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COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

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07	In the matter of:	)	
07		)	Case No. BA109900
08	PEOPLE vs. RAFAEL ANTONIO PEREZ	)	VOLUME 23
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TRANSCRIPTION OF INTERVIEW OF

RAPHAEL ANTONIO PEREZ

Los Angeles, California

Friday, April 14, 2000

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22 Transcribed by:  
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23 Melina M. Johnson,  
23 CSR No. 11466

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24 Job No.:

25 IAD4654

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TRANSCRIPT OF INTERVIEW OF RAFAEL

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ANTONIO PEREZ, taken on behalf of the  
Los Angeles Police Department, at the Griffith  
Park Ranger Station, Los Angeles, California,  
commencing at 10:08 a.m., on Friday, April 14,  
2000, reported by Melina M. Johnson, CSR No.  
11466, a Certified Shorthand Reporter for the  
State of California.

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01 APPEARANCES:

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Los Angeles County District Attorney's Office

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DETECTIVE FRANK TRUJILLO

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Los Angeles Police Department

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Robbery-Homicide Division

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SERGEANT DEBBIE ORPIN

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Los Angeles Police Department

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Internal Affairs Group

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Rampart Task Force

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SERGEANT RAY YZGUERRA

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Los Angeles Police Department

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Internal Affairs Group

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DETECTIVE WILLIAM COX

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Los Angeles Police Department

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Robbery-Homicide Division Task Force

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DETECTIVE MICHAEL HANSEN

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Los Angeles Police Department

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Robbery-Homicide Division Task Force

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SERGEANT JOHN V. COOK, II

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Los Angeles Police Department

24 Internal Affairs Group  
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EXAMINATION BY:

PAGE

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03

Detective Trujillo

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Sergeant Orpin

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Detective Cox

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Detective Hansen

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Sergeant Cook

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FURTHER EXAMINATION BY:

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Sergeant Cook

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01 Los Angeles, California, Friday, April 14, 2000

02 10:08 a.m.

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04 MR. ROSENTHAL: We're on the record.

05 It's April 14th, year 2000. It's 10:08 in

06 the morning. This is the continuing interviews of

07 Rafael Perez. Mr. Perez is present with his

08 attorney, Kevin McKesson. I'm Richard Rosenthal,

09 Deputy District Attorney.

10 Mr. Perez, if you'd please raise your

11 right hand.

12

13 RAFAEL ANTONIO PEREZ,

14 produced as a witness, and having been first duly

15 sworn, was examined and testified as follows:

16

17 MR. ROSENTHAL: Thank you.

18 (Discussion off the record)

19 MR. ROSENTHAL: We're back on the record.

20 Detective, if you'll introduce yourself

21 and proceed.

22 DETECTIVE TRUJILLO: Okay. Today's date is





20 A Yes, sir.

21 Q Do you still want to see a copy of the  
22 report like you did before on Wednesday or --

23 A Depends on how extensive your questioning  
24 gets.

25 Q It's only a couple of questions only that  
2962

01 I should have asked you before.

02 With Gene Serrano, do you ever remember  
03 making a -- this statement to him, something to the  
04 effect of, "If you don't provide me with the  
05 supplier, I'm going to plant drugs at your family's  
06 house"? Did that ever --

07 A No need at that point.

08 Q No need at that point. So with Gene  
09 Serrano, never remember saying that?

10 A I definitely don't remember saying that.

11 Q Okay. As far as the follow-up that you  
12 did recall making with Nino to Madera, right?

13 A Yes, sir.

14 Q Do you remember ever seeing any pagers  
15 that were there? They were not working, and there  
16 were unknown amount of pagers that either yourself

17 or Nino might have seen or taken.

18 MR. MC KESSON: Well, the only thing I'm going  
19 to have is those are, like, two or three different  
20 questions.

21 DETECTIVE TRUJILLO: Okay. I'll --

22 MR. MC KESSON: The first question, I mean, he  
23 can answer, like, "Did you see any?" I don't know  
24 if he can answer what Nino may have saw.

25 DETECTIVE TRUJILLO: Sure.

2963

01 THE WITNESS: Right.

02 BY DETECTIVE TRUJILLO:

03 Q Did you --

04 A I personally don't remember seeing any  
05 pagers. I mean, there may have been some there, but  
06 I just don't remember them.

07 Q So you didn't take any pagers from the  
08 room?

09 A No, sir.

10 Q And you didn't see Nino take any pagers  
11 from the room?

12 A I did not.

13 Q Do you recall seeing a diamond earring --

14 A I do not.

15 Q You didn't take any diamond earring?

16 A I did not.

17 Q And you don't recall Nino taking any  
18 diamond earring?

19 A I did not see him take any.

20 MR. ROSENTHAL: Could he have taken them  
21 without your knowledge?

22 THE WITNESS: Certainly, it's possible.

23 DETECTIVE TRUJILLO: It's possible.

24 BY DETECTIVE TRUJILLO:

25 Q Do you recall making another statement to  
2964

01 Gene Serrano -- and basically let me give you a  
02 background as to why he said you said this.

03 A Yes, sir.

04 Q He was concerned about his safety because  
05 you had made a follow-up to Fausto Encarnacion's  
06 house. And he was worried about being a  
07 quote/unquote "snitch." And he was worried about  
08 his safety. And he said that you said, "If they  
09 don't kill you, then we will." Does that statement  
10 ring a bell?

11 A No, sir.

12 MR. ROSENTHAL: It doesn't ring a bell, or you  
13 didn't say it?

14 THE WITNESS: Both.

15 MR. ROSENTHAL: All right.

16 DETECTIVE TRUJILLO: Both.

17 BY DETECTIVE TRUJILLO:

18 Q Did you ever have a videotape of  
19 Serrano -- Gene Serrano -- with a cousin and Fausto  
20 Encarnacion depicted in it?

21 A No, sir.

22 Q Never?

23 A No.

24 Q You never mentioned any videotape to Gene  
25 Serrano that you might have had of the three of  
2965  
01 them?

02 A Never mentioned it, never seen one, never  
03 viewed one.

04 DETECTIVE TRUJILLO: Thank you very much, Ray.  
05 I appreciate it. Those are the follow-up questions  
06 I had, and I'm all done.

07 THE WITNESS: Thank you.

08 DETECTIVE TRUJILLO: Unless anybody has any  
09 questions.

10 MR. MC KESSON: What about the fur coat? Did  
11 I mention that was missing too?

12 DETECTIVE TRUJILLO: No fur coat.

13 Okay. This concludes the interview at  
14 10:11. Thank you.

15 MR. ROSENTHAL: We're off the record.

16 (Recess)

17 MR. ROSENTHAL: We're on the record. It's  
18 10:15.

19 Mr. Perez, you're still under oath.

20 THE WITNESS: Yes, sir.

21 SERGEANT ORPIN: Okay. This a tape-recorded  
22 interview, Internal Affairs investigation 00-1221.  
23 Today's date, 4/14, year 2000, 1015 hours, and we're  
24 at the rangers station. Present to be interviewed  
25 is Rafael Perez. The stenographer is Melina  
2966

01 Johnson, from the D.A.'s office is Richard  
02 Rosenthal. The attorney Kevin McKesson is present.

03 This interview is being conducted by  
04 Sergeant Debbie Orpin, serial 27432, along with

05 Sergeant Ray Yzguerra, serial 21400, Internal  
06 Affairs Group, Rampart Task Force. This is on tape  
07 number 229609, side A.

08

09 EXAMINATION

10 BY SERGEANT ORPIN:

11 Q All right. Ray, when we last spoke off  
12 the record, I showed you a couple of arrest reports  
13 that you had a little time to review. You requested  
14 a booking photo which I have now been able to  
15 provide you.

16 But real quick, before we get to the '97  
17 arrest, let's talk about the '96 arrest, and it's  
18 regarding a Cesar Martinez.

19 Have you had a chance to look at that  
20 report dated May 23rd, 1996?

21 A I have.

22 MR. ROSENTHAL: Let me first mention this  
23 relates to D.R. number 960219541, and district  
24 attorney case number BA132599.

25

2967

01 BY SERGEANT ORPIN:

02 Q Okay. Do you recall being present on that  
03 date?

04 A No, ma'am.

05 Q Okay. Where were you -- where do you  
06 recall being on that date, assigned to?

07 A I would have been assigned to Rampart  
08 CRASH.

09 Q Okay. Any time -- at any time were you  
10 assigned to Rampart CRASH, were you ever on loan to  
11 F.E.S. for, like, buy busts?

12 A I assisted them on a couple of occasions,  
13 as well as them assisting me on several operations.  
14 But I was definitely not involved in this one.

15 Q Okay. So did you arrest Cesar Martinez?

16 A No, ma'am.

17 SERGEANT ORPIN: Okay. For the record I  
18 have --

19 MR. MC KESSON: When you say "arrest," you mean  
20 on this occasion, correct?

21 SERGEANT ORPIN: On this occasion, correct.

22 And for the record, I've also pulled a log  
23 that does indicate that Ray was working CRASH that  
24 night, so he couldn't have been present during that



25 '96 arrest.

2968

01 Okay. Now moving on to the '97 arrest.

02 MR. MC KESSON: Can I ask you a question?

03 SERGEANT ORPIN: Certainly.

04 MR. MC KESSON: Why was this interviewed? Why  
05 were we interviewed on this one? I'm not trying --

06 SERGEANT ORPIN: Oh, you just want to have the  
07 background on this?

08 MR. MC KESSON: Yes.

09 SERGEANT ORPIN: The background on this is this  
10 person, Oscar Ochoa, was arrested three weeks ago on  
11 an unrelated charge. And during his interview by a  
12 detective, he brought up allegations relative to  
13 these two arrests. So that's how this came to our  
14 attention.

15 MR. MC KESSON: So he's implicating my client  
16 for doing some things in this particular arrest?

17 SERGEANT ORPIN: Correct.

18 MR. MC KESSON: That he was not present --

19 SERGEANT ORPIN: Correct. So I just needed to  
20 get on the record that there was no way he could  
21 have been present at that one.

22 MR. ROSENTHAL: All right. The next case  
23 relates to D.R. number 970224748. This is an arrest  
24 report involving Coronado and Perez. The D.A. case  
25 number that relates to this arrest is BA153235.  
2969

01 MR. MC KESSON: Is this the case we started  
02 talking about last time?

03 MR. ROSENTHAL: Where there was no photograph,  
04 yes. We discussed this on the record initially  
05 just -- or off the record initially to see if  
06 Mr. Perez had any memory, but he indicated that he  
07 needed to see a photograph of the arrestee in order  
08 to determine whether he could remember this arrest.

09 MR. MC KESSON: Okay.

10 SERGEANT ORPIN: I believe the original  
11 conversation was whether this was an informant he  
12 had used relative to another case.

13 MR. ROSENTHAL: Exactly.

14 BY SERGEANT ORPIN:

15 Q After seeing that photo now, is this the  
16 informant you were concerned about?

17 A It is not.

18 Q It is not?

19 A No.

20 Q Okay. Now, that you've seen this photo  
21 relative to this arrest on 7/10/97, and along with  
22 that arrest report, do you recall the arrest?

23 A I still do not recall this arrest.

24 Q You still do not recall the arrest?

25 A It just -- it doesn't spark a memory.

2970

01 I just don't remember it. I don't --

02 Q Okay. Let me see if I can't help you --  
03 help refresh your memory just by things that I have  
04 uncovered within the last two days.

05 742 South Westlake is a large brown house,  
06 one of those big, huge ones that's been converted  
07 into several small apartments. And across the  
08 street is some businesses, like a pizza place and  
09 it's got video games. It's got a wrought iron front  
10 gate, and it sits up high off the street.

11 Does that help somewhat?

12 A Okay. You are starting to ring a bell.  
13 Is there a -- there's a laundromat across the street  
14 and a pizza place?

15 Q Yes, and a pizza place all the way to the

16 corner, correct. That's all businesses starting  
17 almost directly across the street from that house.

18 A Is there a large front yard surrounding  
19 the residence with a large fence in front of it on  
20 the sidewalk?

21 Q The steps kind of go up around the -- you  
22 know, curving up through the yard.

23 MR. ROSENTHAL: Would it be helpful to tell  
24 Mr. Perez the allegations raised by the defendant?  
25 I've done that on a number of occasions to attempt  
2971

01 to refresh his recollection, if there was something  
02 wrong with the case.

03 SERGEANT ORPIN: What I'd really kind of like  
04 to do is just kind of go through the arrest report  
05 versus what their statements are, and that will come  
06 into play, rather than start it all up front.

07 MR. ROSENTHAL: That's fine.

08 SERGEANT ORPIN: Because there's quite a few.

09 THE WITNESS: If I may ask, is the residence  
10 that we're talking about, as you walk into the  
11 building, the very first door on the left?

12 BY SERGEANT ORPIN:

13 Q I don't know if it would be on the left or  
14 the right, but it is immediately inside the front  
15 door of the building.

16 A I'm thinking I'm beginning to remember  
17 some of this.

18 Q Okay. So let's refer to the arrest report  
19 that was -- and do you remember who authored this  
20 report?

21 A Officer Coronado is the author.

22 Q Okay. And do you recall if you had a  
23 chance to review it prior to this date or  
24 Wednesday's date?

25 A I don't remember reviewing it prior to  
2972

01 yesterday -- or day before yesterday.

02 Q Okay. According to this report, it says  
03 that you responded to this location, and you saw the  
04 defendant -- who we're going to refer to as Ochoa --  
05 sitting out front.

06 According to the defendant, he says that  
07 you yelled at him to open the front gate. And the  
08 front gate would be the one down on the street.

09 Okay? Do you recall that?

10 A Yes, ma'am.

11 Q Did you ask him to open it?

12 A Yes, ma'am.

13 Q Were you in plainclothes?

14 A Yes, ma'am.

15 Q And did you tell him that you were there

16 to investigate a narcotics -- to investigate

17 narcotics activity?

18 A No, ma'am.

19 Q Okay. Did he open it willingly?

20 A He opened it, yes.

21 Q Okay. Did you go up to his front door?

22 A Yes.

23 Q Now, as you were walking up to the front

24 door, do you recall if Officer Coronado had his hand

25 on Ochoa's person? For instance, just like this,

2973

01 kind of guiding him up to the front.

02 And for the record, indicating that I've

03 got my hand on -- would it be on the elbow of --

04 A As soon as we -- when we got there, we

05 knew it was -- it would be hard to O.P. it because

06 it's a heavy gang area. And I remember us thinking,

07 you know -- initially we tried to park and look at  
08 it, and it was difficult. There was just too many  
09 people around. So we just decided, "Let's just go  
10 in. Let's just go in and see if that's him."  
11 Because when he was out there, we weren't sure  
12 whether it was him or not.

13 Q Okay. And you say you weren't sure  
14 whether it was him. What do you mean?

15 A We hadn't --

16 Q What were you O.P.ing it for?

17 A We had information that there was a guy --  
18 his name was Huerro or something like that -- that  
19 was selling narcotics out of that location.

20 Q And this information that you had, was he  
21 a confidential informant or just somebody that you  
22 had dealings with?

23 A Actually, it was an actual confidential  
24 informant, [\*\*\*\*\* CI # 1 Information Redacted \*\*\*\*\*]  
25 [\*\*\*\*\*]

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01 [\*\*\*\*\* CI # 1 Information Redacted \*\*\*\*\*]

02 MR. ROSENTHAL: [\*\* CI # 1 Information Redacted \*\*]

03 THE WITNESS: [\*\* CI # 1 Information Redacted \*\*]

04 [\*\*\*\*\*]

05 MR. ROSENTHAL: That's right. This was  
06 Coronado's informant, right?

07 THE WITNESS: Yes, sir.

08 BY SERGEANT ORPIN:

09 Q Okay. So then, to your knowledge, there's  
10 a package on [CI # 1]?

11 A Yes, ma'am, there is a package on [CI # 1].  
12 [CI # 1] documented.

13 Q [\*\*\*\*\* CI # 1 Information Redacted \*\*\*\*\*]

14 [\*\*\*\*\*]

15 A [\*\*\*\*\* CI # 1 Information Redacted \*\*\*\*\*]

16 [\*\*\*\*\*]

17 Q Do you remember what information [CI # 1] gave  
18 you?

19 A The informant?

20 Q (No audible response)

21 A That there was a male Hispanic that went  
22 by the moniker of "Huerro" that was selling  
23 narcotics out of an apartment in that building.

24 Q Okay. Did [CI # 1] give you any other  
25 information as to where the narcotics were coming



01 from?

02           A     Let me say this: That information was  
03 relayed to me through Coronado. So the information  
04 actually went to Coronado. Coronado relayed it to  
05 me.

06           Q     At that time how many times had you worked  
07 with Coronado?

08           A     At this point how many --

09           Q     Because you were relatively new to the  
10 unit, weren't you, at that point?

11           A     I had been there about two months.

12           Q     Okay. So had you worked with Coronado  
13 very many times?

14           A     I mean, as a unit we had worked together  
15 two months. As partners, not a whole lot, several  
16 times.

17           Q     Okay. So he relayed the information from  
18 his informant that this person, Ochoa, was selling  
19 narcotics out of the location?

20           A     Yes, ma'am.

21           Q     Did you have any idea as to where inside  
22 the location he was storing or selling these  
23 narcotics?

24           A     I believe we had an idea that it was an  
25 apartment as soon as you walked in.  And I believe  
2976

01 it was the apartment on the left-hand side.

02           Q     Okay.  How did you actually get into that  
03 apartment?

04           A     We escorted Mr. Ochoa into his apartment.  
05 There was also someone there.  I want to say there  
06 was a female there, and maybe a child.  But we  
07 walked -- we sort of walked him in.

08                     When he was on the porch and we asked him  
09 to open the gate, we were acting like we needed to  
10 go somewhere else.

11           Q     Okay.

12           A     He came and opened the gate, and then we  
13 said, "Hey, what's your name?" or something like,  
14 "What's your nickname?" something like that.  When  
15 he said "Huerro," okay, we knew it was the right  
16 guy.  And we escorted him into the apartment.

17           Q     So prior to going into the apartment, you  
18 did not set up an O.P. where you could see, and you  
19 didn't see any narcotic transactions that day with  
20 him; is that correct?

21           A     No, ma'am -- that's correct, we did not  
22 see any narcotics transactions.

23           MR. ROSENTHAL:  Now, in the past you've said  
24 that Coronado was really not involved in any  
25 criminal activity.  And I think you mentioned one  
2977

01 case, however, where you manufactured the probable  
02 cause to get into the location.

03           THE WITNESS:  That's correct.

04           MR. ROSENTHAL:  Now, in this case Coronado is  
05 the author of the report.  And it does state that  
06 you and he set up an observation post that provided  
07 the clear and unobstructed view of 742 South  
08 Westlake.

09                       He says that he -- Officer Coronado --  
10 observed a male black, no further description,  
11 approached the defendant.  The defendant handed the  
12 unknown male black a smaller-than-palm-sized object.  
13 The unknown male black handed the defendant an  
14 unknown amount of U.S. currency.

15                       You're saying that did not occur?

16           THE WITNESS:  I've described officers in two  
17 ways, you know, being in the loop, so to say,

18 involved in criminal activities, planting of  
19 evidence; and then I've talked about officers who  
20 are good officers, but from time to time find  
21 themselves in a position where they have to  
22 fabricate probable cause because we know who the  
23 person is, we know he's guilty, you know. And we  
24 will say, "Hey, we ran the car because he ran a red  
25 light," when actually he didn't. We just know the  
2978  
01 car looked dirty or whatever reason.

02           Like I said before, Coronado was  
03 definitely not involved in any criminal activity.  
04 He was not in the loop, per se, or anything like  
05 that. But on some occasions we did -- he found the  
06 need to fabricate some probable cause to establish a  
07 case.

08           MR. ROSENTHAL: Okay. So there was no  
09 observation post, on that first paragraph under  
10 "Observations" in this report. Just for the record,  
11 making clear this D.R. number is 970224748.

12           That is simply not true?

13           THE WITNESS: That's not true.

14           MR. ROSENTHAL: All right. Thank you.

15 BY SERGEANT ORPIN:

16 Q Do you recall Officer Coronado speaking to  
17 Ochoa and asking if he could go upstairs to a  
18 hallway closet because he had information that there  
19 was narcotics in it?

20 A Do I specifically remember that  
21 conversation?

22 Q Well, it's in the report, so that's why  
23 I'm -- did you hear it?

24 A I remember there was something going on  
25 about "upstairs," something -- we needed to go  
2979

01 upstairs or something. But I mean, you're asking  
02 about the conversation, and I just can't remember  
03 the conversation.

04 Q Okay. Do you remember going upstairs and  
05 looking into a closet?

06 A I remember going upstairs and searching  
07 for something, but I don't remember there was a  
08 closet or an apartment. I know we did go upstairs  
09 though. As you walk in there's some stairs on the  
10 right-hand side that go right upstairs.

11 Q I don't know.

12           A     Oh, I thought you've been there.

13           Q     No. It's completely locked up now. It's  
14 boarded up.

15           A     Oh, really. As you walk in there's some  
16 stairs on the right-hand side, which would be the  
17 south side of the building, that go upstairs. I  
18 remember we all went upstairs looking for something.

19                     And Coronado was basically handling the  
20 entire investigation. This guy was a Spanish  
21 speaker. Coronado was talking to him. I'm a  
22 Spanish speaker also, but Coronado was basically  
23 handling the investigation. So I was just sort of  
24 following along, doing whatever he needed me to do.

25           Q     Do you know if Ochoa had any keys that he  
2980  
01 gave either one of you?

02           A     I don't remember.

03           Q     Okay. So do you recall what you may have  
04 found upstairs?

05           A     (No audible response)

06           Q     Okay. According to the report, Coronado  
07 says that he opened this hallway closet, and he got  
08 three plastic bags with numerous off-white,

09 chip-like substances and -- excuse me -- a wallet  
10 with \$371 in it. Do you recall that?

11 A I know we arrested him. Do I remember  
12 recovering the narcotics? I didn't recover it, so  
13 I don't remember.

14 Q Correct. And according -- according to  
15 Coronado, he's -- in the report, he's the only one  
16 that went upstairs. He doesn't have you going  
17 upstairs, so --

18 A I don't remember the -- I know I went  
19 upstairs at some point. I don't remember recovering  
20 any narcotics though.

21 Q Do you recall Coronado coming downstairs  
22 and having a conversation with Ochoa, and Ochoa  
23 telling him, "Well, I'm really glad this happened.  
24 I don't want to sell dope anymore, and I'm glad you  
25 caught me"?

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01 A I don't remember that conversation.

02 Q Do you recall if Coronado admonished Ochoa  
03 of his Miranda rights?

04 A I don't remember hearing the Miranda  
05 rights.

06 MR. ROSENTHAL: So you don't know whether or  
07 not -- you don't recall whether or not he did?

08 THE WITNESS: I don't. It's possible, but  
09 I just don't remember. I don't remember hearing  
10 him reading him the rights.

11 BY SERGEANT ORPIN:

12 Q Okay. What were you doing downstairs?

13 A I believe there was another woman -- or a  
14 woman -- I think it was his wife -- and a child,  
15 maybe two. And I know I stood by with them. I  
16 think we were concerned maybe them destroying  
17 evidence or anything, something like that.

18 Q Do you recall having any conversation with  
19 this female?

20 A I'm sure I did. I probably don't remember  
21 the content of the conversation.

22 Q Okay. Do you recall searching their  
23 residence, which would be an apartment inside this  
24 house?

25 A Right. I do remember searching the  
2982

01 residence, yes.

02 Q Did you recover anything from that



03 residence?

04           A     I don't remember recovering any evidence  
05 at all on this case.

06           Q     Did you get permission to search the  
07 residence?

08           A     I do not recall asking for permission.

09           Q     Do you recall anybody telling you, "Don't  
10 search it"?

11           A     I do not recall that either.

12           Q     Was Ochoa handcuffed during this period,  
13 this time when you were searching the apartment and  
14 Coronado was upstairs?

15           A     Yes, ma'am.

16           Q     Did you handcuff him or did Ochoa -- or  
17 excuse me, did Coronado?

18           A     I believe, to the best of my recollection,  
19 that Officer Coronado had him detained. And I  
20 believe Officer Coronado handcuffed him.

21           Q     Did you handcuff the female that was  
22 inside the residence, which would have been his  
23 wife?

24           A     I don't believe I handcuffed her.

25           Q     Okay. Did you -- this is you -- ever

2983

01 threaten Ochoa and tell him that if he didn't  
02 cooperate with you, that he would be deported, his  
03 wife would be arrested, and his children taken away?

04 A Cooperated?

05 Q Okay. Well, what he's saying is that you  
06 and your partner found this narcotics and were  
07 telling him that, "This is your dope. And if you  
08 don't cooperate and tell me it's your dope, this is  
09 what's going to happen to you."

10 Because the narcotics -- we already know  
11 the narcotics was not found on Ochoa's person or in  
12 his downstairs apartment. According to the report,  
13 it was found upstairs in that closet that I was  
14 talking about.

15 And what he says is that you threatened  
16 him that, "Okay. If you don't tell me this is  
17 yours, this is what will happen to you."

18 A I don't know if I threatened him  
19 personally, as far as physical harm.

20 Q No. He doesn't say "physical."

21 A Okay. I'm sorry. I think I do remember a  
22 conversation discussing children being taken away.

23 I think I -- that, I do recall, both of us talking  
24 to him and her about that. I don't remember any  
25 other threats though. I mean -- I didn't get your  
2984

01 full threats that he might have said.

02 Q The three things he said --

03 MR. MC KESSON: Deported.

04 THE WITNESS: Oh, deported.

05 BY SERGEANT ORPIN:

06 Q -- that you would deport him, that you  
07 would arrest his wife, and that you would take his  
08 children away.

09 A I think all those things are possible --  
10 or probable. The ones that I specifically recall is  
11 the children being taken away.

12 Q Okay. Do you recall if his wife was  
13 pregnant?

14 A I want to say she was a heavy-set woman.  
15 She could have been pregnant. I just, you know --  
16 I remember her being a heavy-set woman.

17 Q All right. When you entered the  
18 apartment -- and these are statements according to  
19 him and his wife -- you searched it, you were

20 lifting mattresses, and that type of thing. His  
21 wife said that he entered this apartment and said,  
22 "Tell me where all your money and food stamps are."

23           Okay. Now, we're getting to the part that  
24 we discussed a little bit the other day.

25           A     I think it's very probable I might have  
2985

01 asked, "Tell me where you have any money." I doubt  
02 I asked "Where your food stamps are."

03           Q     Do you recall her giving you any money?

04           A     No, ma'am.

05           Q     Do you remember her giving you any food  
06 stamps?

07           A     No, ma'am.

08           Q     Okay. You don't recall or you --

09           A     I don't remember any food stamps or any  
10 money that she gave me. I know there was some money  
11 recovered, but I think Officer Coronado recovered  
12 that money.

13           Q     And do you know where he recovered the  
14 money that he did recover? Because the report shows  
15 that he booked \$371. It also indicates that that  
16 \$371 was recovered from the second floor. Do you

17 feel confident that's where it was recovered from?

18           A     I really don't know because I wasn't  
19 present when he recovered it. So I don't know where  
20 he would have recovered it from.

21           Q     Okay. According to this witness, being  
22 the wife, she said she didn't want to give you the  
23 food stamps, and that she said the reason she didn't  
24 want to give you the food stamps was because they  
25 were for her children. And you made the statement,  
2986

01 "I really don't give a damn about your children."

02 Did you make that statement?

03           A     Absolutely not.

04           Q     Did you hear Coronado make that statement?

05           A     I did not hear him say that.

06           Q     Okay. Did you tell the wife that if she  
07 made a complaint about what occurred that day in the  
08 apartment, that something bad would come to -- the  
09 way she put it was bad would come her way.

10           A     I definitely did not say that.

11           Q     Did not?

12           MR. ROSENTHAL: I think we -- there's one other  
13 allegation before this relating to food stamps.

14                   Do you recall ever stealing food stamps  
15 from any defendant or a family member of a  
16 defendant?

17           THE WITNESS: Again, let me make a couple  
18 things clear. On several occasions, working with  
19 Durden -- and I've heard several complaints, certain  
20 things that were missing: Jewelry or food stamps or  
21 additional money than what I remember -- it is  
22 possible that things were recovered without my  
23 knowledge.

24                   Quite often, if I was -- I was a Spanish  
25 speaker in the unit. And working with Durden, I was  
2987

01 a Spanish speaker. Quite often what would happen is  
02 I would interview the person. Let's say we detained  
03 a woman inside, or a male, I would sit with them and  
04 start interviewing them, and Durden would begin the  
05 search process.

06                   I took it at face value that he would tell  
07 me what he recovered, but I don't know if he  
08 recovered something else and just didn't tell me.

09                   I can tell you on this particular case,  
10 I would never -- I don't care if I found a thousand

11 dollars, I'm not going to do anything working with  
12 Coronado.

13 BY SERGEANT ORPIN:

14 Q And vice verse, you don't feel he would do  
15 anything and not tell you what he recovered?

16 A Officer Coronado?

17 Q Yes.

18 A I definitely do not believe that Coronado  
19 would take any money or anything with or without  
20 telling me. He's just not involved in any -- I  
21 mean, I've said that, yeah, we fabricated probable  
22 cause sometimes. But I sternly believe he is not  
23 involved in any criminal activity, as to be taking  
24 money or planting evidence. I don't believe that.

25 Q In this particular case, speaking with his  
2988

01 wife, the one thing that she was just very adamant  
02 about was those food stamps. The cash -- she said  
03 that she had \$800 cash that you put in your pocket,  
04 and along with the three -- and she said it was \$300  
05 in food stamps.

06 Okay. Now, her concern was that she  
07 really didn't get these food stamps back. It was

08 not the cash she was so concerned about. But just  
09 listening to her, there was no doubt in her mind  
10 that you took her food stamps.

11 A The \$800 didn't matter?

12 Q She said that was gone, but she was not --  
13 her concern was that she stressed to you -- which is  
14 why I'm thinking if this occurred, you would  
15 probably remember it. She stressed to you, "My  
16 children need this." And your comment to her was --  
17 she said that Coronado tried to get you to just  
18 leave her with the food stamps, and your comment  
19 was, "Fuck her. I'm taking everything."

20 A So Coronado was aware that I took the food  
21 stamps?

22 Q According to this witness.

23 A Absolutely not.

24 Q Okay.

25 A And she never made any comment to me

2989

01 about her children need the food stamps or --  
02 absolutely not.

03 Q Okay. So you deny taking the food stamps?

04 A Absolutely.



05 Q You deny taking the \$800 cash?

06 A Absolutely.

07 MR. ROSENTHAL: And in fact --

08 THE WITNESS: Especially in Coronado's  
09 presence. It just wouldn't happen.

10 MR. ROSENTHAL: If Coronado had been aware that  
11 you had committed misconduct by taking somebody's  
12 food stamps or money, you think he would have  
13 reported you?

14 THE WITNESS: I think so.

15 BY SERGEANT ORPIN:

16 Q Do you know if Coronado ever reported you  
17 for any misconduct?

18 A I know at one point while we worked in the  
19 unit, we were not getting along -- not as to the  
20 severity of some people have thought. But he did  
21 bring to Detective Lusby and Detective McGee's  
22 attention that we may not be following procedure on  
23 all the cases, things like that.

24 MR. ROSENTHAL: And this is something we've  
25 covered before.

2990

01 THE WITNESS: Yes.

02 MR. MC KESSON: Let me just say this for the  
03 record, and I'm still acting as Mr. Perez' attorney.  
04 And to a certain extent, you know, I'm still  
05 protecting him when he is charged with things or  
06 accused of things that he is not readily admitting.

07 I believe that the facts as you stated  
08 out, if you take them together, the allegations by  
09 this young lady, there is a grave possibility that  
10 she's committing Welfare fraud.

11 I mean, because I'm familiar -- doing  
12 personal injury cases -- with what people who  
13 receive food stamps and A.F.D.C. benefits can  
14 possess and what they cannot possess. And if this  
15 lady can have over a thousand dollars in cash -- or  
16 \$800 in cash, there is no way she's supposed to be  
17 in possession of food stamps.

18 SERGEANT ORPIN: Okay.

19 THE WITNESS: Was there a question just prior  
20 to that that I didn't answer?

21 BY SERGEANT ORPIN:

22 Q No. You answered it. You denied taking  
23 the money; you denied taking the food stamps; you  
24 denied making any type of statement such as, "Fuck

25 her. I'm taking everything," or that you didn't  
2991

01 give a damn about her children and the food stamps.

02 A Yes.

03 Q And you did -- you said you thought there  
04 were two children present or one?

05 A I remember one. There possibly may have  
06 been two, but I definitely remember at least one.

07 Q What happened to those children?

08 A I believe they stayed there.

09 Q With whom? And there is no allegation  
10 that you left them unattended. I'm just curious if  
11 you remember --

12 A I'm assuming that --

13 Q -- left there --

14 A I'm sorry. I'm assuming that we arrested  
15 Mr. Ochoa and left the children with the mother.

16 Q Okay.

17 A I don't remember.

18 Q My next question to you would be, do you  
19 remember bringing both Ochoa and his wife to the  
20 station?

21 A No, I really don't.

22 Q Okay.

23 A I think we would really -- and it's just  
24 our practice when we work narcotics, we really want  
25 to leave the wife there with the kids, unless there  
2992

01 was something specific that we were looking for,  
02 some kind of way of twisting them, twisting their  
03 arm.

04 Q You don't mean that literally?

05 A No. I mean as far as trying to further  
06 the investigation by having her roll over on their  
07 supplier.

08 Q Right.

09 A I mean, it's possible. I just don't  
10 remember.

11 Q Okay. Because on her statement she said  
12 she was transported to the station and that she did  
13 not get handcuffed until you arrived at the station.  
14 Does that jog your memory about the sequence of  
15 events that night?

16 A And it's inconsistent with our  
17 procedure -- I mean, not than we followed all  
18 procedures -- but why take her all the way there,

19 then handcuff her?

20 Q Okay. Well, then my next question would  
21 be, if you would have transported her to the  
22 station, would you have gone time and mileage?

23 A Not necessarily.

24 Q No?

25 A No.

2993

01 Q You didn't -- what tact frequency would  
02 you have worked off when you were at F.E.S.?

03 A F.E.S. Blue, I believe.

04 Q Is that 82?

05 A It's been a while.

06 Q Blue 82?

07 A It's been a while.

08 Q Okay.

09 A I believe it's F.E.S. Blue, maybe 82 or  
10 182.

11 Q And if it was your practice -- and I think  
12 it's probably the practical of most people, if we  
13 don't have to bring the wife, we don't. But would  
14 you have run her over the air prior to transporting  
15 him?

16           A     I can tell you the entire time that I  
17 was at F.E.S., transporting females or not  
18 transporting -- you know, transporting females --  
19 I don't remember ever doing a time and mileage, as  
20 you do in patrol. And very rarely do we -- over the  
21 air, unless we just happened to have a patrol unit  
22 there or something and used their M.D.T. Very  
23 rarely do we tie up the -- or try and take the air  
24 to run somebody.

25           MR. MC KESSON: Let me ask you this: Do you  
2994

01 want to clear up a lot of this police jargon?  
02 Because, obviously, you guys are communicating --  
03 you know what things like "time and mileage" means.  
04 But I don't know if that's the way you want the  
05 record to --

06           MR. ROSENTHAL: I think it's fine.

07           SERGEANT ORPIN: You understand?

08           MR. ROSENTHAL: Yeah.

09           MR. MC KESSON: No. I mean, I know you  
10 understand, but I'm saying, I don't know who's going  
11 to be reviewing this.

12           MR. ROSENTHAL: Well --

13           SERGEANT ORPIN: Well, okay, for the record --  
14 and I'll also put in the report -- that "time and  
15 mileage" is when a male transports a female, they  
16 get on the air or on an M.D.T. and put the time and  
17 mileage it takes so that there's no allegations from  
18 the female. Same way when females are transporting  
19 males.

20           MR. MC KESSON: Okay.

21 BY SERGEANT ORPIN:

22           Q     Okay. According to her, she was  
23 transported to the station. And again, once at the  
24 station, she said she was questioned. The two of  
25 them were questioned as to who those drugs belonged  
2995

01 to. So there seems to be a question in your minds,  
02 according to her, as to, "Okay, who are we going to  
03 put these narcotics on?" So she feels that's why  
04 she was transported to the station.

05                     Do you recall having a conversation with  
06 her and her husband -- and she says you were  
07 separated -- saying, "Okay. Whose are these drugs?"  
08 "Who's going to go with these drugs?"

09           A     I don't remember having a discussion with

10 her at the station. I know that the drugs were not  
11 found on him, nor were they found in their  
12 apartment. I know that after a short interview,  
13 eventually we went upstairs, and something was  
14 recovered upstairs.

15 Q Are you referring to being back at the  
16 apartment now?

17 A Back at the apartment. I'm sorry.

18 Q Okay.

19 A So whether he was talked to regarding who  
20 does it belong to --

21 MR. MC KESSON: She was talking to -- she's  
22 focusing on the female.

23 THE WITNESS: She asked me about the female  
24 and the male.

25

2996

01 BY SERGEANT ORPIN:

02 Q Right. But the statement came from the  
03 female that you had asked both of them who was  
04 actually going to accept responsibility for these  
05 drugs.

06 MR. MC KESSON: This is at the station,



07 correct?

08 SERGEANT ORPIN: Correct.

09 THE WITNESS: We wouldn't be asking that,  
10 number one, because we already have our information  
11 that it's him. If anything we were to be asking  
12 her is who the supplier is, roll over, things like  
13 that.

14 I definitely don't remember having a  
15 conversation with her at the station. I know I  
16 might have talked to him, but I don't remember  
17 talking to her. Definitely, you know, who does it  
18 belong to, you or -- we're definitely going to take  
19 him and not her.

20 BY SERGEANT ORPIN:

21 Q Okay. The other thing is she was just  
22 released -- says she was released from the station,  
23 and you told her if you ever saw her again, you  
24 would arrest her. Do you recall saying that to her?

25 A No, ma'am.

2997

01 Q Okay. Referring to page 4 of this arrest  
02 report, there's a statement in Spanish writing, and  
03 I believe that that was made by Ochoa. And then in

04 English, down below, it's in English. Did you write  
05 that in English? Is that your handwriting?

06 A Yes, ma'am.

07 Q Okay. Do you recall doing that?

08 A Yes, ma'am.

09 Q Okay. Do you -- would you say that he  
10 made this statement of his own free will or because  
11 he was threatened, which is what he says?

12 A This was our way to -- this is our way of  
13 getting a conviction. We do this quite often. In  
14 fact, I think one of the last cases we reviewed is  
15 pretty similar. What we do is we basically get them  
16 to cop out, you know, "Write a statement. Tell us  
17 that it was your drugs," you know, "and your wife  
18 had nothing to do with it. That way we don't arrest  
19 her. We won't deport your children or take your  
20 children." And this was just a way of getting him  
21 to cop out.

22 Q And is it -- would you say it was by  
23 threat though, "If you don't, this is what will  
24 happen to you"?

25 A If you, you know, construe that threat

01 being, you know that, "Your wife's going to be  
02 arrested," then it's a threat, yes.

03 Q Okay.

04 MR. ROSENTHAL: Was the -- would Miranda have  
05 been issued, the Miranda warning, prior to having  
06 him make the statement?

07 THE WITNESS: I said it earlier, I don't  
08 remember giving the Miranda, but --

09 BY SERGEANT ORPIN:

10 Q But according to the report, your partner  
11 says that he did.

12 A Okay.

13 Q Okay.

14 A I don't remember.

15 Q [\*\*\* CI # 31 Information Redacted \*\*\*\*\*]  
16 [\*\*\*\*\*]  
17 [\*\*\*\*\*]

18 A (No audible response)

19 Q So any narcotics information that you  
20 might have received may be from this informant that  
21 mentioned that name?

22 A No, ma'am.

23 SERGEANT ORPIN: Okay. All right.

24 Ray, do you have anything?

25 SERGEANT YZGUERRA: No.

2999

01 SERGEANT ORPIN: Does anybody have any  
02 questions?

03 All right. Then that's going to conclude  
04 the interview for us at 10:45.

05 THE WITNESS: Can I --

06 MR. ROSENTHAL: We're off the record here --

07 THE WITNESS: Can I just add one thing?

08 MR. ROSENTHAL: Oh, I'm sorry. Hold on.

09 THE WITNESS: Just -- which will make it  
10 relevant to the statements that she's made that we  
11 were trying to figure out who the drugs belonged to.

12 [\*\*\*\* CI # 1 Information Redacted \*\*\*\*]

13 [\*\*\*\*\*]

14 [\*\*\*\*\*]

15 [\*\*\*\*\*]

16 [\*\*\*\*\*]

17 [\*\*\*\*\*]

18 [\*\*\*\*\*]

19 [\*\*\*\*\*]

20 [\*\*\*\*\*]

21 [\*\*\*\*\*]  
22 [\*\*\*\*\*]  
23 [\*\*\*\*\*]  
24 [\*\*\*\*\*]  
25 [\*\*\*\*\*]

3000

01 [\*\*\*\*\* CI # 1 Information Redacted \*\*\*\*\*]  
02       SERGEANT ORPIN: [\*\*\*\* CI # 1 Information Redacted \*\*\*]  
03 [\*\*\*\*\*]  
04       THE WITNESS: [\*\*\*\*\* CI # 1 Information Redacted \*\*\*\*]  
05       MR. ROSENTHAL: [\*\*\* CI # 1 Information Redacted \*\*\*\*\*]  
06 [\*\*\*\*\*]  
07 [\*\*\*\*\*]  
08 [\*\*\*\*\*]  
09       THE WITNESS: [\*\*\* CI # 1 Information Redacted \*\*\*\*\*]  
10       MR. ROSENTHAL: [\*\*\* CI # 1 Information Redacted \*\*\*\*\*]  
11       THE WITNESS: [\*\*\* CI # 1 Information Redacted \*\*\*\*\*]  
12       SERGEANT ORPIN: [\*\*\* CI # 1 Information Redacted \*\*\*\*]  
13       MR. ROSENTHAL: What we'll do is, we'll -- off  
14 the record, we'll --  
15       SERGEANT ORPIN: Right.  
16       MR. ROSENTHAL: -- make sure R.H.D. gives you  
17 the appropriate information.

18 SERGEANT ORPIN: Okay. That's fine. Is that  
19 all?

20 THE WITNESS: Yeah, that's it.

21 SERGEANT ORPIN: Okay. That's good. At 1047  
22 hours we are done with this interview.

23 MR. ROSENTHAL: Okay. We're off the record.

24 (Recess)

25 MR. ROSENTHAL: We're back on the record.

3001

01 It's 11:00 o'clock in the morning.

02 Mr. Perez, you're still under oath.

03 Detectives, go ahead.

04 DETECTIVE COX: Today's date is April 14th,  
05 2000. Like the D.A. said, it's 11:00 a.m. We're at  
06 the Griffith Park ranger station. I'm detective  
07 Cox, 21605. My partner --

08 DETECTIVE HANSEN: I'm Detective Hansen, 23915.

09 DETECTIVE COX: And we are interviewing Rafael  
10 Perez.

11

12 EXAMINATION

13 BY DETECTIVE COX:

14 Q We'll call you Ray. Is that okay?

15           A     Yes, sir.

16           DETECTIVE COX:  Also present is Ray's attorney,  
17  Mr. McKesson.

18  BY DETECTIVE COX:

19           Q     You were talked to once before about this  
20  case, I believe.  And my partner and I didn't talk  
21  to you, but we were assigned the case now with just  
22  a few things we have to clear up.

23                     We're talking about Ernesto Diaz, also  
24  known -- I think his true name is Adamir Hernandez.  
25  The arrest is on March 7th, 1997.  And on the arrest

3002

01  face sheet, it shows that he was arrested at 2710  
02  West Temple, which -- that's the Rampart Police  
03  Station.

04           A     Yes, sir.

05           Q     Were you guys also working out of Union  
06  Station at that time?

07           A     I don't think we were working out of there  
08  yet.  I think we might have gone there to meet with  
09  detectives, but we were still working out of the  
10  station --

11           Q     Rampart Police Station?

12 A Yes, sir.

13 Q I think in your first -- when you were  
14 first interviewed, you said that the arrest report  
15 was all falsified, I guess --

16 A Yes, sir.

17 Q -- is a good word for it. In the arrest  
18 report it says that you guys were patrolling, and  
19 you recognized this guy.

20 MR. MC KESSON: Excuse me, what page are you  
21 on, Detective?

22 DETECTIVE COX: I'm sorry. I'm on page 2 of  
23 the arrest report.

24 MR. MC KESSON: Under "Observations"?

25 DETECTIVE COX: Yeah, it's -- yeah, under  
3003

01 "Observations."

02 BY DETECTIVE COX:

03 Q I'm just going to briefly state what you  
04 guys were doing. It appears that on that date, at  
05 around 9:30 at night, you were driving near Parkview  
06 and a place known as the Snakepit, I guess.

07 A Yes, sir.

08 Q Do you know where that's at?



09 A Yes, sir.

10 Q And you saw this person -- a Temple street  
11 gang member known as -- you knew as Bullet carrying  
12 a rifle or shotgun. And you he chased him, and he  
13 got away.

14 A Yes, sir.

15 Q That's basically the story --

16 A Yes, sir.

17 Q -- correct? And the rest of the story is  
18 that you got contacted at the station by an officer  
19 to come to the station because this person,  
20 Bullet -- also known as Diaz -- has turned himself  
21 in?

22 A (No audible response)

23 Q And you --

24 A I think what we were actually told is he  
25 wanted to talk to us, and then he said he wanted to,  
3004

01 you know, get himself arrested.

02 Q Okay. That's not in -- I'm going from  
03 the arrest report.

04 A Oh, okay. I'm sorry.

05 Q The subject advised Officer Montoya --

06 "the subject" meaning Diaz -- that you and -- you  
07 and Durden were looking for him, and he wanted to  
08 turn himself in.

09 A Yes.

10 Q Okay. Basically this whole arrest report,  
11 which you've had a chance to read, is falsified --  
12 or most of it, let's say?

13 A Most of it.

14 Q Can you tell me what happened? How you  
15 ended up with Ernesto Diaz that day?

16 A Well, that part of the report is true,  
17 that he came to the station to talk to us. What had  
18 happened was we had detained him many times in the  
19 neighborhood, and we were basically seeking  
20 information from him. We wanted to turn him into an  
21 informant. Initially he said, "Okay. Yeah, I'll  
22 let you guys know about something." And then he  
23 just began avoiding us.

24 We found him on another occasion. He's  
25 like -- he didn't want to talk. So at that point we  
3005

01 decided -- well, really Durden decided that we're  
02 going to make him out to look like a snitch. So any

03 time we were out there and we'd see a Temple Street  
04 gang member, Durden would always say, "Hey, tell  
05 Bullet I said hey, what's going on?" or "Tell him  
06 I need to talk to him," you know things like that,  
07 to make it sound like we were friendly with Bullet.

08 Q But this was also okay with you that --

09 A Yes.

10 Q -- Durden was doing this, and you guys  
11 were doing it together?

12 A We did it together, yes.

13 Q Okay.

14 A Eventually the gang members in Temple  
15 Street did begin to believe that he might be giving  
16 us information. And I got that through other  
17 people.

18 On this particular occasion, I don't know  
19 why he decided to come to the station, but he did  
20 come to the station. The part about we chasing him  
21 in the Snakepit and all that, that's totally  
22 fabricated. That never even happened.

23 Q Were you -- were you guys just out driving  
24 around, and you got contacted to come to the station  
25 because Diaz -- or Bullet -- was at the station?

3006

01 A Yes, sir.

02 Q Do you know who contacted you to tell you  
03 to come in?

04 A I believe it was Officer Montoya that got  
05 us on the radio in response to the station.

06 Q Okay. I know that's on the report. As  
07 far as you remember, is that true?

08 A As far as I remember, a desk officer asked  
09 for CRASH units to come to the desk. I believe  
10 Officer Montoya responded and had realized he was a  
11 Temple Street gang member and called me.

12 Q Because he knew -- Montoya knew that you  
13 were -- that your gang was Temple Street?

14 A Yes, sir.

15 Q Were you out -- were you out in the field  
16 when that happened, when you got contacted?

17 A Yes, sir.

18 Q You were working with Durden?

19 A Yes, sir.

20 Q When you guys came to the station, what  
21 happened next?

22 A We went up to the desk, we saw Bullet, and

23 we took him in and took him back to an interview  
24 room.

25 Q What were you going to do with him?

3007

01 A That's what we were going to figure out.  
02 We were going to figure out what we were going to  
03 do.

04 Q I mean, was he supposed to be giving you  
05 information? I mean, did you guys want to talk to  
06 him because he was going to give you information, or  
07 were you going to -- were you going to arrest him?

08 A Well, we thought that he was going to come  
09 and give information.

10 Q Okay.

11 A But basically what he said was home boys  
12 in the neighborhood are starting to think that he's  
13 an informant, and he wants to be booked.

14 Q So he told you he wanted to be booked?

15 A Yes, sir.

16 Q He didn't give you any information?

17 A Did he give me any information on, like,  
18 what to be hooked on?

19 Q No, I'm sorry.

20 A No.

21 Q Did he give you any information as far as,  
22 like, an informant?

23 A Never did.

24 Q Nothing?

25 A Never did.

3008

01 Q So it was at his request that he wanted to  
02 be booked?

03 A I don't think it was at his request that  
04 he wanted to be booked for a gun, a serious felony,  
05 but he wanted to be booked for something to make it  
06 look to the home boys that he was not an informant,  
07 and here I was -- the reason I was looking for him  
08 all this time was to arrest him.

09 Q Okay. So if he didn't want to be booked  
10 for a gun because that's a serious charge, how'd the  
11 gun thing come up? Why did you book him for a gun?

12 A That was just on us, that's what we  
13 decided to book him for. That's what we were going  
14 to do.

15 Q But when he -- let me ask you this:

16 Whenever he found out that he -- did he find out he

17 was being booked for a gun then, or did he find out  
18 when he was taken to juvenile hall?

19 A I think he probably found out when he  
20 finally got his booking slip.

21 Q Why did you -- how come you decided to  
22 book him for a serious charge like a gun instead of  
23 something else?

24 A We knew some of the stuff that he had been  
25 involved in. I mean, we knew that -- through other  
3009

01 informants that, you know, he was active in the  
02 gang. But I wanted to turn him over. I wanted him  
03 to start giving me information. I was basically  
04 using his past to try and put it over his head as a  
05 leverage tool to get him to talk.

06 So in on our minds, we said, "Well, he's  
07 going to go" -- we knew -- I think, if I remember  
08 correctly, he was on some type of probation or --  
09 some type of juvenile probation, so we knew he was  
10 going to get some -- at least camp time. So we  
11 said, "Well, he's going to go," and we just said,  
12 "We're going to put a gun on him."

13 Q Do you remember being upset with him that

14 day?

15 A Upset?

16 Q Yeah, because he wasn't giving you any  
17 information. Because you thought he was going to  
18 give you information, and he didn't give you  
19 information.

20 A It's possible. Do I specifically remember  
21 being upset at him or irate?

22 Q Yeah.

23 A Not really. But I mean, it's possible.

24 Q Do you remember anything about the  
25 vandalism. He had done a vandalism earlier that --  
3010

01 A That day?

02 Q -- earlier that day, broke out a car  
03 window.

04 A Oh, that, I don't know about. I was  
05 referring to graffiti. I know he does a lot of  
06 graffiti in the neighborhood. That's one of the  
07 things that, you know, would upset me about him.

08 You know, what I would do is I would get  
09 these gangs to -- you know, if I saw graffiti on a  
10 Tuesday, I would give them to Friday. If they



11 didn't remove the graffiti, I was going to book  
12 them -- I'm sorry, on Tuesday, if I saw the  
13 graffiti, and it wasn't removed by Friday, I'd  
14 threaten to book them for not, you know, removing it  
15 or for just, you know, writing the graffiti.

16           So he was -- I mean, his name was all over  
17 the place, tagged all over the place all the time.

18           But as far as a vandalism, a broken  
19 window, that, I had no idea about.

20           Q     Okay. Make sure I understand this is that  
21 you were out in the field, you think Montoya is the  
22 officer who calls you in because Bullet showed up at  
23 the station. He wants to be booked because it  
24 looked like -- right now it looks like that he's  
25 snitching on Temple Street, and he wanted to be

3011

01 booked by you guys to make it look good for him; is  
02 that right?

03           A     Yes, sir.

04           Q     And you didn't know anything about a  
05 vandalism that had occurred earlier that day, about  
06 a broken car window?

07           A     Just any car?

08 Q No, it was a -- it was his ex-girlfriend's  
09 new boyfriend's car.

10 A No idea about that.

11 Q Okay.

12 A And let me say this: At that point when  
13 he came to the station, even if he had not said  
14 that, "I want to be booked," we were going to book  
15 him.

16 Q You were going to book him?

17 A Yes, we definitely were going to book him.

18 Q You had had run-ins with him before?

19 A Many.

20 Q Many?

21 A For the same things, you know, graffiti,  
22 just a lot -- a lot of gang activity. He's real --  
23 he was heavily -- you know, he was involved in a lot  
24 of activity.

25 Q Had you seen Bullet that day prior to  
3012

01 coming to the station?

02 A I don't think so.

03 Q Okay.

04 A I might -- I do believe that we might have

05 been out in the neighborhood and asked for him, but  
06 I don't think I saw him -- or we saw him.

07 Q Okay. Bullet was interviewed a couple  
08 times --

09 A He was what?

10 Q Interviewed by detectives a couple of  
11 times here in the last couple months. He claimed  
12 that he had broken a car window that day, and that  
13 he came to the station to turn himself in, and which  
14 could be true because he did come to the station.  
15 You were -- and then you were called in.

16 A Yes, sir.

17 Q But as far as the vandalism, you've  
18 already said you don't know anything about that.

19 And then he was -- ended up being booked  
20 for that -- for the gun. And before -- I guess --  
21 I guess before I get into the rest of this story, I  
22 need to find out what you did, as far as the gun and  
23 booking him, where this gun came from, what kind of  
24 gun it was, that you recall. If you do recall.

25 A Well, by reading the report, I can tell

3013

01 what you kind of gun it is.

02 Q Okay.

03 A It was a .22 rifle. Where it came from,

04 I just don't remember. I mean --

05 Q Do you remember --

06 A [ \*\*\*\* CI # 6 & 17 Information Redacted \*\*\*\*]

07 [\*\*\*\*\*]

08 [\*\*\*\*\*]

09 [\*\*\*\*\*]

10 [\*\*\*\*\*]

11 [\*\*\*\*\*]

12 [\*\*\*\*\*]

13 [\*\*\*\*\*]

14 Q [\*\*\*\*\* CI # 17 Information Redacted \*\*\*\*\*]

15 A [\*\*\*\*\* CI # 17 Information Redacted \*\*\*\*\*]

16 [\*\*\*\*\*]

17 Q [\*\*\*\*\* CI # 17 Information Redacted \*\*\*\*\*]

18 A [\*\*\*\*\* CI # 17 Information Redacted \*\*\*\*\*]

19 [\*\*\*\*\*]

20 Q Oh, okay.

21 A [\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*]

22 [\*\*\*\*\*]

23 [\*\*\*\*\*]

24 [\*\*\*\*\*]

25 [\*\*\*\*\*]

3014

01 [\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*]

02 Q Okay. Looking at the report today, seeing  
03 that gun, do you remember where that gun came from  
04 that day? Did you supply the gun, or did Durden  
05 supply that gun?

06 A I don't remember having the gun. Quite  
07 often Durden would keep the guns. Where exactly the  
08 gun came from that -- is that what you're asking me?  
09 Like from where?

10 Q That day, yes.

11 A I just don't remember.

12 Q Trunk of the car?

13 A I know eventually we had the gun, you  
14 know, we're tagging it and booking the defendant.  
15 But where exactly the gun came from, that part,  
16 I don't remember.

17 Q Okay. Do you know if Diaz -- or Bullet --  
18 ever saw that gun that you booked him for?

19 A Did you say Diaz and -- who else?

20 Q I keep calling him Diaz. Bullet, the guy  
21 that you arrested, do you know if he ever saw the

22 gun that he was booked for?

23 A I know that -- one of the things we did  
24 while we had him there was we were looking --  
25 obviously, we were looking for him to roll over on

3015

01 someone. And we knew of a guy named Loya or Silent  
02 that lived at this follow-up address that we  
03 supposedly went to --

04 Q Yes.

05 A -- on Berendo.

06 Q Yes.

07 A There was, like, two or three gang  
08 members that lived there. And at the same time we  
09 were also looking for a murder suspect. And we  
10 thought, you know, we can get some information from  
11 him. I know that we might have done a follow-up to  
12 that residence.

13 Did we take the weapon with us there? I  
14 don't remember. Did we show it to him while we were  
15 at the -- in the car or something? I just don't  
16 remember.

17 Q Was he in the car with you at any point in  
18 time prior to going to juvenile hall? I mean, did

19 you take him back over to Berendo?

20 A I don't see why we would have.

21 Q Let me ask you this: Did you even go to  
22 Berendo that day?

23 A I remember going to Berendo.

24 Q Why? You already had the gun. Why would  
25 you go back to Berendo?

3016

01 A Because we -- I think he might have -- we  
02 had some suspicions about certain things, and we  
03 wanted him to tie it in. We wanted him -- like  
04 I was saying about -- it was this Loya and a gang  
05 member named Silent and also the murder suspect, the  
06 murder suspect that we were looking for.

07 And I think -- he never gave us anything  
08 solid, but there was some suspicion about what he  
09 was telling us or something that kind of said, you  
10 know what, let's just go over there and check it  
11 out.

12 Q The people at Berendo say that no  
13 policemen ever came over there that night. They  
14 had --

15 A They know me?

16 Q -- there had been an arrest there  
17 earlier -- not that day, but weeks or months  
18 earlier. And they recalled them because the police  
19 came in, pruned some people out. But on the date  
20 that this occurred, it doesn't appear any policemen  
21 came over there.

22 A What's the date on this again?

23 Q 3/7 -- or 3/21.

24 MR. MC KESSON: 3/7.

25

3017

01 BY DETECTIVE COX:

02 Q 3/7.

03 A Do they remember me being there?

04 DETECTIVE HANSEN: They remember -- they don't  
05 remember you specifically, but they remember back in  
06 December --

07 THE WITNESS: December of?

08 DETECTIVE COX: '96.

09 DETECTIVE HANSEN: -- '96, that a bunch of  
10 CRASH officers went there and made an arrest and got  
11 some guns out of there, two handguns.

12 THE WITNESS: I was in Puerto Rico. I



13 directed them from Puerto Rico to go there. That's  
14 when a gang member got killed, and we had a  
15 suspicion again of where the suspect might be. My  
16 informant had left me a message on my voice mail, as  
17 well as some of the CRASH officers left me voice  
18 mails, voice messages. From Puerto Rico I contacted  
19 my informant, and he told me where the suspect was,  
20 which was at this address.

21 BY DETECTIVE COX:

22 Q 626 North Berendo?

23 A Yes, sir. But the reason I can tell you  
24 that I was there, now that I'm remembering --

25 Q That you were there on which date?

3018

01 A On this day.

02 Q March 7th?

03 A Right. I was definitely not there in  
04 December because I was in Puerto Rico.

05 Q Okay.

06 A If you walk -- you have to walk in through  
07 the rear. And the door that -- we were looking  
08 for Silent. The door of his bedroom had a lock on  
09 the outside of it. You know, you have the door

10 here, but he had one of those latches with a lock on  
11 it. And I remember we went there --

12 MR. ROSENTHAL: With a padlock?

13 THE WITNESS: It was like a combination lock  
14 or something like that. I remember being there,  
15 I mean, so I know I was there.

16 BY DETECTIVE COX:

17 Q But it doesn't -- what I'm having a hard  
18 time understanding is if you already had the gun --

19 A We were looking for more. We were looking  
20 for --

21 Q You were just --

22 A Yeah. And like I said, there was  
23 something we were looking for. We were looking for  
24 a murder suspect. It was -- and -- and we were  
25 looking -- we were looking for a murder suspect, and  
3019

01 we were also looking at Silent, a gang member that  
02 lives there. Actually, three or four of them lived  
03 there. But I know we were looking for them.

04 And for us, it would have been really  
05 quite opportune that we get Silent. He comes in, we  
06 have him at the station. And then we do a follow-up

07 to Silent's house, you know, we have Bullet in  
08 custody, and we happen to catch him with something  
09 in his place.

10           And we can tie it in easily, saying, "Hey,  
11 Bullet gave us the information." That's our  
12 probable cause. That's why we went there. That's  
13 how come we had this information.

14           Q     Do you know if you went there, just you  
15 and Durden, or did other officers go?

16           A     I think we had at least four officers  
17 there.

18           Q     Do you remember the other two officers?  
19 If you don't know, then I don't want you to guess.

20           A     No, I really don't remember who it was.

21           Q     If you did something out in the street  
22 when you were working CRASH, would you favor some  
23 officers over other officers?

24           A     Absolutely.

25           MR. MC KESSON: I'm just not -- you may

3020

01 understand. I'm not sure what you mean by that.

02 BY DETECTIVE COX:

03           Q     When you were working CRASH with these

04 other officers, and sometimes you may need a back-up  
05 or you may need someone to go with you --

06 MR. MC KESSON: Okay.

07 BY DETECTIVE COX:

08 Q -- like to Berendo, would you pick certain  
09 officers, if you had your choice? Like would you  
10 get someone on the air like Rios and Montoya other  
11 than Buchanan and Stepp?

12 A I would get them on the air, and ask --

13 Q No. But I'm saying would you favor --

14 A Absolutely.

15 Q Which ones? I mean, I'm asking you, which  
16 officers would you favor? If you had to --

17 A If you gave me a line-up, I can show  
18 you --

19 Q No. I mean off the top of your head, just  
20 thinking here today.

21 A I used Buchanan a lot. Buchanan, Stepp,  
22 Cohan, Brehm, Montoya, Rios. Richardson was very  
23 good. Definitely, I would not use -- sort of like  
24 a -- Mesina, Gomez, Vinton.

25 Q O'Grady?

01 A Definitely not O'Grady. Vinton and --

02 MR. ROSENTHAL: Voletz, V-o-l-e-t-z?

03 THE WITNESS: Vinton and his partner, the  
04 Cuban guy that I think is a problem.

05 BY DETECTIVE COX:

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

07 A There's another officer there I said that,  
08 you know, he was in the loop. But we -- you sort of  
09 have of clique within the clique.

10 Q Right. That's what I'm asking.

11 A Yeah, and we definitely -- I would  
12 definitely favor certain officers and would request  
13 certain officers by unit designation specifically,  
14 instead of just saying, "Can I get a CRASH unit?"  
15 I would ask for -- yes, definitely.

16 Q Okay. So you had your favorite officers  
17 you would select if you had to go someplace you  
18 needed additional officers?

19 A Yes, sir.

20 DETECTIVE HANSEN: Would Bullet have stayed at  
21 the station?

22 THE WITNESS: When we did the follow-up?

23 DETECTIVE HANSEN: Yes.

24 THE WITNESS: Most likely, yes. I don't see  
25 why we would transport him.

3022

01 BY DETECTIVE COX:

02 Q Bullet claims that there was a white  
03 officer that came into the room after you -- after  
04 he was arrested there at the station, had a rifle in  
05 his hands -- the rifle he was eventually booked  
06 for -- and wanted him to touch it. Does that ring a  
07 bell with you at all? And is it possible it  
08 happened, you just can't recall?

09 A You gotta remember, all of this, I mean --

10 Q Okay.

11 A -- any allegation is possible. I mean,  
12 unless I did it, and you can ask me specifically if  
13 I did it -- of course, anything like that is  
14 possible. I mean, do we know who this white officer  
15 is? No?

16 Q But obviously, it would have to come off  
17 of you to say that --

18 A True.

19 Q -- you know, that, "This is my suspect.  
20 This is what we're doing to him." And -- and you

21 have to understand, I'm not taking Diaz' word as  
22 gospel either. I'm just asking you if you can  
23 recall anything like.

24 A I definitely -- you can just look at the  
25 track record. I don't remember the last time I had  
3023

01 a weapon printed, you know, fingerprinted. I  
02 definitely did not order or ask another officer to  
03 have the weapon touched by Diaz.

04 Q Okay.

05 A I'm assuming we wanted him to touch it to  
06 obtain fingerprints or something.

07 Q Well, possibly, or maybe G.S.R. I mean,  
08 who knows.

09 MR. MC KESSON: The "G.S.R." is?

10 DETECTIVE COX: Gunshot residue. Usually you  
11 fire a gun, you get that.

12 MR. MC KESSON: Had this one been fired?

13 DETECTIVE COX: I don't know. But even if it  
14 hadn't been fired, there could have been stuff on it  
15 maybe. And anything -- but I'm assuming, like Ray  
16 says, it's probably for prints more than anything.

17 BY DETECTIVE COX:

18 Q Did you -- did you testify in court on  
19 this case?

20 A I believe it was juvenile court, and  
21 I believe I did.

22 Q You think you did?

23 A I at least remember appearing.

24 Q Do you remember --

25 A I just don't know if I actually testified  
3024

01 or not.

02 Q Do you remember if -- what happened on  
03 that case?

04 A I believe he got some time. I don't know  
05 exactly -- I think it was a lengthy time because he  
06 might have been on some kind of probation.

07 Q Well, he claims that he beat the case.  
08 That's what he says, and I haven't check it. I  
09 don't know.

10 MR. ROSENTHAL: Actually, I have the D.A. file  
11 here. On -- first of all, this is case number,  
12 juvenile case number, FJ16336. The district  
13 attorney case number is 78056510. And the case  
14 we've been discussing relates to D.R. number



15 970211491.

16           According to the district attorney  
17 file, on March 31st of 1997, the case went to  
18 adjudication. It was dismissed because the  
19 weapon -- the initial charge was that it was a  
20 weapon that was capable of being concealed. But  
21 it was determined that since the weapon was  
22 approximately three feet long, it was not one that  
23 was capable of being concealed, so the case was  
24 actually dismissed.

25           It's not clear from the notes whether it

3025

01 went to full adjudication or not. But that's  
02 certainly -- actually, there is a note. Appears it  
03 went to adjudication. The petition was dismissed  
04 due to a filing error.

05           THE WITNESS: Okay.

06           MR. ROSENTHAL: It does not indicate who was  
07 the testifying officer at the adjudication however.

08           DETECTIVE COX: Let's say -- would that  
09 indicate that someone did testify?

10           MR. ROSENTHAL: That's certainly the  
11 indication. There's nothing -- there are no notes

12 in the file relating to a particular witness'  
13 testimony. But if it went to adjudication, you  
14 would certainly assume that there was a witness who  
15 testified at the adjudication.

16 THE WITNESS: Was he on probation or something  
17 like that at the time and looking at some lengthy  
18 time or something?

19 MR. ROSENTHAL: There is an indication that he  
20 had been previously arrested for robbery, and it was  
21 a nondetained petition. Your arrest was March 7th  
22 of '97. According to this, he was initially  
23 arrested on January 28th of '97 on the charge of  
24 robbery, but there was no indication of what the  
25 result of that was.

3026

01 THE WITNESS: What I was recalling was he was  
02 looking at some lengthy time. I didn't know  
03 actually if he did get it or not, but I know he was  
04 looking at some serious time or something or like  
05 that.

06 MR. ROSENTHAL: And in fact, I note that in the  
07 follow-up report, he did indicate he was convicted  
08 of an unrelated robbery, and that he was currently

09 incarcerated, as of December 13th of 1999. So that  
10 certainly would be consistent with the information  
11 in the district attorney file.

12 DETECTIVE COX: Okay.

13 BY DETECTIVE COX:

14 Q Do you remember if you ever ran that gun,  
15 prior to booking him for it?

16 A It's possible myself or my partner ran a  
17 gun.

18 Q And obviously, you can't remember where  
19 that gun came from, whether you got it that day.  
20 You probably had it days prior or weeks prior.

21 A Probably, yes.

22 Q Looking at the reports, can you tell me  
23 who wrote what reports?

24 A It appears that I was the author of the  
25 arrest report. My partner was the author of the  
3027

01 property report, as well as the juvenile arrest  
02 report. The city attorney disclosure statement was  
03 filled out by my partner. The P.C.D., probable  
04 cause declaration, was filled out by my partner,  
05 and the booking recommendation was filled out by my

06 partner.

07 Q Looking at the disclosure statement, you  
08 said your partner signed that. Did he sign both  
09 your names, or is that --

10 A He signed both our names.

11 Q Okay. Do you remember who booked the  
12 property, who actually physically booked it?

13 A My partner.

14 Q Your partner did?

15 A Yes, sir. I wrote the -- our standard  
16 procedure was I'd write the arrest report, he'd do  
17 everything else: Book the property, do the property  
18 report, things like that.

19 Q But who booked Diaz?

20 A We probably did that together. After we  
21 had everything done, had to make copies of the  
22 reports because juvenile required that you have  
23 several copies of the arrest report already done.  
24 So after the arrest reports were done, then we'd  
25 transport him.

3028

01 Q You said that's your usual norm.

02 A Yes, sir.

03 Q But you specifically can't recall that  
04 one?

05 A No -- yes, sir. I'm sorry. Do I  
06 specifically remember transporting him there? No.

07 Q No. Okay. If you look on page 3 of the  
08 arrest report, on the last -- the last sentence of  
09 the "Observations," where it was recovered two .22  
10 caliber rounds.

11 A That was also planted.

12 Q That was also?

13 A Yes, sir.

14 Q By yourself or by your partner?

15 A Both of us. We -- we wanted to tie it in  
16 a little bit tighter, make the case a lit tighter.  
17 So we figured, you know, put a couple rounds in his  
18 pocket or shoe, whatever it was, and you know, the  
19 type of ammo that would match the weapon.

20 Q Did you think that would help him become  
21 an informant for you -- or help you rather -- would  
22 it help you to plant the stuff on him so he would  
23 then become an informant for you?

24 A We pretty much exhausted all possible  
25 modes of trying to get him to talk. At this point

3029

01 it was just a matter of him paying his dues for a  
02 lot of the things he had done, and you know, let him  
03 know that our threats were not just --

04 Q Idle threats?

05 A -- idle threats. What we were saying was  
06 true, you know, and we meant it.

07 Q Do you remember Montoya's role in this  
08 specifically? I know you said you think you got a  
09 phone call from him at the beginning. Was he  
10 involved in this anymore with you that you can  
11 specifically recall?

12 A It wasn't a phone call. I believe it was  
13 a radio --

14 Q I mean a radio call, I'm sorry.

15 A But Montoya had no knowledge of anything  
16 that occurred in this case, none.

17 Q Nothing?

18 A Nothing.

19 Q He didn't know that you had planted the  
20 gun?

21 A No, sir.

22 MR. ROSENTHAL: Would he have known why

23 Hernandez went to the desk at Rampart in the first  
24 place?

25 THE WITNESS: It was an ongoing joke later  
3030

01 that, you know, Perez and Durden got guys turning  
02 themselves in. Of course, based on how I wrote the  
03 report, you know, hey, this guy, we saw him running  
04 earlier with a shotgun. And later, he comes in,  
05 and he was so scared of Perez and Durden that he  
06 came and turned himself in. That's all they knew.

07 BY DETECTIVE COX:

08 Q Would you cover for Montoya today?

09 A Did I what?

10 Q Would you cover for him, tell us that he  
11 didn't do something when actually he did?

12 A I think, based on the track record, I have  
13 no reason -- or I've done -- talked about enough  
14 things, different cases, about everybody that I  
15 don't need to hide anything about anyone.

16 Q So when you planted guns, which we have  
17 on -- my partner and I are investigating two cases.  
18 Montoya seems to be involved in both those of cases.  
19 But you're saying that he's not -- he was not aware

20 that you planted guns on either the Ovando case or  
21 on this case?

22 A That's correct. If -- believe me -- you  
23 don't have to believe me. But if Montoya was  
24 present or I told him, "Hey, we're going to plant a  
25 gun on this guy" -- Montoya is not my friend. He's  
3031

01 not my friend today or later or -- I don't plan on  
02 ever seeing him again, unless in proceedings. I  
03 have no reason to hide that or cover it up.

04 MR. ROSENTHAL: And you've already indicated  
05 that Montoya was in the loop, that he planted  
06 narcotics, planted guns, manufactured probable  
07 cause.

08 THE WITNESS: All of that.

09 MR. ROSENTHAL: All the crimes, the --

10 BY DETECTIVE COX:

11 Q And you have to also understand that  
12 sometimes my questions may seem stupid, but I'm not  
13 aware of the other hundred cases that are going on.  
14 And we have our own cases.

15 A Yes, sir.

16 Q So some of the stuff that the D.A. knows



17 about or that you know about, obviously, I don't  
18 know about. So I'm covering --

19 MR. MC KESSON: Detective, we never think your  
20 questions are stupid. I'm being serious.

21 DETECTIVE COX: I know --

22 MR. MC KESSON: I've never heard a stupid  
23 question asked.

24 DETECTIVE COX: But you know, like, he's --  
25 I don't know what he said about Montoya.

3032

01 THE WITNESS: You know, sometimes I get a  
02 little bit more elaborate, and it's just to clear  
03 things up, so maybe you have a little better  
04 understanding.

05 DETECTIVE COX: I think we've asked just about  
06 all the questions here.

07

08 EXAMINATION

09 BY DETECTIVE HANSEN:

10 Q I have a question regarding when you went  
11 to Berendo. Do you remember -- that night, do you  
12 remember going in? Who was there? I'm just trying  
13 to -- because they don't remember that.

14           A     I remember that we had to enter through  
15 the rear of the --

16           Q     That's where it's at, in the rear of the  
17 place.

18           A     That's the apartment?

19           Q     Yes.

20           A     I remember we had to enter through the  
21 rear, and I remember that there was a latch -- or  
22 rather a -- yeah, a latch with a lock on the door.  
23 And I remember us somehow getting in. I don't know  
24 if we just unscrewed the latch or whatever we did,  
25 but we made our way inside the apartment.

3033

01                   The people we thought were going to be  
02 there, the gang members, were not there. There was  
03 a gentleman -- or an older gentleman there. I  
04 couldn't tell you his name or -- or you know --

05           Q     Older male?

06           A     Older male, yes.

07           Q     Was anything taken from this apartment?

08           A     I don't think so. Like I said, none of  
09 the gang members that we thought were going to be  
10 there were there, and nothing else was found.

11 Q And the gun on this case -- we know that  
12 Durden and some other CRASH officers were there  
13 on -- in December of '96. Do you -- the gun that  
14 you put on Diaz, that gun has nothing to do with  
15 that location?

16 A I can't say that either. I wasn't  
17 there --

18 Q Okay.

19 A -- on the December search of the location.  
20 I don't know if something was found there, and  
21 Durden just hung onto it. And that's why I'm not --  
22 I'm having a problem remembering where the weapon  
23 came from, because maybe just Durden obtained while  
24 I was on vacation or something. So I can't say  
25 that. You're asking me --

3034

01 Q Yeah.

02 A I can't say that --

03 Q Okay.

04 A -- that it's not tied in.

05 Q Okay. So you don't remember any contact  
06 with any gang members that night because there was  
07 just an old man there?

08 A Yeah, there was definitely no --

09 Q Okay.

10 A It was just an older gentleman there, yes.

11 I'm not going to say he was an old man, just an

12 older gentleman.

13 Q And then you went back to the station?

14 You finished up with Diaz?

15 A Yes, sir.

16 Q When you -- when you would do something

17 like this, okay, you know, you've -- the arrest

18 report is fabricated, you had to do some follow-up

19 out in the field, did you concern yourself with time

20 lines?

21 When we looked at this case, as far as

22 time lines, as far as the times that are on the

23 reports and times that are on your D.F.A.R.'s and

24 stuff, everything is just -- it makes you look at

25 the thing. It's wide open.

3035

01 MR. ROSENTHAL: Let me just state for the

02 record that, actually, this has been covered before,

03 wherein Perez has stated that his D.F.A.R.'s were

04 not very accurate, that they would just go back to

05 the station and fill things in.

06 Can we go off the record for a moment?

07 I want to discuss something with you guys off the  
08 record.

09 (Recess)

10 DETECTIVE COX: We're back on tape. It's  
11 11:40.

12 BY DETECTIVE HANSEN:

13 Q Okay. Before we paused for a minute, I  
14 was asking you about times. And we were told by the  
15 D.A. -- and it's been obvious to us on several other  
16 cases -- that logs were possibly done after end of  
17 watch, maybe the next day. Is that true?

18 A Yes, sir.

19 Q So times -- main thing I was asking you,  
20 do you look at -- back then, did you look at -- at  
21 what you did and kind of look at the times so it  
22 made it -- made things look a little realer, make it  
23 look like it flowed?

24 A We would try and get as close as we could,  
25 you know, as far as times. Sometimes we would

3036

01 just -- let's say we detained someone at a

02 particular hour, but we needed to change the booking  
03 time for whatever reason to go along with a  
04 communication or a -- you know, the running of the  
05 suspect, we would change the time of the booking  
06 slip or things like that, or on the log. Sure,  
07 I mean, we padded the log often, I mean, to  
08 accommodate, you know, whatever we were doing.

09 Q Okay. On this case -- the reason I'm  
10 asking is because on this case, it was -- we did a  
11 time line, and it was actually kind of funny because  
12 your D.F.A.R. showed that you were at Berendo, but  
13 yet you were at the station doing something else.

14 DETECTIVE COX: It just showed he's being  
15 booked at 2310, yet your log shows you were still on  
16 Berendo until 2345.

17 THE WITNESS: That's just, you know --

18 DETECTIVE COX: Just a slip up on your part?

19 THE WITNESS: Durden's part. He did the log.

20 DETECTIVE COX: Durden's fault.

21 MR. MC KESSON: It's all Durden's fault.

22 BY DETECTIVE HANSEN:

23 Q As far as Bullet --

24 A By the way, if I may ask, does he use

25 another moniker? "Dash" maybe, or something like  
3037

01 that?

02 DETECTIVE COX: Yes.

03 THE WITNESS: That's what I thought. That's  
04 the name he actually tagged on the walls and tries  
05 to tell me that, "No, I'm Bullet. That's not my  
06 tagging."

07 DETECTIVE COX: Okay.

08 BY DETECTIVE COX:

09 Q Is this kind of unusual that he would come  
10 in, you know -- you know Bullet, right?

11 A Yes, sir.

12 Q Okay. You knew what he was like. Was it  
13 kind of odd that Bullet would come into the station?  
14 And if Bullet tells me, "Yeah, I came into the  
15 station to turn myself in for a vandalism," is that  
16 pretty odd for someone like Bullet, hard-core gang  
17 banger --

18 A Very odd.

19 Q -- trying to turn himself in?

20 A It's unusual. I mean, how often do you  
21 get a gang member say, "I want to turn myself in"?

22 Especially about a crime I didn't know nothing  
23 about, a vandalism. I still don't know about it.

24 Q But since you knew the guy, that's what  
25 I'm -- we've met him, but --

3038

01 A He's hard core, yeah. It was odd, you  
02 know. It was probably sort of unbelievable. If  
03 I would have told you, "Yeah, he came and turned  
04 himself in at the station," you would have went, "No  
05 way." And I think he's verified that he did come to  
06 the station to turn himself in.

07 But yeah, it's definitely odd. Knowing  
08 him and, you know, the involvement he has with the  
09 gang, yeah, it's odd for him to be doing that.

10 Q Would he -- I'm just -- I know this isn't  
11 worth anything, but you think he would admit that to  
12 me?

13 A That he turned himself in?

14 Q Yeah.

15 A That he came to the station on this  
16 particular case?

17 Q No. Do you think that he would -- I'm  
18 sorry. Do you think he would admit to me that he



19 turned himself in because he didn't want to be an  
20 informant, to give me that information?

21 A I think he would.

22 Q Okay.

23 A That he was afraid that --

24 MR. MC KESSON: Let me just say, this is highly  
25 speculative.

3039

01 DETECTIVE HANSEN: I'm just -- I know. I'm  
02 just trying to get a feel if this is just -- I'm  
03 trying to get a feel of what he told me.

04 THE WITNESS: I can only --

05 MR. MC KESSON: I'm sorry.

06 DETECTIVE HANSEN: I'm trying to get a feel of  
07 what he has told me.

08 MR. MC KESSON: You're trying to see whether  
09 Perez thinks Diaz is being straight forward with  
10 you?

11 DETECTIVE HANSEN: Yes.

12 THE WITNESS: I don't know.

13 BY DETECTIVE HANSEN:

14 Q Okay.

15 A I think -- I mean, why else would he come

16 to the station? I think he would tell you the  
17 truth. I mean, what other reason would there be?  
18 I mean --

19 Q Well, him not thinking that I think he's a  
20 snitch. There seems to be a hang-up with him  
21 wanting to -- for him to think that I think he was a  
22 snitch.

23 A Right. Well, that's the whole thing.  
24 I mean, he wanted to turn himself in because the  
25 home boys are starting to think he's a snitch. And  
3040

01 he wanted to say, "Hey, look, book me for  
02 something." He wanted to be booked for something  
03 because, "The home boys are starting to think I'm a  
04 snitch." I don't know if he told you or not, but  
05 that's what I remember of the incident.

06 DETECTIVE HANSEN: Okay. All right. Anything  
07 else?

08 DETECTIVE COX: No.

09 DETECTIVE HANSEN: It's 11:45. And we're done  
10 with the interview.

11 MR. ROSENTHAL: All right. We're off the  
12 record.

13 (Recess)

14 MR. ROSENTHAL: We're back on the record.

15 It's 12:21.

16 SERGEANT COOK: Okay. This is Internal Affairs  
17 investigation yet to be numbered. Today's date is  
18 April 14th, the year 2000. The time now is 1241  
19 hours.

20 I'm Sergeant John Cook, 25353, conducting  
21 this interview. Present is Melina Johnson, the  
22 court reporter, the attorney Kevin McKesson, and a  
23 deputy district attorney, Richard Rosenthal. We're  
24 currently interviewing Rafael Perez.

25

3041

01 EXAMINATION

02 BY SERGEANT COOK:

03 Q Ray, we had, on a prior date, had the  
04 opportunity to interview you regarding the arrests  
05 of Maria Virula and Samuel Nolasco. Have you had  
06 the opportunity to review the arrest record?

07 A I've reviewed the arrest reports, and I've  
08 reviewed the transcripts of prior testimony on  
09 October 11th and -- June 12th?

10 Q That's right, June 12th, 1997.

11 MR. ROSENTHAL: No. No.

12 THE WITNESS: Arrest was June 12th, 1997.

13 BY SERGEANT COOK:

14 Q June 12, 1997. That was the arrest date.

15 A Right. The date for this transcript is  
16 not on here.

17 MR. ROSENTHAL: Hold on. I'll -- let me give  
18 that to you in just a moment.

19 SERGEANT COOK: Do we need to take a break?

20 MR. ROSENTHAL: No, just --

21 SERGEANT COOK: Okay.

22 MR. ROSENTHAL: Yes. The prior interview with  
23 Mr. Perez was on Monday, October 11th of 1999.

24 THE WITNESS: Okay. I've reviewed both  
25 transcripts.

3042

01 SERGEANT COOK: Okay.

02 MR. ROSENTHAL: It's actually one transcript,  
03 just -- there's a break in the pagination.

04 THE WITNESS: Okay.

05 BY SERGEANT COOK:

06 Q Okay. There was just a couple of issues

07 that have come up. The information that led to this  
08 arrest was that a confidential informant belonging  
09 to you, or was that for Coronado?

10 A I believe that that was my informant.

11 [\*\*\*\*\* CI # 39 \*\*\*\*\*]

12 [\*\*\*\*\*]

13 Q Okay. Just to jog your memory, could this  
14 have been -- just to jog your memory, you had  
15 called -- you had called up Sam Nolasco to arrange a  
16 buy?

17 A Yes, sir.

18 Q Okay. And that information came from the  
19 informant that you had. [\*\*\*\*\* CI # 39 \*\*\*\*\*]

20 [\*\*\*\*\*]

21 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

22 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

23 [\*\*\*\*\*]

24 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

25 Q As to the identity.

3043

01 A He was aware of who it was, yes.

02 Q And who was the supervisor that you  
03 notified, if you recall?

04           A     Both of them, McGee and Lusby.  They were  
05 both involved in the actual operation.

06           Q     Oh, they were?

07           A     Yes, sir.

08           Q     [\*\*\*\* CI # 39 Information Redacted \*\*\*\*]

09 [\*\*\*\*\*]

10 [\*\*\*\*\*]

11 [\*\*\*\*\*]

12           A     Was --

13           Q     I'm reading your arrest report and --

14           MR. MC KESSON:  What page?

15           SERGEANT COOK:  And you're on page -- what is

16 that? -- page 2 here.

17           MR. MC KESSON:  Under what, "Source of

18 Activities"?

19           SERGEANT COOK:  Under "Observations."

20           MR. ROSENTHAL:  We need to put on the record

21 also the D.R. number.

22           SERGEANT COOK:  The D.R. is 970221945.

23           MR. ROSENTHAL:  Right.  And that relates to

24 district attorney case number BA151865.

25           MR. MC KESSON:  [\*\*\*\* CI # 39 Information Redacted \*\*\*\*]

01 SERGEANT COOK: Yeah.

02 MR. MC KESSON: Okay.

03 BY SERGEANT COOK:

04 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

05 [\*\*\*\*\*]

06 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

07 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

08 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

09 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

10 [\*\*\*\*\*]

11 [\*\*\*\*\*]

12 [\*\*\*\*\*]

13 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

14 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

15 [\*\*\*\*\*]

16 [\*\*\*\*\*]

17 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

18 [\*\*\*\*\*]

19 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

20 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

21 [\*\*\*\*\*]

22 [\*\*\*\*\*]

23 [\*\*\*\*\*]

24 [\*\*\*\*\*]

25 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

3045

01 [\*\*\*\*\*]

02 [\*\*\*\*\*]

03 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

04 [\*\*\*\*\*]

05 Q [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

06 [\*\*\*\*\*]

07 MR. MC KESSON: [\*\*\*\*\* CI # 39 Information Redacted \*\*]

08 [\*\*\*\*\*]

09 BY SERGEANT COOK:

10 Q This particular incident right here, when

11 the transaction went down, the transaction with

12 Maria Virula, with the female.

13 A [\*\*\*\*\* CI # 39 Information Redacted \*\*\*\*\*]

14 [\*\*\*\*\*]

15 [\*\*\*\*\*]

16 [\*\*\*\*\*]

17 [\*\*\*\*\*]

18 [\*\*\*\*\*]

19 Q Okay. And once the narcotics was --

20 (Discussion off the record)



21 BY SERGEANT COOK:

22 Q And once the narcotics was delivered,  
23 that's when you came in to detain?

24 A (No audible response)

25 Q And that would be --

3046

01 A Yes, sir.

02 Q -- you and Durden?

03 A No. It would have been myself and

04 Coronado that moved in. Durden was actually in the  
05 vehicle.

06 Q Okay. Now, at some point in time you have  
07 Sam Nolasco?

08 A Yes, sir.

09 Q Now, in the report Sam Nolasco is walking  
10 to you, and Maria made a statement to him, "I've  
11 been arrested," and he turns around. That didn't  
12 happen, did it?

13 MR. MC KESSON: Officer Cook, could you tell us  
14 where you're referring from so I can follow?

15 SERGEANT COOK: Okay.

16 MR. MC KESSON: Please.

17 SERGEANT COOK: At the bottom of page

18 2 -- excuse me, at the bottom of -- middle of page 3  
19 here. It says, "My partner and I then observed  
20 Defendant 2." This was, what, the fourth paragraph?

21 MR. MC KESSON: Okay. Beginning the fourth  
22 paragraph?

23 SERGEANT COOK: Yeah.

24 BY SERGEANT COOK:

25 Q And if you read on and -- it reads,  
3047

01 "Defendant 1 looked in Defendant 2's direction" --  
02 "and Defendant 1 stated in Spanish, 'Sam, go home.  
03 I have been arrested.'"

04 A Was that actually said?

05 Q Yeah.

06 A I don't think so.

07 Q Okay.

08 A However, he was out there.

09 Q He was out there?

10 A Yes, sir. I think what happened was we  
11 didn't know who he was. We were detaining her, and  
12 then we noticed, you know, that she looked in that  
13 direction. And then it dawned on us, that's  
14 probably the husband.

15 Q Okay. So who detained him?

16 A Well, we all did. Durden was in the car  
17 though. Once she came to deliver the narcotics and  
18 started to give it to him, that's when we -- all of  
19 us detained her.

20 Q Okay. And in the report -- the report  
21 says that narcotics was recovered from his right  
22 front pocket.

23 MR. MC KESSON: I don't like to be a jerk, but  
24 can you say that -- because the problem I have, if  
25 you're going to say where the report is wrong, it's  
3048  
01 easier for me to read where it's wrong.

02 SERGEANT COOK: Sure. I'm sorry.

03 BY SERGEANT COOK:

04 Q Look at the next paragraph, paragraph 5,  
05 the same page, "I quickly detained Defendant Number  
06 2." Now, when we say "I," that's Durden writing the  
07 report. Okay? "During a pat down search I felt an  
08 object which felt consistent with the evidence  
09 recovered from Defendant 1 in Defendant 2's right  
10 front pants pocket."

11 Okay? Do you see that now?

12 A Yes, sir.

13 Q Okay. "Upon removing the object, I  
14 observed there to be another cardboard tube with  
15 tape on both ends containing several off-white, flat  
16 objects resembling rock cocaine."

17 A Yes, I see that.

18 Q Did that, in fact, happen?

19 A I didn't recover -- is he -- is Durden  
20 saying that he recovered that?

21 Q Yes.

22 A Yeah. I don't remember that happening,  
23 but it's possible that it happened. But I -- I'm  
24 assuming that if we -- the guy left and we have the  
25 female clear on the other side of the street, he  
3049

01 wouldn't have had a chance to detain him anywhere  
02 nearby. You see what I'm saying?

03 Q Yes.

04 A We're actually on the south -- the north  
05 side of Kenmore, off of Beverly, I believe it is.  
06 So the guy never made it to the south side, to where  
07 we're at. And Beverly is a large street.

08 When we saw him, you know, we really

09 didn't pay him any mind. He started walking back.  
10 So at that point -- I don't remember anything until  
11 we got back to the building. We have this female in  
12 custody --

13 Q Okay. Just to clarify that, you don't  
14 recall Durden saying that he recovered narcotics  
15 from Nolasco when you detained him -- or when he was  
16 detained?

17 A I know that's what we came up with.  
18 That's what we wrote. But I don't -- I don't  
19 remember hearing it, or I don't remember seeing it.

20 Q Okay. Where did you recover -- other than  
21 the narcotics that was delivered to you by Maria,  
22 where did you recover the other narcotics from?

23 A Any narcotics?

24 Q Yes.

25 A In the rear of the -- the building by --  
3050

01 in a dumpster.

02 Q Now, that brings -- how did you receive  
03 that information?

04 A Mr. Nolasco told us where it was.

05 Q And why did he tell you it was there? He

06 was already detained. Why did he give you that  
07 information? Was it voluntary on his part?

08 A No. I'm sure we threatened with  
09 everything under the sun. I believe he had another  
10 daughter there maybe.

11 Q Yes.

12 A And usually what we'll do is we'll say  
13 we're going to arrest everybody or something.  
14 I know we pressured him enough. And in fact, I  
15 think we got him to roll over, in other words,  
16 turn -- turn over his supplier. And I think we  
17 might have promised him to maybe not arrest his wife  
18 or arrest him or something we might have promised as  
19 long as he cooperated.

20 Q Okay. So it wasn't -- it wasn't a -- a  
21 voluntary statement on his part, to show you where  
22 this narcotics was?

23 A No. And I think I read somewhere in here  
24 where I read him his Miranda rights and all that.  
25 That didn't occur.

3051

01 Q That didn't happen?

02 A And I don't have a real clear memory on

03 it, but I know that I may have promised him  
04 something as long as they cooperated, rolled over on  
05 their supplier, and told us where any additional  
06 narcotics were. And he eventually did tell us that  
07 he would help us and he would tell us where the  
08 additional narcotics was.

09 Q Now, when you talk about "we" and "us,"  
10 are you talking about your partners, Durden and  
11 Coronado, being right there with you?

12 A Yes, sir.

13 Q Okay. So Durden or Coronado couldn't  
14 say, "I was in the other room when this was  
15 transpiring," this conversation?

16 A No. We were -- we were pretty much  
17 formulating a plan as we were talking to him. We  
18 were trying to figure out a way we were going to do  
19 this.

20 Q And you, in fact, did go to this dumpster?

21 A Actually, me and Coronado went.

22 Q You and Coronado. Was it inside a  
23 dumpster or by the dumpster?

24 A It was, from what I recall, inside the  
25 dumpster. It was little round, like, toilet tissue

3052

01 carton, you know, the -- inside the --

02 Q Yeah.

03 A They're like cut and then had, like, duct  
04 tape on them. And I believe they had some writing  
05 on them, like the quantity, \$400 worth, \$500 worth.

06 Q Okay. So at that point in time, you did  
07 not have any probable cause to stop Nolasco, did  
08 you?

09 A (No audible response)

10 Q You didn't have any probable cause?

11 A No, sir.

12 Q You didn't have any probable cause to  
13 detain him?

14 A We had reasonable suspicion, not probable  
15 cause. We had some suspicion. We received  
16 information that they were involved in narcotics  
17 dealing. We didn't know who was going to end up  
18 delivering the narcotics. It ended up just being  
19 her. After a few minutes, it dawned on us, hey,  
20 that's probably the husband.

21 Q Okay. There -- and I'm going to show you  
22 my report -- there's a couple of consent forms here.



23 I'll show you the copy. This consent form --

24 MR. MC KESSON: Detention form?

25 MR. ROSENTHAL: I think he has a copy.

3053

01 SERGEANT COOK: Okay.

02 THE WITNESS: I have a copy.

03 BY SERGEANT COOK:

04 Q Are these voluntary signatures here by,  
05 in this case, Maria Virula? Did she know what she  
06 was signing?

07 MR. MC KESSON: Well, the only problem I have  
08 with that, Detective, is --

09 SERGEANT COOK: Sure.

10 MR. MC KESSON: -- is it kind of calls for  
11 speculation. I guess he can answer if she had an  
12 opportunity to read it. Did she appear to be  
13 reading it? Did you explain to her what it says?

14 BY SERGEANT COOK:

15 Q Basically, my question --

16 MR. MC KESSON: I'm not trying to be a jerk  
17 about it.

18 BY SERGEANT COOK: No, that's okay.

19 BY SERGEANT COOK:

20 Q Basically, my question is, again, is this  
21 voluntary consent here to search the premises?

22 A If you look at it in its totality,  
23 probably not.

24 Q All right. Because of the threat --

25 A Yes, sir.

3054

01 Q -- that you would have imposed  
02 regarding --

03 A Not so much the threat, but the promises  
04 probably.

05 Q Okay. Now in the report you list Coronado  
06 as the finder of the narcotics.

07 A Yes.

08 Q Okay.

09 A It was both of us. We were both there.

10 Q Okay. Now, was this -- was this a  
11 discussion between you and Durden and Coronado?

12 A As to how I'm going -- he's going to write  
13 it?

14 Q No, to -- did Coronado actively  
15 participate in this plan, in this discussion, as to  
16 how the report was going to be written?

17 A Yes.

18 Q He did?

19 A He definitely knew that he was going to be  
20 put down as recovering the narcotics inside when it  
21 was actually recovered outside.

22 Q Okay. That's -- I'm sorry. That's the  
23 key here. In your prior transcript you mentioned  
24 that he may have read the report. I just wanted to  
25 know if he had -- "he" meaning Coronado --

3055

01 A Okay. Before you -- the question before  
02 was, did he read the report? What you're asking me  
03 now is -- was he aware of that --

04 Q Did he have direct knowledge --

05 MR. MC KESSON: Don't talk at the same time.

06 THE WITNESS: Absolutely. You gotta remember,  
07 working with Coronado, we're putting him in the  
08 report as recovering evidence that we're eventually  
09 going to go to court on. So I mean, he's going to  
10 have to testify on this. So we made sure that, you  
11 know, "Hey, we're going to put you down as  
12 recovering the narcotics in this location." And he  
13 was okay with that.

14 BY SERGEANT COOK:

15 Q And this was a discussion that you had at  
16 the scene?

17 A Yes.

18 Q Fine. Now, the money that you recovered,  
19 in your prior interview --

20 A Yes, sir.

21 Q -- you were uncertain as to the amount of  
22 money that was taken.

23 A Yes, sir.

24 Q Has anything refreshed your memory since  
25 then?

3056

01 A I know it was a large quantity of money.  
02 When I say "large," it was over \$500.

03 Q Okay. And you just don't --

04 A The exact amount?

05 Q Okay.

06 A No, sir.

07 Q Now, can you tell me if that was recovered  
08 from either Nolasco or Virula? Can you make that  
09 distinction?

10 A I think the money was -- well, I know the

11 money was recovered from inside.

12 Q Okay.

13 A I mean, there may have been some money on  
14 him, but I think the vast majority of the money was  
15 recovered inside the residence.

16 Q Did you recover it or did Durden recover  
17 it?

18 A I think -- I think Durden and -- both --  
19 both Durden and myself recovered different moneys  
20 from different locations.

21 Q Okay. Do you have a recollection where  
22 you recovered money from?

23 A Where exactly I recovered it from?  
24 I want to say that there was a --

25 MR. MC KESSON: You're shaking your head no,  
3057

01 but you didn't say no.

02 THE WITNESS: Because I can't really say no  
03 because I have a slight recollection that there was  
04 a, I want to say, like, a four- or five-dresser  
05 drawer, and it was, as you walk into the bedroom, on  
06 the right-hand side. And on the top drawer, I  
07 remember there being money there.

08                   Now, I don't remember if that was the  
09 money that I -- I was the first one to see and  
10 recover, or had Durden found it and said, "Hey, we  
11 got some money here," and you know, it was there.  
12 But I do remember money being in a particular  
13 drawer. I just don't remember if it was me that  
14 recovered that.

15           SERGEANT COOK: Okay. Well, for the record,  
16 I'm just looking at my notes right here. We're on  
17 tape number 230616, side A.

18 BY SERGEANT COOK:

19           Q       And I'm getting to the close of this  
20 particular investigation.

21                   Did McGee actually give you booking  
22 approval? And when I say "actually" gave you  
23 booking approval, did you circumvent that by just  
24 writing -- by just booking him and writing on the  
25 report that you got booking approval from McGee?

3058

01           A       In F.E.S. we would always talk to our  
02 supervisors about our arrests, always. I'm not sure  
03 if you're asking me, did he sign the booking  
04 recommendation or not?

05 Q Well, what I'm more concerned about is,  
06 did you go through him and discuss -- discuss the  
07 arrest as you said you did?

08 A McGee and Lusby both assisted us in this  
09 operation. They ended up being inside the apartment  
10 to this residence while we were doing the call-out.  
11 They called another narcotics dealer out for us, the  
12 arrestees, and Lusby and McGee were both there when  
13 we did all that. So they were definitely well aware  
14 of this arrest.

15 Q And as a matter of practice, can you tell  
16 me if McGee read your report?

17 A I can tell you what normal standard  
18 operational procedure with the narcotics detectives  
19 at F.E.S. -- they definitely read the reports.

20 SERGEANT COOK: Okay. Okay. That's all that  
21 I have, and that's going to conclude this interview  
22 at -- the time now is?

23 MR. ROSENTHAL: The time now is 12:40.

24 SERGEANT COOK: Thank you.

25 MR. ROSENTHAL: And we're off the record for a

3059

01 moment.

02 (Pause in the proceedings)

03 MR. ROSENTHAL: The time is 12:51. We're back  
04 on the record.

05 Mr. Perez, you're still under oath.

06 THE WITNESS: Yes, sir.

07 MR. ROSENTHAL: And this -- let me get the D.R.  
08 number and case number out on this right away. This  
09 relates to the arrest of Laura Villatora. D.R.  
10 number is 970224601. District attorney case number  
11 is BA153152.

12 SERGEANT COOK: Okay. This is Internal Affairs  
13 investigation yet to be numbered. Today is April  
14 14th, year 2000. Time now is 1251 hours. I am  
15 Sergeant John Cook conducting this interview. We're  
16 on tape number 230617, side A.

17 Present is Melina Johnson, who is the  
18 court reporter. And we have the attorney Kevin  
19 McKesson and also District Deputy Attorney -- Deputy  
20 District Attorney Richard Rosenthal. We're  
21 interviewing Rafael Perez.

22

23 FURTHER EXAMINATION

24 BY SERGEANT COOK:



25 Q Ray, did you have the opportunity to  
3060

01 review the arrest report involving Laura Villatora?

02 A I've reviewed both the arrest report and  
03 the transcript of my earlier interview.

04 Q Okay. Now, the information for this  
05 arrest came from an informant?

06 A One of Coronado's informants, yes.

07 Q And do you know the identity of that  
08 informant?

09 MR. MC KESSON: Do you want him to put the name  
10 on the record? Because I know what has been  
11 happening, Officer Cook -- Sergeant Cook, is that  
12 the district attorney's office is in the process of  
13 redacting names --

14 SERGEANT COOK: Why don't we do that then. Why  
15 don't we do that.

16 BY SERGEANT COOK:

17 Q But you know the identity of that  
18 informant?

19 A I have an idea, but I don't -- the names  
20 are a problem.

21 Q Now, it was just you and Coronado handling

22 this particular investigation?

23 A Yes, sir.

24 Q Did you have a plan?

25 A Yeah, I went to the front of the house; he  
3061

01 went to the rear of the house.

02 Q He went to the rear of the house?

03 A To the rear of the house.

04 Q That was the plan?

05 A That was the plan.

06 Q And if you were at the front of the house,  
07 how do you know what transpired at the rear of the  
08 house?

09 A I can hear him yelling --

10 Q You could hear him yelling?

11 A -- so I knew he had made contact, so I ran  
12 back to the rear.

13 Q What was the plan, basically?

14 A The plan was he knocked on the rear, maybe  
15 somebody ran to the front, and I would just detain  
16 the person. We were looking for a female who we  
17 were aware had a felony warrant, number one, and was  
18 still dealing marijuana.

19 Q Okay. Was that female, in fact, at the  
20 house?

21 A Yes, sir.

22 Q Okay. Now, were you given -- did you  
23 seek consent to go inside the house?

24 A No, sir.

25 Q Did your partner, Coronado, seek consent?  
3062

01 A No, it's -- it was a big struggle at the  
02 rear of the door when she eventually opened the  
03 door.

04 Q Okay. Was this loud banging or knocking  
05 on the door to gain entry?

06 A Yes, sir.

07 Q And were you in uniform?

08 A Plainclothes.

09 Q Plainclothes. So did either you or  
10 Coronado announce yourself as police officers to  
11 come in?

12 A I believe there was some announcements  
13 that we were police officers, yes.

14 Q Okay. Did you make that announcement?

15 A Officer Coronado did.

16 Q You heard that from where you were?

17 A He had his badge out.

18 Q Okay.

19 A Badge or -- I'm sorry, he had a badge --  
20 what we call on a little chain around his neck. And  
21 I remember him saying -- saying, "Policia" and "Open  
22 the door," things like that.

23 Q Okay. So you made -- so Coronado made  
24 entry at the rear entrance?

25 A Well, by the time he was making entry,  
3063  
01 I was already there. Eventually -- apparently what  
02 happened was the female came to the door, saw  
03 Coronado, ran back in -- from the -- left the window  
04 and went back inside. And he started yelling,  
05 banging on the door, you know, "Open the" -- I could  
06 tell he had made some type of contact, so I ran back  
07 up to the rear.

08 As I'm getting to the rear, I can see that  
09 she opened the door, and now they're in a struggle.  
10 He's pulling her by the hair. He throws her to the  
11 ground, trying to subdue her. She was kind of  
12 getting a little irate.

13 Q Why was there a struggle? Why couldn't  
14 he -- did you see any assault or any attack, on her  
15 part, on him?

16 A No. I think it was as he was making his  
17 way in, she was trying to stop him, and that's when  
18 the struggle began.

19 Q Okay.

20 A And it wasn't like an assault, like, you  
21 know, he started hitting her. It was more like he  
22 just -- the best thing he could grab was the hair to  
23 be able to throw her to the ground.

24 Q And when he took her down by the hair,  
25 did he do anything else?

3064

01 A I believe he handcuffed her.

02 Q Okay. A use of force that was not  
03 reported?

04 A Yeah, there was some force used, so I  
05 guess it would be a use of force, yes, sir.

06 Q It was not reported?

07 A No, it was not reported.

08 Q Now, once inside, did you contact another  
09 female?

10 A Yes.

11 Q The mother, Laura Villatora?

12 A Yes.

13 Q This was the daughter that Coronado was  
14 pulling by the hair?

15 A Yes, sir.

16 Q Now, at that point did you obtain consent?  
17 Did you search the house -- or the apartment?

18 A Once everybody was detained and  
19 handcuffed, we started searching, looking around.  
20 We -- we could see that one of the toilets had  
21 marijuana floating on top of it, so we knew that  
22 they had flushed at least some marijuana. Maybe  
23 your question is, did we get a consent, right?

24 Q Yes.

25 A I don't remember asking for a consent.

3065

01 I know we went right in. We definitely didn't ask  
02 consent of the female that originally opened the  
03 door, I mean, because there was a big struggle. And  
04 I don't remember asking Villatora, the mother, for  
05 consent.

06 Q Do you remember Coronado asking for

07 consent?

08 A No, I do not.

09 Q Okay. Now, was Coronado with you when you  
10 were in the apartment?

11 A We were together, yeah. I mean --

12 Q Okay.

13 A You mean at all times? Is it possible  
14 that he could have asked when I wasn't --

15 Q Yes.

16 A -- present?

17 Q Sure.

18 A Anything is possible.

19 Q Okay. Now --

20 MR. ROSENTHAL: Would that have been before or  
21 after he was struggling with the woman and throwing  
22 her down on the ground?

23 THE WITNESS: That would have been much after.

24 BY SERGEANT COOK:

25 Q Now, who did the searching?

3066

01 A Of what location?

02 Q Of the apartment.

03 A We both did some searching.

04 Q One officer maintains -- maintains  
05 security over the -- over the two suspects?

06 A Initially Officer Coronado is speaking  
07 with the females, and I'm looking around. And then  
08 at some point, I start talking to them, and he  
09 begins to look around.

10 And then at some point -- if you go  
11 through -- if you go from the back door and you go  
12 straight back, it would actually be the front window  
13 of the place. He climbed out that window and came  
14 out with the bag. And he -- in other words, he  
15 found the marijuana that we were looking for.

16 Q Okay. Now, from the time that you got in  
17 and sat everyone down, and both you and Coronado  
18 alternately were searching the apartment, how much  
19 time had elapsed, approximately, when Coronado went  
20 to what you say -- a what, a balcony? -- before  
21 Coronado found --

22 A It's not a balcony. But you know how if  
23 you have a two-level house, and the bottom floor has  
24 a little porch area?

25 Q Yes.



01           A     So the roof of that porch area -- it's not  
02 a balcony or anything like that, you know.  You're  
03 not supposed to be hanging out up there.  But he  
04 stepped out onto that, and somewhere up in there  
05 found the big bag full of marijuana.

06           Q     How much time had elapsed, approximately?

07           MR. MC KESSON:  From when?

08 BY SERGEANT COOK?

09           Q     From the time you first made entry into  
10 the house and had conducted your search to the time  
11 that you recovered this bag of marijuana.

12           A     And I'll be -- I'll be guessing, you  
13 know --

14           Q     Approximately.

15           A     I'll say maybe 10, 15 minutes had elapsed.

16           Q     10, 15 minutes?

17           A     Yes, sir.

18           Q     And to your knowledge, you did not request  
19 consent to search?

20           A     I --

21           MR. MC KESSON:  You say "you."  You mean him?

22 BY SERGEANT COOK:

23           Q     You did not request consent?

24 A I definitely didn't.

25 Q And to your knowledge, you did not hear

3068

01 Coronado request consent to search?

02 A I know he definitely didn't request  
03 consent from the daughter. And I didn't hear him  
04 asking Mrs. Villatora either.

05 Q Okay. Did you -- and this information  
06 came to my attention -- did you hear the daughter  
07 tell her mother that, "You know where the dope and  
08 money is. Why don't you just tell the officers  
09 where it is?"

10 MR. MC KESSON: Say that again. Can you repeat  
11 that?

12 BY SERGEANT COOK:

13 Q Did you hear the daughter tell her mother,  
14 "You know where the dope and money is. Just tell  
15 the officers where it is"? Did you hear that?

16 A At least I don't remember hearing it.  
17 I mean -- anything is possible, again. But I just  
18 don't remember hearing that.

19 MR. MC KESSON: Is that in the report, Sergeant  
20 Cook?

21 SERGEANT COOK: It's information that came to  
22 my attention.

23 MR. MC KESSON: No. I'm saying, is it in the  
24 report?

25 SERGEANT COOK: No. No.

3069

01 MR. ROSENTHAL: It's not in the arrest report  
02 prepared by Perez and Coronado.

03 MR. MC KESSON: That's what I meant.

04 BY SERGEANT COOK:

05 Q And so it's your recollection that  
06 Coronado, during the course of his searching, went  
07 out into this roof area and recovered the bag of  
08 marijuana approximately 10 to 15 minutes into the  
09 search?

10 A Yeah, because I remember -- I remember him  
11 saying something like, "Here it is" or "I got it."  
12 And I met him right at the window.

13 Q Okay.

14 A If I remember correctly, it was like a  
15 dark bag, like a -- you know, those plastic bags,  
16 but the black ones.

17 Q And in this particular arrest report -- of

18 course, we've already gone over this, but just to  
19 clarify it -- Coronado wrote the report?

20 A Yes, sir.

21 Q And the information about the -- about the  
22 probable cause was fabricated?

23 A Which information?

24 Q The probable cause to get into the  
25 residence. He came up to the residence, identified  
3070

01 himself as a police officer, said that he was there  
02 on a narcotics investigation.

03 MR. MC KESSON: That's not really probable  
04 cause, is it?

05 THE WITNESS: Right. Well, I'm a little lost  
06 there.

07 MR. ROSENTHAL: Well, the report describes a  
08 consensual encounter.

09 MR. MC KESSON: Yeah, well, that's different  
10 from --

11 MR. ROSENTHAL: Right. That's why I'm  
12 suggesting that that's what the report says. And  
13 I think the question is --

14 MR. MC KESSON: Is that fabricating?

15 MR. ROSENTHAL: -- is the consensual encounter  
16 information contained in the report fabricated?

17 THE WITNESS: Is that your question?

18 BY SERGEANT COOK:

19 Q That information is fabricated?

20 A Yes. I mean, quite obviously, they  
21 weren't giving us consent if we're sitting there  
22 having to struggle with the female trying to --  
23 letting you in. So I think there was some  
24 identification made, but there was definitely no  
25 consent to come on in and search or anything like  
3071  
01 that.

02 Q Okay. But as the district attorney  
03 stated, the consensual -- this was not a consensual  
04 encounter?

05 A No.

06 Q Now, did Lusby ever come to the scene, if  
07 you recall?

08 A From what I remember, I believe we had a  
09 unit show up, yes. They may have not come inside  
10 the residence, but I believe they showed up. [\* CI#21 \*]

11 [\*\*\*\*\* CI # 21 Information Redacted \*\*\*\*\*]

12 [\*\*\*\*\*]

13 Q [\*\*\*\*\* CI # 21 Information Redacted \*\*\*\*\*]

14 A [\*\*\*\*\* CI # 21 Information Redacted \*\*\*\*\*]

15 Q Okay. And Lusby gave you booking  
16 approval? It's in your report. I just want to know  
17 if you have an independent recollection of him  
18 giving you booking approval.

19 A Our supervisor would've definitely given  
20 us approval. Whether it was Lusby or McGee, I would  
21 have to check it out.

22 Q If Coronado recovered the evidence, why  
23 did he write that you recovered the evidence?

24 A I don't know. I think you might have  
25 asked me that before. I have no idea. I know, you  
3072

01 know -- I know how I do it sometimes, and it's like,  
02 "Hey, you want a subpoena? I'll put you down for  
03 recovering this," or you know, "You want to recover  
04 that?" or "You made this" -- or you know, that type  
05 of thing. But why he had me recovering it, I don't  
06 know. I mean --

07 MR. MC KESSON: Could it be because he was  
08 involved in this struggle with the lady?

09 THE WITNESS: I have no idea why he did it.

10 BY SERGEANT COOK:

11 Q Okay.

12 A You know, he just said, "I'm going to put  
13 you down for recovering it." And I said, "Sure."

14 SERGEANT COOK: Okay. That's all my  
15 questions. That's going to conclude the interview.

16 The time now is --

17 MR. ROSENTHAL: 1:04.

18 SERGEANT COOK: -- 1:04.

19 (Pause in the proceedings)

20 MR. ROSENTHAL: We're back on the record. It's  
21 1:18.

22 And, Mr. Perez, you're still under oath.

23 THE WITNESS: Yes, sir.

24 SERGEANT COOK: This is Internal Affairs  
25 investigation yet to be numbered. Today's date is  
3073

01 April 14, year 2000. The time now is 1318 hours.

02 We're on tape number 230618, side A.

03 I'm Sergeant John Cook, 25353, conducting  
04 this interview. Present in the interview is Melina  
05 Johnson, the court reporter, Attorney Kevin

06 McKesson, and Deputy District Attorney Richard  
07 Rosenthal. We are currently interviewing Rafael  
08 Perez.

09 MR. ROSENTHAL: And if I may, this relates to  
10 D.R. number 970732803, district attorney case number  
11 BA155839. This is the arrest involving Jesus  
12 Flores, Julio Ramirez, and Oscar Flores.

13

14 FURTHER EXAMINATION

15 BY SERGEANT COOK:

16 Q Ray, have you had the opportunity to  
17 review the report regarding the arrest of Jesus  
18 Flores, Oscar Flores, and Julio Ramirez?

19 A I have reviewed the report. I've also  
20 reviewed the transcripts of my prior interview.

21 Q Okay. A couple of specific questions.  
22 When you and Coronado and Durden came upon the  
23 residence, you had difficulty getting into the  
24 residence, is that correct, the apartment?

25 A Yes.

3074

01 Q Okay. In your prior statement you said  
02 that Coronado knocked on the door, but there was no



03 answer.

04 A That's correct.

05 Q And Coronado went around to the side and  
06 looked through a window, but there was a mattress  
07 covering -- obstructing his view?

08 A He went to a fire escape and tried to look  
09 through the window, but he couldn't see anything.  
10 It was covered by a mattress.

11 Q So you developed a plan?

12 A Yes, sir.

13 Q And this plan was initiated by Coronado?

14 A And agreed to by the rest -- by myself and  
15 Durden.

16 Q Okay. And initially -- well, for the most  
17 part then, you were going to just kick down a door  
18 and force your way in, but you made this plan so you  
19 would have the probable cause to get in; is that  
20 correct?

21 A Yes, sir. Yes, sir.

22 Q Now, who made entry? It was you --

23 A We all made entry.

24 Q All three of you made entry?

25 A Into the location?

3075

01 Q Yes.

02 A Yes, we all went in.

03 Q All three of you went in. And when you  
04 got into the residence and you detained -- what,  
05 three suspects?

06 A I believe there was three, yes.

07 Q Okay. Did you immediately begin your  
08 search for narcotics?

09 A No. We detained the three defendants  
10 first.

11 Q Once they were detained?

12 A Yes.

13 Q Okay. Did you ask for consent?

14 A No. There was cocaine everywhere.

15 Q Cocaine everywhere?

16 A Everywhere.

17 Q Okay. Now, approximately how long were  
18 you at the apartment?

19 A I would say we were probably at the  
20 apartment about 45 minutes.

21 Q Did any other officer show up at the  
22 apartment? If I can jog your memory, perhaps

23 someone to take photographs?

24           A     Yeah, I think we might have requested a  
25 Polaroid or something like that. I remember we took  
3076

01 photos of dope that was sitting on a table. We took  
02 some photos. I just don't remember who took the  
03 photos.

04           Q     But it was an additional officer to assist  
05 you?

06           A     I believe so, yes.

07           Q     And you just don't recall the identity of  
08 that officer?

09           A     (No audible response)

10           Q     Perhaps this will help you: If I describe  
11 the officer as perhaps being 55 years old and having  
12 blonde hair, would that help you?

13           A     That's who I was -- but I'm trying to  
14 picture him.

15           Q     Does that description --

16           A     You're talking about Detective McGee, and  
17 I'm -- that's what I was going to say, that it was  
18 Detective McGee that responded from the trailer,  
19 but I'm just trying to picture him there. It would

20 have been right towards the very end of the  
21 investigation. He would have just come to take  
22 photos of some of the things that were there, the  
23 pots and pans and other things, stove. But I  
24 vaguely remember him.

25 Q Okay.

3077

01 A Vaguely.

02 Q Okay.

03 (Discussion off the record)

04 BY SERGEANT COOK:

05 Q Now, when you gathered all of -- all of  
06 your narcotics, and you transported the  
07 officers -- excuse me, transported the arrestees,  
08 was Coronado with you when you transported the  
09 arrestees back to the station?

10 A Yes, sir.

11 Q At what point did Coronado leave? Because  
12 in your prior statement you said that Coronado had  
13 to go to a detective seminar.

14 A Yes, sir.

15 Q At what point did he leave, if you recall?

16 A Probably sometime around -- I want to say

17 about -- I want to say about 4:00 o'clock. I'm not  
18 100 percent sure. I know it was a seminar that was  
19 being held up at the academy, for people who were  
20 going to take the detective exam.

21 Q Okay.

22 A But I'm not sure what time. I know he --  
23 he did this to us several times, you know, hey,  
24 let's go get into something, and he'd go, "Hey, can  
25 you write the report? Because I have to go to this  
3078

01 seminar." I just don't remember exactly what time  
02 he might have left, might have been 4:00 o'clock,  
03 4:30.

04 Q And that was the reason why you wrote the  
05 report?

06 A Right. Because this was his clues, his  
07 informant. It was really his case. I just ended up  
08 writing it -- or maybe my partner wrote it. No, I  
09 wrote it.

10 Q Now, in the report it lists that you  
11 recovered -- well, actually, it lists that Coronado  
12 recovered narcotics from inside the refrigerator.  
13 Is that accurate?

14 A Yes.

15 Q Okay. And it also lists that Coronado  
16 recovered \$55 from the living room floor. Is that  
17 accurate?

18 A Yes, sir.

19 Q Okay. It's just that the probable cause  
20 to make entry was not accurate?

21 A We had no probable cause to go inside.  
22 That's why we fabricated the -- we didn't actually  
23 fabricate a probable cause. We actually fabricated  
24 a sales. We said that, you know, we asked to buy  
25 narcotics, and he came out with a bindle. That  
3079

01 whole thing, that never took place.

02 Q Yeah, okay.

03 A So it's a little bit more than probable  
04 cause. We fabricated a crime.

05 Q Okay. Now, the theft of one pound of  
06 cocaine --

07 A Yes, sir.

08 Q -- in your prior statement you said that  
09 perhaps that day or the next day you were involved  
10 in a sale of a quarter.

11 A That same day.

12 Q That same day?

13 A Yes, sir.

14 Q And this was the person in the ponytail?

15 A He was the one driving what appeared to  
16 be what he was using as a taxi cab. I think it was,  
17 like, dark green, like emerald green, or maybe one  
18 of those, you know -- a blue, like a metallic blue.  
19 It wasn't, like, a yellow cab. It was a --  
20 I believe it was a Caprice, but a four door. He was  
21 male, Hispanic, dark-skinned, with a long ponytail.  
22 And I believe he lived right off of LaFayette or  
23 something like that.

24 Q Okay. And I don't have the transcript,  
25 but the -- what did you negotiate for the sale of

3080

01 that cocaine?

02 A The quarter? The first quarter?

03 Q The quarter.

04 A Actually, I think it was a total sale  
05 of -- I believe it was a \$2400 sale -- 23 or \$2400.  
06 I think he wanted 500 worth of rock and a quarter,  
07 quarter pound of cocaine. It was either 23 or

08 \$2400.

09 Q Now, when you say \$500 worth of rock, you  
10 recovered eight ounces of rock cocaine?

11 A No. We recovered, I don't know, maybe  
12 about 30 ounces of rock cocaine. We kept about  
13 8 ounces of rock cocaine.

14 Q When this -- when this -- when this cab  
15 driver -- did you sell him a portion of that rock  
16 cocaine that you kept?

17 A No, sir. The person he dropped off --  
18 he -- we negotiated to meet at Third and LaFayette,  
19 the -- the northeast corner. There is a little wall  
20 there off the sidewalk with, maybe, plants inside.  
21 When I arrived they were already there. My partner  
22 drove from the station right down Benton Way, made a  
23 right on Third, and pulled over.

24 Q Your partner Durden?

25 A My partner was driving. He was driving a  
3081

01 black Thunderbird. The people -- the guy with the  
02 ponytail -- the cab driver -- and the other male was  
03 already there. I walked out of the car, walked over  
04 to him, and handed him the bag. He opened -- I gave



05 him the bag of the quarter of powder cocaine. He  
06 opened the powder up and put a little in his mouth,  
07 tested it, and said it was good.

08           There was one problem. When I showed up,  
09 I came with \$500 worth of rock, but it was nickels,  
10 and he wanted the dimes. So I had to go -- we had  
11 to go back to the station, come back with 500 worth  
12 of rock in dimes instead of nickels.

13           Q     When you came back with the dimes, was  
14 that the rock cocaine that you took from that  
15 residence?

16           A     Yes, sir.

17           Q     Okay.

18           A     And so was the powder cocaine.

19           Q     Can you tell me when you sold the other  
20 three quarters?

21           A     Couple of days later we sold -- we sold  
22 him another quarter and some more rock cocaine.  
23 Again, we met -- this time they both came, the cab  
24 driver, the male, and his wife. They all came. We  
25 sold them the narcotics.

3082

01           And each time the money was in a paper

02 bag -- well, one time it was in a plastic bag, but  
03 most of the times it was in a paper bag, you know.  
04 I would not count it in front of them. I would just  
05 take it, take their word for it, and leave. And  
06 then another time --

07 Q Excuse me, that same amount of money,  
08 2400?

09 A Yes, I believe it was the same amount, a  
10 quarter and about 500 of rock.

11 Q Okay. Again, you and Durden?

12 A Yes, sir.

13 Q And this is two days later?

14 A I'm not going to say it was two days  
15 later. It was maybe a few days later, maybe three  
16 days. I can't be certain.

17 Q Okay. And you now -- you have a  
18 half-pound that remains. When was that sold?

19 A Well, we sold him another quarter and more  
20 rock. I went to -- I was at a Dodger game with  
21 Sammy Martin. I get a page. I have -- I have  
22 Mr. Flores' pager with me. That's how we're making  
23 these deals. I received a page from the cab driver  
24 that the -- that one client needs another quarter

25 and 500 of rock.

3083

01 I'm at a Dodger game. I called Durden and  
02 says, "Hey, the guy wants to meet up at Alvarado and  
03 Olympic, at the southwest corner, with the usual."  
04 And I told him, "You know where it's at, right, the  
05 Igloo thing?"

06 He -- we had already left for work or  
07 something, so he was already at home. He said he  
08 would go all the way back to the station and make,  
09 you know, the delivery. He did that, delivered it,  
10 got the money, and left.

11 The taxi driver called me back, paged me  
12 again. I called him on my cell phone, and he said,  
13 "Who was that guy that you sent? He's all nervous,  
14 and he's sweating. He looks real nervous. Plus,  
15 the rock that he delivered is all crumbled up."  
16 Because he had it in his jacket, and it was all --  
17 he had it all tight against his body. And all the  
18 rocks broke apart.

19 So I had to call Durden back and tell him,  
20 "Go back, recount another 500 worth of rock, and  
21 make sure you don't break them." And Durden went

22 and did that.

23 Q Okay. When you went to this Dodger game,  
24 can you estimate how far back that -- that was,  
25 estimate?

3084

01 A That would have been maybe, you know,  
02 probably another three or four days after the second  
03 one.

04 Q And the last quarter, when was that sold?

05 A That was actually sold to Veronica  
06 Quesada.

07 Q Okay.

08 A That was part of putting together other --  
09 other dope to sell to her.

10 Q Was Durden with you?

11 A No, sir.

12 Q That was on your own?

13 A Durden had nothing to do with anything  
14 that I sold to the Quesada family.

15 Q And so for all intents and purposes, you  
16 sold all of the eight ounces of rock cocaine?

17 A Yes, sir.

18 Q And you sold that one pound of cocaine?

19 A Yes, sir.

20 Q Okay. That's all I have for this one --

21 oh, just -- just one last thing.

22 Again, Lusby gave you booking approval,

23 and you went through Lusby?

24 A Actually, McGee gave us booking approval.

25 Q Okay. But in the report it says booking  
3085

01 was by Detective Lusby, and that's what I wanted to

02 ask you.

03 A I think we did receive approval from

04 Lusby, but I think McGee signed the booking

05 recommendation.

06 Q Okay.

07 A They were both aware of the arrest.

08 MR. ROSENTHAL: It is 1:32.

09 SERGEANT COOK: That concludes this interview.

10 The time now is 1:32.

11 (Pause in the proceedings)

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

13 1:42.

14 We're going to be discussing a case

15 involving the arrest of Gricelda Orellana and Juan

16 Rojo. This is D.R. 970732931, district attorney  
17 case number BA156027.

18 SERGEANT COOK: Okay. This is Internal Affairs  
19 investigation yet to be numbered. Today's date is  
20 April 14th, year 2000. The time is --

21 MR. ROSENTHAL: 1:42 in the afternoon.

22 SERGEANT COOK: And we're on tape number  
23 230619, side A. I'm Sergeant John Cook, 25353,  
24 conducting this interview.

25 THE WITNESS: Sergeant Cook, I have a  
3086

01 transcript for the arrest that was at Third and  
02 Normandy. And this is the -- I have the arrest that  
03 was at Third and Normandy, and this is the arrest at  
04 Kenmore --

05 SERGEANT COOK: Yeah.

06 THE WITNESS: -- I mean the transcript. This  
07 is strictly the transcripts for the arrest that we  
08 made of her at Third and Normandy, and that's it.  
09 There's nothing about what happened at Kenmore.

10 SERGEANT COOK: I didn't give you this one.

11 THE WITNESS: I'm sorry?

12 MR. ROSENTHAL: Is this the transcript you were

13 initially looking at?

14           You know what --

15           THE WITNESS: This says nothing about it.

16           MR. ROSENTHAL: We may -- according to my  
17 records, actually this is -- we have not discussed  
18 this particular case. We've discussed the other  
19 Orellana/Rojo arrest, which is B.A. 157674.

20           SERGEANT COOK: I just have a couple questions.

21           MR. ROSENTHAL: So actually, I apologize. We  
22 gave you the transcripts for the prior one. What  
23 you simply needed to look at was the arrest report.

24           THE WITNESS: Okay.

25           SERGEANT COOK: I just have a couple questions.

3087

01 Let me -- go ahead. While you're reading that --  
02 Melina Johnson is the court reporter. Kevin  
03 McKesson is the attorney present. Deputy District  
04 Attorney Richard Rosenthal is present. And we're  
05 speaking to Rafael Perez.

06           THE WITNESS: I think we talked about this  
07 one.

08           SERGEANT COOK: Yeah, we talked about it.

09           THE WITNESS: There's got to be a transcript

10 somewhere.

11 MR. ROSENTHAL: All right. It's --

12 THE WITNESS: I think we should probably have a  
13 transcript before I, you know -- how many questions  
14 did you have? Are we going to get into the whole  
15 thing?

16 SERGEANT COOK: No. I'm going to ask you  
17 about consent, and it's in there. It indicates in  
18 the report that there was consent given to --

19 MR. ROSENTHAL: Why don't we just try to go  
20 ahead. If there's -- obviously, if there's  
21 something you don't remember, and then you need to  
22 refresh your recollection with the transcript, we'll  
23 do that. But at least according to my records, I've  
24 only got the other case, 157674, that we talked  
25 about before.

3088

01 THE WITNESS: Okay.

02

03 FURTHER EXAMINATION

04 BY SERGEANT COOK:

05 Q Okay. You recall this particular arrest  
06 where you used a ruse, you're a tow truck driver,



07 Antonio Orellana was injured?

08 A He was in a car accident, yes.

09 Q Okay. And which is contrary to what was  
10 written in the report. And Coronado wrote the  
11 report; is that correct?

12 A I believe so.

13 Q Coronado wrote the report?

14 A Yes, sir.

15 Q And that's contrary to what's written  
16 there?

17 A Absolutely.

18 Q Okay. And my question is, did you use  
19 this ruse to get into the house?

20 A Yes, sir.

21 Q You did. And when you got into the house,  
22 did you identify yourselves as police officers at  
23 that point in time?

24 A Once we were inside, yes.

25 Q Okay. Did you ask for permission to

3089

01 search the apartment?

02 A I don't think we asked permission once we  
03 started searching. I think, eventually, through

04 discussions and talk and Coronado talking to them,  
05 we did get some consent searches signed. But I  
06 think when we first got there and we started  
07 looking, there wasn't a consent yet.

08 Q Okay. This is what you're talking about,  
09 the -- there's a couple of consent forms that are  
10 signed here.

11 A I have copies.

12 Q You have copies of that?

13 A Yes, sir.

14 Q Okay. Now, when you searched you didn't  
15 have consent to search at that time?

16 A No, sir.

17 Q And how long did -- how long was your  
18 search?

19 MR. MC KESSON: Sergeant Cook, I'm feeling a  
20 little bit uncomfortable about this, especially  
21 since he said he did some -- he testified on this  
22 one a little more extensively. It seems like it's  
23 going into more detail than just a couple of  
24 follow-up questions. I'm not saying you're not  
25 allowed to go back into this --

01 MR. ROSENTHAL: Let's hold off. Actually, I'm  
02 looking in my notes, and even though the index does  
03 not indicate a prior talking about this, I do  
04 have -- in my notes, it does indicate that this has  
05 been spoken about before. So why don't we simply --  
06 I'm going to have the court reporter go back through  
07 the notes --

08 SERGEANT COOK: I have it right here.

09 MR. ROSENTHAL: The transcript?

10 SERGEANT COOK: Yeah.

11 MR. ROSENTHAL: May I?

12 MR. MC KESSON: The problem is I'm already  
13 late.

14 SERGEANT COOK: About Antonio --

15 MR. ROSENTHAL: This is about Antonio Orellana.

16 SERGEANT COOK: Yeah, well that's -- that was a  
17 ruse that they used.

18 MR. ROSENTHAL: It's a different -- that's  
19 actually a different case number entirely. That's  
20 BA156035.

21 SERGEANT COOK: This deals with Kenmore. This  
22 is the one I'm looking at. I don't know what you  
23 have, but this is the one I'm looking at.

24 MR. ROSENTHAL: Well, it sounds like we're --  
25 I'm going to have to go through the transcripts and  
3091  
01 get the correct ones. I'm sorry.

02 SERGEANT COOK: Well, I need to ask a couple  
03 questions. And if you can answer them, fine. If  
04 you can't. That's fine too. They're basic  
05 questions, based on what you read in the report.

06 MR. ROSENTHAL: Okay.

07 BY SERGEANT COOK:

08 Q All right. Do you recall -- you recall  
09 that money was taken from this arrest?

10 A At the residence?

11 Q Yes.

12 A Yes.

13 Q Okay. You just don't recall the amount?

14 A Yeah, it's difficult to figure out the  
15 total dollar amount.

16 Q Okay. Do you recall if it was taken from  
17 either Virula or Nolasco, if you recall?

18 A Virula or Nolasco?

19 Q Excuse me.

20 A You mean Orellana or Rojo?

21 Q Yeah.

22 A I believe some of it may have been in his  
23 wallet, Mr. Rojo's wallet.

24 Q Okay.

25 A The reason I remember, a few hundred  
3092

01 dollars bills.

02 Q Okay.

03 A And I think there was also additional  
04 money somewhere recovered.

05 Q Okay. That additional money was recovered  
06 by Durden?

07 A Yes, sir -- actually, I think it was by  
08 both of us. There was additional money recovered  
09 from different places by both of us.

10 Q So just to clarify, when you went into the  
11 residence and began your search, you did not have  
12 consent to search the apartment?

13 A That's correct.

14 Q Okay. And Coronado was there?

15 A Yes, sir, we were at the door together.

16 Q Okay. Did Coronado participate in the  
17 search also?

18 A Yes, sir.

19 Q And at some point in time during your  
20 investigation there, Coronado obtained these signed  
21 consents --

22 A Yes, sir.

23 Q -- forms signed?

24 A Yes, sir.

25 Q Now, was this a situation where you -- you  
3093

01 pressured the -- Rojo and Orellana to sign these?

02 A We were pressuring them, but she was a  
03 little bit more lenient; he was not budging. How  
04 exactly we got them to sign the consents, I don't  
05 exactly remember. I know Coronado did that. But we  
06 were -- we were pressuring them -- or actually, we  
07 were promising them a few things if they would roll  
08 over. Eventually, I think we said that if they  
09 don't sign it, you know, everybody that was in the  
10 house could get arrested, that type of thing.

11 Q Okay.

12 A But I don't recall specifically, because  
13 I didn't get them to sign it. Coronado did.

14 SERGEANT COOK: Okay. That's all I have. That

15 concludes the interview. The time now is --

16 MR. ROSENTHAL: Is 1:51.

17 SERGEANT COOK: -- 1:51.

18 MR. ROSENTHAL: We're off the record.

19 (Concluded at 1:50 p.m.)

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22

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25