposedly, why, you know, the homeboys would be coming to my place and carrying dope and stuff like that.

Secondly, of course, you know, Officer Cohan had already put the -- had put the ultimatum to them that one of you is going to take a case or Batista is going to go. And, of

course, she started telling them, "You guys know that my old man is an Eme member. And, you know, he'll -- he'll handle this. Plus, I can't be catching no case. I'm a third-striker. So, which one of you guys is gonna take the case?" That type of thing.

Q Would you describe her as irate?

A Irate? I wouldn't consider her irate. I think she was discussing things with her homeboys like she was calling them. But irate as some women I've seen before, no, not irate.

Q Okay. Did it appear to you that Judy Batista was under the influence?

A No, she was talking pretty clearly.

Q Okay.

MR. MCKESSON: Off the record for a second.

DET. BURDITT: Hold on. Let me pause here.

(Off the record for a brief second.)

DET. BURDITT: Okay. We're back on tape at 1525 hours.

Q After Alfaro's brought out front and he's seated down on -- out front with Tapia and Gutierrez, is that correct?

A Yes, sir.

Q Where was Judy Batista, at that point, when Alfaro was walked back out?

A Would you like for me to draw it on a piece of paper?

Q Is it easier?

MR. MCKESSON: I need to take a short break to make a long distance phone. And I don't know where it is.

DET. BURDITT: Yeah, absolutely.

MR. MCKESSON: It's somewhere back East.

THE WITNESS: Unless we have some type of marker. I could tell you where pretty much everybody was situated, that way we can just refer to it each time later.

DET. BURDITT: Okay. Well, let me -- do you want to make your phone call?

MR. MCKESSON: Is this a convenient time to take about a five-minute break?

DET. BURDITT: Absolutely. Let's take a five-minute break at 1527 hours.

(Off the record at 3:27 p.m.)

(Back on the record at 3:39 p.m.)

DET. BURDITT: Okay. We're back on tape. It's 1539 hours.

Q Before we went off tape, Mr. Perez, did you -- I gave you a piece of paper here. It's a LAPD Chronological Record paper that I indicated under the D.R. Number -- the case number for this case 99-4627. And you signed and dated at the bottom of the form?

A That's correct.

Q Is that correct?

A Yes, sir.

Q Now, can you explain what you drew here for me?

A Yes. Looking at the page horizontally, on the top of the page, you'll see what appears to be a building. And then, a sidewalk underneath that. Three circles with an "x" on each

one. The left circle has an "A" on it for Alfaro. The next circle has a "T" on it for Tapia. And the next one has a "G" for Gutierrez.

Underneath that, on the right-hand side, you'll see a "B" for Batista, the mother that lives in the apartment under -- the lower right-hand apartment of the building.

Q Which, for the record, is west.

A The west apartment.

Q And this is east.

A Right. She was addressing them from pretty much the whole time, from right at this location.

Q And that location is on the street? Is that correct?

A On the street, that's correct. While they were seated on the sidewalk. Right on the edge of the sidewalk. The "C" here on the next circle is for Cohan, the officer who was talking to him and her. And I was to the left. "P" is for Perez.

And one of the things that I remember was, I believe, this female showed up in a vehicle -- Rios, the daughter. And I believe, 'cause when I was talking to her, she was right here behind her mother, on the street as well. And I put Rios.

Q Now, there -- there's been extensive -- we've had conversations about -- in your prior testimony -- about a conversation Cohan had with these arrestees.

A Yes, sir.

Q Relative to whose gonna take credit for the dope?

A Yes, sir.

Q When that conversation occurred, the positions that you've described everyone being in, is that where everyone was?

A That's exactly where everyone was.

Q Okay. Now, during our interview today, you now recall that Officer Ruggiero was there?

A Yes, sir.

Q When that conversation occurred between Cohan and the -- and the arrestees, where was Ruggiero?

A I have no idea. I have no idea where he was, or where Lassak -- or Lassak was. You know, they were moving around. They were looking around for things. I know that when the discussion was going on, during most of the discussion, this is the position that we were in.

I was, you know, next to Cohan while some of the other officers were looking around for certain things. They would come and listen in for, you know, a few minutes and then look around. They weren't still. But me and Cohan and Batista, we stayed still pretty much the whole time. Or, in other words, in our position where we were.

Q What about Guerra?

A Again, with him, he was moving around from -- you know, from place to place.

Q Okay. Going back to the point we were at, Alfaro's brought out, he's set down next to the other two arrestees.

A That's correct.

Q And you had walked out to the front, correct?

A When the other officers came out, I came with them, yes.

Q And did you go to the position that you described here, where you were next to Cohan?

A Yes, sir.

Q Now, at that point, what happened? Did you have a conversation with Cohan?

A Yes.

Q And what -- what was discussed?

A It was just general stuff. I can't really remember everything that was talked about. He didn't tell me anything about I'm going to put a case on somebody like -- you know, he didn't say anything like that. I know he said that -- he was telling me about the wife who -- I'm sorry, the mother, who lived at the apartment. We were talking a little bit about the gang members that were there. And then, he started talking verbally out loud to them as well.

Q What did he say then?

A First, he started talking to Batista. His thing was, "Well, you know, you're a third-striker. And if none of these guys cop out to the dope, I'm going to have to book you." And he said -- and we -- we probably stayed there a good, I'll say, fifteen, twenty minutes going over the same conversation about who's going to take the dope, until, eventually, Tapia said, "All right. Fine. I'll -- you know, I'll take it."

But after Cohan would talk to Batista about, you know, putting the case on you if nobody else plead -- uh, cops out to it, she would then turn around and say, you know -- talk to the homeboys. "You know my old man's a Eme member. And, you know, we don't mess around like that. You know, one of you homies better, you know, take this case. You all is young anyway, you ain't got no big cases pending or nothing like that."

You know, that's what she was talking about. And -- and she also made mention about, "I don't even know why you guys would bring any dope in my house" and stuff like that. You know, "Don't be running up in my house when cops show up, you know, taking dope in my house", and stuff like that.

Q When you came back out and were standing next to Cohan, you indicated it was for about twenty minutes?

A 'Til, -- 'til, eventually, Mr. Tapia took the blame? Yes, about twenty minutes.

Q I am going to pause here so I can switch to the other side of the tape. And it is 1544 hours.

I'm sorry. Repeating, we're back on tape on CF No. 99-4627. We're now on Side B of Tape No. 226068 and continuing our interview of Rafael Perez.

Ray, when you met up with Cohan in the front, and Cohan was discussing who was gonna take credit for the -- for the dope, did Cohan show you any cocaine?

A No.

Q At any time during this arrest, when you were out at

this scene, did you ever see the cocaine in question?

A No, sir.

Q When you -- at any time, during this detention, did you enter Judy Batista's apartment?

A Yes, I did.

Q At what point?

A Probably late into the investigation. Something was said about, you know, "You can go look in your place. We didn't mess anything up." Or something like that. "We didn't trash anything in your house" or something like that. And when she was going to walk back in, I walked back in with her. And I looked around with her.

Q Okay. Did you -- did you have any type of altercation with Batista during this arrest?

A No.

Q Okay. When I interviewed Batista, she -- well, let me strike that question. Do you know if there was anyone else inside that apartment?

A Not --

Q During the detention of the arrestee?

A Not that I can recall.

Q Do you recall a small infant, possibly in a crib?

A Oh, yes, I believe so.

Q Okay.

A That's possible, yes. I guess I'm looking for someone who was detained and brought outside. But a small child, yeah,

that -- that is possible there was a baby inside, yes.

Q Okay. When -- when you went back into the apartment with Batista, did another officer go in with you?

A I believe either Cohan or -- or Brehm. Somebody else did walk in with me, yes.

Q Do you specifically recall who it was?

A No.

Q Okay.

A I want to say it was either Cohan or Brehm. One of those two.

Q Okay.

A One of the guys that were -- that -- that knew her, 'cause they were talking to her as we walked along. They knew her.

Q And I'm going to come to that. During this roughly twenty-minute conversation, in which Cohan was explaining to Batista and the arrestees, if someone doesn't take credit for the dope, do you know if Ruggiero, Guerra, or Lassak were in a position to have heard that conversation?

A About who's going to take the blame?

Q Correct.

A Yes. Well, what happened was, like I said, we were sitting here for twenty minutes trying to figure out who's gonna take the case. Or -- yeah, who's gonna take the case. And, at one point or another, they would sort of walk by. And, you know, we're all standing there. You know, at some point, we

were all standing there listening to them. And they were like, -- you know, all three of them were like, "I didn't have it. I didn't have it. I didn't have it." You know, they were all going through this. And we're going through this whole thing, "Well, she's gonna take the case if somebody does cop-out to it."

So, this is going on for twenty minutes. So, for a few minutes, we would all be sitting there. A couple of minutes later, they'd walk off. Walk here, walk there. But during most of the interview part, this small interview, this is where we were situated, Cohan and myself and Batista.

The other officers were walking around, you know, back and forth, you know, doing whatever, during the interview. But at -- they definitely knew that somebody -- that he copped-out to it. You know, eventually, he said, "Yeah, fine. I'll take the case." That type of thing. And we were all sitting there. At some point, we were all there listening to them, you know, try to figure out who's gonna take the case.

Q Okay. Would it be a fair statement to say that Ruggiero, Guerra, and Lassak knew that the arrest of Danny Tapia was false?

A Yes.

Q Is there any doubt in your mind?

A No. No, they knew.

Q Okay. And is there any doubt in your mind that -- let me strike that. Where was Brehm during this twenty-minute

conversation?

A Again, he's back and forth. Like I said, Brehm, Lassak, Guerra, and Ruggiero, you know, during this twenty minutes, at some point, they're there with us. They're listening to these guys' story. "It wasn't mine." "No, it wasn't mine either." "It wasn't mine."

And then, they would walk off. But, primarily, myself and Cohan, we stayed there the whole time. You know, I was the senior guy there. So, I'm standing here just listening the whole time. Cohan is the senior man of 18th Street, so he's handling the -- the discussion. And these four guys would walk back and forth, you know, they'd go, whatever -- would go, you know, walking around doing whatever. But, eventually, come back and listen in a little while longer. And, you know, back and forth.

Q Did Cohan, at some point, tell you that he found narcotics in the apartment?

A He didn't tell me directly. He was telling them that he found some narcotics inside, you know, and he wanted to know who it belonged to. But, I mean, he never told me, "I found some narcotics" or showed me any narcotics, or anything like that.

Q And I know I asked you this before, but I just want to reiterate it. During the time that you were there, you never saw any of the cocaine that was later booked in this case?

A No, sir.

Q Judy Batista, when I interviewed her, she alleged that when -- when she came back to the location, she had been at the store down the street. When she came back, she saw a lot of police cars out front, and that she ran into her apartment, and a few of these officers were inside. And they were trying to talk Danny Tapia down from the roof.

And they had told her that if Little G doesn't come down, we're gonna put a case on you. And Batista indicated that she was concerned about either her very young daughter or son that was the infant. And that one of the officers told her, "Well, we're gonna have to take your kids for child endangering." She indicated that, at that point, I believe that comment was made by Guerra.

And, according to her, you and Guerra were in the apartment when that statement was made, and that Batista went over to the crib and, basically, put her hands on the crib, with her back to the crib, and said something to the effect that, "You're not gonna take my baby," shielding yourself and Guerra from the child. Do you recall that happening?

A No. I mean, I would remember that, you know, someone that, "You're not gonna take my -- my baby." I would remember that. I don't remember hearing it, you know.

Q Okay. She indicated that yourself and Guerra grabbed her by the shoulders, threw her to the ground, and that you then stepped on her back to hold her down and hooked her up -- handcuffed her -- and then, walked her out front. And that the

conversation between Cohan and the suspects, shortly thereafter, occurred. Did that happen?

A No.

Q Okay.

A Absolutely not.

Q During this twenty-minute conversation prior to Tapia, okay, I'm going to take credit for the -- for the dope, do you recall any of the officers going to the trunk of their police car for anything?

A During the entire interview process?

Q Correct. Yes.

A Yeah, I -- and I don't know why I remember this, or why, but I thought I remember a couple of officers going to the back of their car to get some -- I don't know what it's called. That jelly you put on your hands to clean your hands off that disinfects.

Q Like hemostat?

A Not hemostat. But a gel-type. It was a gel that you -- that disinfects your hands, or -- not deodorizes, but it disinfects them. I don't know what's it called. It's comes in a clear bottle, blue label. And you just clean your hands off any time you touch somebody who might have blood or -- or saliva, or anything, and you want to clean your hands off.

Q BY MR. ROSENTHAL: It doesn't require soap -- it doesn't require water, is that what you're talking about?

A No. It's just a gel, you know, and you just wash

your hands. And that's it. It's done.

Q BY DET. BURDITT: Do you know -- do you personally know if any of the involved officers went to their police car -- went to the trunk of their car and retrieved some cocaine, and that was the cocaine that was, eventually, booked in this case?

A That I definitely did not see.

Q Okay. Do you know where the cocaine came from that was booked in this case?

A No.

Q Do you know if, in fact, it did come from the apartment?

MR. MCKESSON: The question is, "Do you know?"

THE WITNESS: I don't know where the cocaine came from.

Q BY DET. BURDITT: And you never saw that cocaine?

A No.

Q Okay. Did any of these officers tell you that they planted the dope on Tapia?

MR. MCKESSON: When you say "planted the dope" --

Q BY DET. BURDITT: Put it on him. That, in fact, it wasn't on him. Or let me rephrase it. Did any of the officers tell you where the dope came from -- the cocaine?

MR. MCKESSON: Okay.

THE WITNESS: No.

Q BY DET. BURDITT: Do you recall any injuries, observing any injury to Judy Batista?

A No.

MR. MCKESSON: Is she claiming injuries?

DET. BURDITT: Yes.

Q Did you observe any injuries to Danny Tapia?

A Danny Tapia -- well, it's not quite yes or no. Okay. He's one of those kind of guys that always looks through -- I mean, like he's been in a fight every other day. You know, that type of guy. So, his face may have looked -- but it just looked normal to me. That's how I always remember him, seeing him, you know.

Q Would it be fair to say there was nothing that jumped out at you during this arrest that -- as compared to George Alfaro?

A That's correct.

Q Okay. Did you personally have a conversation with any of these arrestees? Tapia, Gutierrez, or Alfaro, at the arrest location?

A Yeah. I mean, a couple of times, I, you know, I made it clear, you know, that, I don't think you guys want an Eme member upset at you guys. So, you guys better think long and hard, you know, somebody better figure out, you know, who -- who stands to lose the least on something like that. But, like I said, it's while we're all standing there, very short.

Q While you were there, did you hear George Alfaro complain about any injuries that he sustained?

A I remember him grimacing and making, you know, the

sounds like, ugh. You know, that type of thing. But not like, hey, my back is really hurting, or my leg really hurts, or nothing like that.

When he was -- when he was seated on the ground, he was just doing that, you know, ugh, grimacing. Other than that, no.

Q And the same question for Danny Tapia.

A Not at all.

Q And the same for Judy Batista.

A No.

Q While you were there, did you see any of the officers conduct a search of the interior of Batista's apartment?

A I think while we were standing here, I think officers walked in several times. I do not know if they were searching, or just going in there to check on the baby, or whatever. That's my suspicion that they were probably searching, too. But I can't tell you they were definitely searching. When I went in, I looked around, I looked around. But I didn't -- I wasn't looking for anything in particular.

Q And what, again, was the reason that you went in the apartment?

A When she was going to be allowed to go back into her apartment, or whatever, I wanted to let her know, that, hey, you know, your apartment's fine, no -- no furniture was trashed or anything like that. So, I walked back in with her to the apartment. And somebody -- and another officer.

Q And was that after Danny Tapia took credit?

A Yes. This was at the conclusion.

MR. MCKESSON: You mean accept the responsibility?

DET. BURDITT: Accept the responsibility, correct.

Q When you went back in the apartment, did it appear that it was ransacked?

A No.

Q At what point did Sgt. Torsney arrive?

A Late into the investigation. And I know when he was showing up, I think that was my cue to -- it's time for me to go.

Q Were you present when Sgt. Torsney showed up?

A Yes, I believe -- I wanted to believe -- I believe that something occurred where he had to be there. And something else was going on. They wanted to check something. They wanted to check maybe the roof, or they wanted to check something. See if something else was placed anywhere. And Sgt. Torsney did show up. But I -- I left shortly thereafter.

Q BY MR. ROSENTHAL: And why did you say that was your cue, it was time to leave when Sgt. Torsney showed up?

A I just -- I don't know. I just -- certain supervisors, I just don't really, you know, hang around too much, you know. I mean, with Sgt. Ortiz, no problem. You know, with Sgt. Hoopes, no problem. Just Torsney wasn't somebody that I, you know, communicated a lot with.

Q BY DET. BURDITT: Does it indicate on your log here

that -- was Sgt. Torsney written in?

A Yes, sir.

Q As a supervisor? Or would that indicate that Sgt. Torsney was, in fact, present?

A Yes, sir.

Q Do you specifically recall Sgt. Torsney arriving?

A I remember -- I remember his face. I don't remember, you know, if, you know, if his investigation was -- if he was there to take an investigation or a complaint, or anything like that. I know that when he got there, we kind of ran down a couple of things to him. And I told him, "Well, you know, I'm going to be getting out of here."

Q And when you say, "we ran a few things down" who that be?

A Cohan and myself.

Q And do you specifically recall what you or Cohan told Sgt. Torsney?

A Not really.

Q How long after Sgt. Torsney arrived, did you leave?

A I really don't know. How much time? I'd be guessing. If I said a time, I'd be guessing.

Q Do you know if any of these arrestees, or Judy Batista, -- let me rephrase that. Did any of these arrestees or Judy Batista, in your presence, make any complaint to Sgt. Torsney, out there at the scene?

A Not in my presence.

Q Okay. Is it possible that they could have and you didn't know?

A Yeah, it's possible.

Q And --

A And if it would have, I do remember one thing, though. She talked to him a lot. Batista talked to Torsney a lot. I don't know what the gist of the conversation was, but she did talk to him a lot.

Q Where did that conversation occur, if you remember?

A There at the location. In front of the location.

Q In the street?

A I think it was more on the sidewalk --

Q Okay.

A -- by the time he got there.

Q Were you in a position to hear what they were talking about?

A No, not really.

Q To your knowledge, did Sgt. Torsney know that the arrest of Danny Tapia was false?

A To my knowledge, I don't think so, which isn't definitive. But I don't think that Cohan would have told him how everything went down, just based on how I know how things go with Sgt. Torsney and in the unit. I don't think he's that trusted. I think he would have just been told, yeah, you know, we got this. And that's it. You know, the generic gist of it.

Q But you have no personal knowledge as to whether

Torsney knew that this was a bad arrest?

A No, I do not.

Q Did you ever see the arrest report generated for this case?

A At some point, I did. You mean -- do you mean the day of the arrest?

Q At any time, did you ever read the arrest report?

A Yes, when I went through -- early on in this investigation, sometime in October, I was going through a lot of reports. And I noticed this one, and I put this aside, because I knew that there was some issues that we needed to talk about.

Q Would it be a fair statement to say that Cohan and Brehm, who were partners, and authored that report, that they knew that arrest report was false?

A Of course. Yes.

Q Okay. Did you know, until I spoke with you, that Tapia had initiated a personnel complaint?

A I had no clue.

Q Were you ever interviewed relative to a complaint that Tapia made?

A Not that I remember.

Q Okay.

MR. MCKESSON: Who did Tapia say beat him up?

DET. BURDITT: Tapia alleged that Brehm and Lassak -- well, he initially indicated that a couple of the officers assaulted him. And when I interviewed him, he said two different officers

assaulted him. So, his story changed dramatically.

MR. MCKESSON: When you interviewed him, was Perez one of the officers that beat him up?

DET. BURDITT: No.

MR. MCKESSON: Okay.

Q BY DET. BURDITT: Tapia alleged, during the subsequent interview, that Brehm kned him to the stomach during his detention at this location. Do you have knowledge of that?

A None.

Q Okay.

A You did say "Brehm" right?

Q Yes, sir, Brehm.

A No, I don't remember that.

MR. MCKESSON: I'm not trying to be a jerk, Officer Burditt, but I thought he said he didn't see any of these people being hit by anybody.

DET. BURDITT: Correct. I wanted -- when I was looking at my questions, I wanted to clarify Brehm. 'Cause there were a number of excessive force allegations against a number of officers. And I just wanted to clarify it.

Q Do you recall the Fire Department responding to this location?

A Something to do with having to try and get on the roof or top window or something. Or something like that. And I don't think I stayed, you know, for them to do their -- their thing. But I do remember something about the Fire Department,

yes.

Q After you left -- now, your log indicated that you were -- that you trans- -- that you responded there for transportation.

A Okay.

Q When you left, do you recall if you transported any arrestees to another location?

A I don't recall if we did or didn't. I think they had it handled, the two units that were there. I know we responded for that purpose. But I don't know if we ended up having to or not.

Q One of the witnesses indicated to me that during the conversation when Cohan offered this ultimatum to the arrestees, somebody takes credit for this, or Judy's -- or Batista's gonna go to jail, they indicated that Cohan was dangling a baggie of cocaine in front of them.

A I never saw that.

Q I don't think I have any other questions.

MR. MCKESSON: Can I take a brief break and grab another grape juice?

DET. BURDITT: Sure. We'll go off the record.

MR. ROSENTHAL: It's 4:09?

DET. BURDITT: No, I have 1607 hours.

(Off the record at 4:09 p.m.)

(Back on the record at 4:10 p.m.)

Q BY DET. BURDITT: Okay. We're back on tape on CF No.

99-4627. I did not have any other questions for Ray Perez.

And did you have any questions for me?

A No, sir.

Q Anything else that I may have missed?

A No, sir.

Q Thank you. And this interview will conclude at 1611 hours.

(Off the record at 4:11 p.m.)

(Back on the record at 4:20 p.m.)

DET. KIRSCHENMANN: This is a tape-recorded interview for Investigation No. 00-0480. Today is April 5th, 2000. Time is approximately 1620 hours. Location of the interview is Internal Affairs Group, South Section. Present to be interviewed is Rafael Perez. The interview is being recorded on Tape No. 229271, Side A, being conducted by myself, Detective II Kirschenmann, Serial Number 23496; and Sgt. Yzguerra, 21400.

Also present is Attorney Winston McKesson; District Attorney Richard Rosenthal; oh, I'm sorry, Deputy District Attorney; and Detective II Burditt, 24454.

And this is also the arrest under D.R. Number 96-022-0480. And there was one person arrested during this incident. And that's Oscar Lafarga. And that was Court Case No. BA13296.

MR. ROSENTHAL: And let me just point out that the -- that case was, eventually, dismissed and a probation violation was filed and a hearing was held in Case No. GA024373.

And you're still under oath.

THE WITNESS: Okay.

MR. ROSENTHAL: All right. Thank you.

Q BY MR. KIRSCHENMANN: And, just for the record, before we went on tape, I gave you a few minutes to review. It was your transcript from the previous interview with investigators from the Task Force. It was an arrest report, D.R. No. 96-02-20488. And the DFAR dated May 31st, 1996. Did you have sufficient time to review these documents?

A Yes, sir.

Q And I'll hand you back your -- your reports on DFAR. Please tell me who your partner was that day.

A It appears that Officer Tovar was my partner.

Q Okay. And on Line G, Activity G, you have an entry for Mountain View and Temple for narcotics activity.

A That's correct. At 2230 -- or 2230 hours.

Q And was your partner Tovar with you, at that time?

A Yes, sir.

Q Do you recall on that day if you were the driver or passenger officer?

A I -- by the fact that I wrote the log, I would have been the passenger officer. However, quite often, sometimes, with Tovar, I would do the log as well as drive. So, I'm not a hundred percent sure whether I drove or was a passenger.

Q And, according to the Line G, 2230 hours, did you make a traffic stop on Mountain View and Temple?

A We -- we did a stop on a vehicle that was already

parked.

Q And do you recall where the vehicle was parked?

A It was parked southbound on Mountain View just south of Temple.

Q I've shown you some photographs also. And there's two particular that are kind of tape together. And on the back, they're Photos 9 and 10. Does that look like the location?

A Yes, sir.

Q And where is that approximately? Is that on Mountain View?

A This is -- this is on Mountain View. The park was -- the vehicle was parked on Mountain View facing southbound, just south of Temple.

Q Do you recall --

A In front of this location here.

Q Now, you're pointing -- pointing towards a white house, which would be on the -- kind of a -- a white house?

A I think it's kind of like a -- okay.

Q Were those houses vacant, at the time, back in '96?

A Yes, sir.

Q If you recall.

A They were vacant, yes.

Q Do you -- and was the vehicle parked in front of this house?

A Yes, sir.

Q And then what happened?

A As we drove north, we saw them sitting in their vehicle drinking beer. And we walked up to them.

Q As you were driving north or south?

A I'm sorry, south. We drive -- we pull up right next to them. And we can see. We knew this was a dope house. And they're parked in front of it. And we looked in, and a couple of them had 40-ounce beers. And we -- I get out right next to the vehicle, right next to the driver's side door. And I'm asking them to get out of the car.

Q How many people were in the car?

A I want to say there was three. There might have been one already outside the car. Someone standing on the sidewalk. And there was three inside the vehicle.

Q Were they males or females?

A I believe one was a female, and two were males.

Q The person who got arrested, Lafarga, --

A Mmnh-mmnh.

Q -- do you recall where he was positioned in the vehicle?

A He was seated on the rear left passenger seat.

Q So, right behind the driver?

A Yes, sir.

Q And I'm going to show you a booking photo, 4849282, dated June 1st, '96. Do you recognize this person?

A Yes, sir.

Q Is that Lafarga?

A Yes, sir.

Q And he was the one in the rear passenger seat?

A Yes, sir.

Q Do you recall who the driver was? Was there a driver?

A I believe there was someone sitting at the driver's seat. But the car wasn't on, and they weren't moving. 'Cause, like I said, the car was parked.

Q Was it a male behind the wheel, or female?

A I think it was a female.

Q I'm going to show you another booking photo, 5120503, dated 1/31/97. Do you recognize this person? It's of a male, Robert Medina.

A No.

Q You don't recognize him?

A Not at all.

Q I'm showing you a booking photo of a female, White, and Booking Number of 6076550, dated June 1st, 99. Do you recognize her?

A Now, she looks a little bit more familiar. Him I don't remember. But she -- she looks somewhat familiar. She may have been the one that was sitting behind the -- or one of the ones that was in the vehicle.

Q Do you recall where she was seated?

A If I remember correctly, she was -- from what I remember, she was behind the driver's seat, or in the driver's seat. But I can't be a hundred percent sure.

Q I'm going to show you a DMV photograph of a Dixie Hernandez, License No. A1661630. Do you recognize this person?

A No, sir.

Q Before this date, May 31st, '96, had you ever had contact with anybody that was in the car that night?

A Mr. Lafarga.

Q How many contacts did you have with him?

A I caught him there at least one prior time buying narcotics. And I gave him a break. I told him, you know, "Don't let me catch you here again." The whole thing. And he promised that, you know, he wasn't gonna come back, or wasn't gonna do any -- you know, buy no more drugs.

And then, when he came back this time, I decided he's got to go.

Q Okay. Going back, you originally said that you stopped, it would adjacent to the suspect's car?

A Yes.

Q And you said you got out of the car.

A Yes.

Q Who did you speak to?

A Mr. Lafarga.

Q Was he one of the ones that was drinking in the car?

A Yes.

Q Who else was drinking in the car, if you know?

A I believe, if I remember correctly, there was a least two 40-ounce bottles in there. So, there was at least one other

person. I'm assuming that they were, you know, sharing the bottle. But there was at least two bottles in there.

Q And what did you ask of Mr. Lafarga?

A I asked him to get out of the car. As I'm asking him to get out of the car, I see him stuffing the -- the bundle inside the -- between the wall of the vehicle -- the left side of the vehicle -- and the cushion. I could see him stuffing it in. I'm telling him, "Hurry up and get out." I could see what he's doing. You know, he's trying to stuff it, trying to hide it from me.

And, so, when he gets out, I just go in there and retrieve it.

Q Was it the upper portion of the seat? Or down by the bottom of the seat?

A The left-hand side, right up against the door. I guess you would call it the upper portion of the seat.

Q Was the seat back or the seat cushion --

A No, no. To the side. It would be where the seat would be up against the side of the -- of the wall of the vehicle. Not the back cushion. Not, you know, where your back rest and seat rest come together, but on the left-hand side.

Q Do you know where Tovar was, at this time?

A He was right behind me.

Q Are you both standing in the street?

A Yes.

Q So, you're both standing next to the suspect's car?

A Yes.

Q When you say "behind" you really mean behind you, or adjacent to you?

A Well, let me see. He would be a little bit to my right and behind me.

Q Was Tovar illuminating the car with his flashlight?

A That I don't remember.

Q How about yourself?

A I was, yes.

Q And that's how you could see the bundle being hidden in the back seat?

A Yes.

Q After you see and you're telling him to step out, did he exit the car?

A Yes.

Q Okay. Did you order everyone out of the car?

A Yes.

Q Where were they placed?

A They were standing right there on the sidewalk by the chain link fence, I believe. Here. This fence is a little bit different now. It looks like a much taller fence. A newer fence. But there used to be a smaller, like a half a fence. Maybe a 3-foot, 4 fence. And that's where I had them lined up.

Q They were just on the sidewalk?

A Yes.

Q Which way were they facing?

A They would have been facing towards the house.

Q Away from you?

A Yes.

Q Did either you or Tovar ever search the vehicle?

A I went right to where I saw him place the narcotics. I didn't go, you know, searching up and down the vehicle. I could see him right where he put it. And I went straight to it.

Q And, again, that's Lafarga?

A Yes, sir.

Q And what did you recover?

A The bindle with the narcotics in it.

Q Did you look, at that time, what was inside?

A Yes.

Q Where was Tovar when you recovered this?

A Exactly where he was standing or what he was doing, I really don't know.

Q Was he still on the same side of the suspect's vehicle with you on the street? Or was he over on the sidewalk with the suspects?

A I really don't know. I was paying attention to what I was doing. You know what I mean? I went into the car. You know, I know when we got them all out, after -- when Lafarga came out, already trying to play that role of the irate citizen. You know, "Why are you stopping me for? What's going on?" That type of thing. And I told him, "You know what's going on."

And, so, he went and stood up against the fence. And I walked right in and looked into where the -- where I saw him put the bindle, and got it right out.

Q Did you inform Tovar of what you had found?

A Yes.

Q So, he understood that you found the bindle inside the vehicle?

A Yes.

Q At any time, did you search the three or four individuals?

A I probably searched one or two of them, yes. I don't remember which ones I searched. But I know -- you know, if we had at least four people there, or two or three people there, you know, I must have searched at least one of two.

Q Did you find anything during the search?

A Not that I can recall right off the top of my head.

Q Would you remember if you had found a glass cocaine pipe in somebody's pockets?

A I could have found two or three of them. I probably would have just have disposed of them.

Q One of the occupants is saying -- well, Robert Medina is saying that you found the glass cocaine pipe in his right front pants pocket, dropped it on the pavement and stepped on it.

A That's probably true. Or it could be true. I don't remember it. But it's possible.

Q But you don't recall?

A I don't recall.

Q He's also saying that you or Tovar, he's not specifically sure, that two cocaine pipes -- glass cocaine pipes -- were removed out of one of the females' purses. And the same thing happened, the glass cocaine pipes were dropped on the pavement and stepped on. Do you recall that?

A I don't recall it. But, again, it's possible.

Q Were there any other officers present at the scene?

A No, sir.

Q At any time?

A Not that I can remember. When I made this stop, were there any other officers present? No, I don't remember any other officers showing up later on. You know what? Somebody may have driven by. But we said, "No, we've got it handled. This is nothing. We're gonna kick the other -- the other hypes. And we're just gonna take the one guy."

But even if they did drive by, they probably never even got out of their car.

Q And they wouldn't have known what was going on?

A No.

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Q Okay. Do you recall who you transported to the station?

A I know we definitely transported Mr. Lafarga. But outside of that, no, not really.

Q If Robert Medina says he was transported to the station, is that possible?

A Yes.

Q While still at the scene, before you follow-up to the station, do you discuss with Tovar how the arrest report should be written, or who's gonna go to jail and why?

A I did tell him Lafarga was gonna go. I didn't tell him how the report's gonna go until we got to the station.

Q And he didn't question you about the circumstances?

A No.

Q When you go to the -- how long or how much time did you spend out at the scene on Mountain View?

A Not very long. I'd be guessing. But we probably

spent twenty minutes, twenty-five minutes at the scene.

Q Was your next follow-up to Rampart Detectives or to your station?

A It would have been to Rampart Station. I do believe. I believe it would have been to Rampart Station. I believe.

Q Okay. And you said earlier is that where you discussed the report with Tovar?

A Once I get to the station, I discussed with him how I'm going to write the report, you know, that we both saw the bindle being dropped by him as he's getting out of the car. I discussed that with him. I'm pretty sure that I told him where I actually found it from inside the cushion. 'Cause that was -- it was kind of amusing how adamant Mr. Lafarga was about not having any dope. And I'm -- you know, I'm trying to tell him, "I saw you put it in the cushion." You know, I'm trying to tell him, "I saw you. Quit, you know. Stop it already. I've already given you a break."

And, so, I had talked to Tovar about that. But that's about the amount of discussion that we had.

Q So, did Tovar object to that?

A No.

Q My question would be is -- it could be argued that your observations would have been a lawful arrest.

A Certainly.

Q Why did you come up with this other story that the -- that the cocaine was dropped as Lafarga exited the vehicle?

A I'll tell you exactly why I did it like that, and a lot of officers do it like that. Because I write this report exactly the way I saw it, submit it, and send it to the D.A.'s Office for filing through the Narco Team.

They may or may not file it because it's an officer against defendant type thing. And they're going to call back and say -- I know exactly what they're gonna do. The D.A.'s gonna call and say, "Yeah, we filed on this case. But, you know, we're gonna go to trial on it. But did anybody else see it? 'Cause, I mean, it's just you against him. And, you know, the jury's don't look at it too well. Did any other officer see him drop the bindle? Or did anybody else see him recover the bindle?" That type of thing. That's why we -- a lot of times, we put it where both officers saw it clearly. And we both saw him drop the bindle. And that's why we write it that way.

Q So, basically, for use of testimony?

A To secure convictions.

Q Is this something you had personally discussed with Tovar in the past, also?

A The reason why we do it this way?

Q Yes.

A It's just something that's understood. You know, it's -- you don't sit there and go, you know, we have to write it this way, otherwise the D.A.'s gonna -- it's just one of those things that, you know, at work, you know, as police

officers, you know, you know, the D.A.'s gonna have a problem with it. You know, a one-on-one, uh, contact, or one-on-one arrest, you know, they're not too happy with it. And that's just the way you write it, that both officers saw it.

Q BY MR. ROSENTHAL: So, if you had written it the way it happened, it would have been fairly clear that Tovar could not possibly have seen him stuffing the bindle down there?

A Of course.

Q BY MR. KIRSCHENMANN: And who wrote the -- the actual report? Do you want to take a look? I think it's on Page 2 and 3.

A I wrote the report.

Q Did Tovar actually have any -- other than the -- other than the short discussion you had with Tovar on how the report would be written, did he have any say or input on what was documented in the report?

A No, sir.

Q Did he ever review the report on the night that this occurred?

A I don't recall that. I don't know.

Q Is that something that he would generally do?

A I would always have my partner review the report to make sure he agreed with it and we're on the same page, in case a supervisor or anybody asks about it. I mean that was general practice.

Q But you don't specifically recall, in this case?

A I've done hundreds of arrests. I mean, any time I write my report, the first thing I do is, "Check my report to see if I made any mistakes or make sure you agree with it. That's automatic. If he filled out the -- his handwriting, the face sheet, the front of the report, you know, once I get the -- the report done and I get the face sheets, I give it to him to fill out the evidence part. He fills all that out. So, he has to look at the rest of the report as well. He has to read it.

Q So, looking on the face sheet of the arrest report, the upper portion where it's the D.R. Number, is that your handwriting, or is that Tovar's?

A Officer Tovar's handwriting.

Q And the same with combined evidence report?

A Yes, sir.

Q And where your names appear "Perez and Tovar" in Assignments?

A That's Officer Tovar's handwriting.

Q Now, how about where Sgt. Ortiz' name appears for Supervisor Approval?

A That's Sgt. Tovar's handwriting. I'm sorry, Officer Tovar's handwriting.

Q Why was that done? Why is -- why did Tovar write Sgt. Ortiz' name on the arrest reports?

A We probably just got the okay from the supervisor for booking approval. And while we're doing these, well, quite often what happened is, the supervisor will be out in the field,

he doesn't want to come all the way to the station just to sign your report. And he'll just say, "Okay, fine, sign it for me." And it just became a practice. We just did it all the time.

Q That was with Sgt. Ortiz' approval?

A Yes.

Q Do you recall if that was the instance, in this case?

A Do I remember whether we specifically called Sgt. Ortiz? No.

Q That was just the common practice?

A Yes, sir.

Q Why didn't you just get the watch commander at Rampart Station to approve your report?

A You will rarely -- very, very rarely see any C.R.A.S.H. officer go to any regular patrol officer. We try and not do that. You know, we try and keep all our stuff in-house.

Q That was pretty much the common practice in the C.R.A.S.H. unit?

A Yes, sir.

Q BY MR. ROSENTHAL: Let me just ask this. On June 14th of '96, Tovar testified at the preliminary hearing. And he testified that he saw the defendant drop a white bindle from his right-hand. So, according to what you're saying now, that testimony would have false?

A That's correct.

Q BY DET. KIRSCHENMANN: Now, prior to when Tovar

testified, excuse me, in the Municipal Court, did you have discussion with Tovar concerning his testimony?

A You know, we may have because I generally like to testify in my own reports that I -- that I write. And for some reason, he went and testified on this.

So, we must have discussed it that he -- either I couldn't make it or I needed him to go, for some reason. 'Cause, generally, I always show up to court. And if he testified, -- it may have been an issue where I was there to testify, but I needed him to become a narcotics expert, I need him to testify more. So, I might have just let him testify, even though I was there.

Q Is there any doubt in your mind that Tovar was unaware that the arrest report was inaccurate or false?

A There's no doubt in my mind that Officer Tovar knew that this report was false, and that the way the report was written, as far as our observations, was false.

Q Did you ultimately testify also during the probation violation hearing in this matter?

A I believe I did.

Q And did your testimony reflect the false observations in the arrest reports?

A I would have testified as to what the report said.

Q Is that what you recall?

A Yes.

Q BY SGT. YZGUERRA: Perez, on the bundle that you found

inside the car, was it a typical-sized bindle?

A Typical-sized?

Q When I say "typical" was the bindle folded so they can keep the narcotics inside the bindle itself?

A Yeah, and that's what I would -- I would put something in the category of, it was folded up to where, you know, you can hold something it, I would call it a bindle.

Q Okay. And that's what it was?

A Yes, sir.

Q And it was found inside the car?

A It -- I --

Q Was it next to the left side, by the seat? By the arm? Almost like an arm rest there?

A If I'm sitting in the rear left, right behind the driver, if I'm sitting here, as I'm telling him, -- I'm standing right outside the car. I'm telling him, "Get out." Uh, I could see exactly what he's doing.

Q And you had the flashlight right on him?

A Right on him.

Q Could you actually see what he's doing with it?

A I can --

Q And could you see him putting the bindle --

A Right into the -- he's trying to squeeze it inside the side of the car, inside the -- between the -- the cushion and the wall of the car. I can't call it the door, because there's -- there's only a two -- a two-door passenger vehicle.

So, it's the wall. The left wall. And I can see him stuffing it. And I'm telling him, "Get out of the car." I could see what he was doing.

Q The -- okay. The bindle, what color was it?

A I believe it was a white bindle.

Q And you could actually see him stuffing the bindle?

A Very clear.

Q And how long did that take?

A For him to try and stuff it?

Q To try to stuff it, as you had the flashlight over him.

A Just -- just as long as it took for him to get out of the car. Like I said, I'm asking him to get out of the car. And he's acting like, uh, uh, you know, trying to play that stupid role. And he's stuffing it. And meanwhile, he's stuffing it. And I'm -- and I'm telling him, "Get out of the car." You know, I could see what he was doing. And I went straight to the bindle and recovered it.

Q And during that time, Officer Tovar, was he behind you?

A Again, if this is the rear driver's door, or driver's rear passenger, and this is facing southbound, I'm standing outside the car, now looking this way right at him. Officer Tovar would have been right here to my right a little bit behind me.

Q BY DET. KIRSCHENMANN: So, towards the bumper of the

suspect's car?

A The rear bumper, yes.

Q BY SGT. YZGUERRA: So, where Tovar was actually at, his position, could he see what you -- what you were doing?

A What I was doing?

Q What -- what you were doing?

A Oh, he could definitely see me.

Q As far as watch you and the person inside? Okay. Let me start again. Okay. You're watching Lafarga inside the car.

A Yes, sir.

Q Stuffing the bindle; is that correct?

A Yes, sir.

Q And you have the flashlight shining down upon what he's doing; is that correct?

A Yes, sir.

Q Okay. Tovar is off to the side, is that correct?

A To my right, yes, sir.

Q To your right. Would Tovar be in a position to see what this person Lafarga is doing inside the car?

A No, sir.

Q Okay.

Q BY DET. KIRSCHENMANN: I don't know if it was clarified, though, did Tovar watch you remove the bindle from the car? Did he --

A Tovar knew that I went inside the car to retrieve

whatever it was that was inside there. But he couldn't see where I was getting it from or where exactly -- I mean, it could have been anywhere. He didn't see where I got it from.

Q You're assuming he didn't see?

A He couldn't. He was in no position to see me get it out. It's up against the door between the cushion and the door, or the panel -- the -- the left paneling. And he's standing still behind the car. He can't see what I'm getting out, what I'm retrieving.

Q BY SGT. YZGUERRA: It's because Officer Tovar was not in the right position to see this, is that correct?

A Exactly.

Q BY DET. KIRSCHENMANN: When Lafarga was doing this action of stuffing something, the bindle, inside the seat, did you ever have any conversation with Tovar concerning your observations?

A During, while he was doing it? No.

Q Yes.

A I just knew I was gonna -- I was gonna let him stuff it. No problem. Just get out of the car. I just go and retrieve it.

Q Now, in the report, it indicates that Lafarga exited, I believe, the passenger door. Does he ever exit the passenger door? Or is he taken out of the car on the driver's side?

A I -- let me refer to the report. Okay. I'm now -- now, the question again, was, did I --

Q I believe the question was, did Lafarga exit the driver's door of the vehicle?

A And that's what it says on the report. Mr. Lafarga actually exited on the -- uh, the driver's side.

Q Yeah, in the report it says "passenger side" --

A That's right.

Q In reality, he exited the driver's side?

A That's correct.

Q There's no doubt about that?

A Right.

Q And in the report it also describes that the cocaine was found on the glass outside the passenger door. Did you or Tovar ever search that area during your investigation?

A There was a -- I believe, a person outside the vehicle. And, at some point, Tovar might have, you know, flashed the light to look around to see if that person might have dropped something. But as far as for the narcotics or the evidence that we had already found, we never searched that area to look for this. Nothing. No.

Q BY MR. ROSENTHAL: I'm sorry. When you wrote in the report that he came out of the other side of the car, than he really did, was that an intentional misstatement, or just an error?

A I think that was just an error. I -- I don't even know why I wrote it that way. 'Cause he actually came out -- the car was facing southbound. He came out the driver's side.

The driver's door.

Q BY DET. KIRSCHENMANN: From speaking to the witnesses that were in the --

MR. MCKESSON: Excuse me one second.

DET. KIRSCHENMANN: Sure.

THE WITNESS: I mean, there was -- there was a question prior by D.A. Rosenthal, was it a mistake that I put that he came out on the passenger side. And I said, "Yeah." I guess what I was looking at, as though, you know, why did I say he came out through the passenger side. I mean, it was irrelevant. You know, the passenger -- I think it was just because, 'cause when I looked back the way the officers were positioned, it was better to write it that way, because that way both officers could have seen it.

MR. ROSENTHAL: All right.

THE WITNESS: That's why it was written that he came out of the passenger side.

MR. ROSENTHAL: Okay. All right.

Q BY DET. KIRSCHENMANN: From the witnesses' statements that -- and you said that Lafarga was in the rear seat behind the driver -- the driver's seat.

A Left rear passenger, yeah.

Q Is it possible that Robert Medina was actually -- was sitting in the driver's seat?

A In the driver's seat?

Q Yes.

A Okay. That's possible, yes.

Q Possible?

A Yes, sir.

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Q Okay. So, if those were the statements from the witnesses and referring to the four people, that wouldn't necessarily be incorrect?

A That's correct.

Q Their placements in the vehicle?

A That's correct.

Q Do you have any more questions on that?

(No audible response.)

DET. KIRSCHENMANN: Mr. Rosenthal, do you have any more questions?

MR. ROSENTHAL: No.

DET. KIRSCHENMANN: Ray, do you have any more questions?

SGT. YZGUERRA: No.

DET. KIRSCHENMANN: With that, we'll conclude the interview. The time is approximately 1652 hours.

(Off the record at 4:52 p.m.)

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VOLUME 21 - OFFICER INDEX

April 5, 2000 Transcript

NAME

PAGE(S)

Officer Edward Brehm 2714,	2701, 2706, 2709-2711, 2722-2726, 2736, 2738, 2746-2747
Officer Mike Buchanon	2700
Officer Canister	2668
Officer Ethan Cohan	2701, 2706, 2708-2712, 2714-2715, 2729, 2732-2739, 2745-2746, 2748
Officer Armando Coronado	2666, 2668
Officer Lucy Diaz	2697-2699, 2701
Officer Nino Durden 2683,	2646-2647, 2650, 2653-2657, 2660-2664, 2666, 2668, 2688-2689, 2691, 2693, 2700
Officer Dean Gizzi	2648-2649, 2668
Officer Juan Guerra	2708-2712, 2733, 2736-2739
Sgt. Alfonso Guerrero	2682, 2684
Officer Paul Harper	2684
Sgt. Hoopes	2744
Officer Andrew Lassak	2708-2711, 2722-2726, 2732, 2736-2738, 2747
Officer Samuel Martin	2657-2658, 2693-2694, 2698-2699, 2701-2703
Officer Mike Montoya	2701
Sgt. Edwardo Ortiz	2695, 2699-2700, 2703-2704, 2744, 2763-2764
Sgt. John Peters	2672
Officer Mark Richardson	2700, 2702
Officer Mario Rios	2700
Officer Roger Ruggiero	2707-2708, 2726, 2732, 2736-2738

Officer Doyle Stepp	2675, 2677-2681, 2683, 2688, 2701
Sgt. Timothy Torsney	2710-2711, 2743-2746
Officer Humberto Tovar	2750, 2755-2758, 2760-2770
Officer Omar Veloz	2675, 2677-2679, 2681, 2683, 2688, 2701-2702
Officer Mark Wilbur	2684

E X H I B I T S

PEOPLE'S EXHIBITS	PAGE NO.
21A - Two (2) page letter from the Alternate Public Defender re: Peo. v. Delsey Portillo, Case No. BA141315-02	2652
21B - Two (2) page letter from the Alternate Public Defender re: Peo. v. Manuel Ferrera Case No. BA145491-02	2653
21C - Two (2) page letter from the Alternate Public Defender re: Peo. v. Israel Jaramillo Case No. BA152524	2653
21D - Three (3) page letter from Law Offices of Clark & McCray-Clark re: Peo. v. Diego Barrios Case No. BA126209-01	2657
21E - Two (2) page letter from the Alternate Public Defender re: Gregorio Vasquez Case No. BA153479	2661
21F - Two (2) page letter from the Alternate Public Defender re: Peo. v. Saul Mendoza Case No. BA158350-02	2667
21G - Two (2) page letter from the Alternate Public Defender re: Peo. v. Martha Fuentes Case Nos. BA158021/BA162311 Consolidated into BA122163	2668

