

STATEMENT OF

RAFAEL ANTONIO PEREZ

TAKEN AT MTA BUILDING, LOS ANGELES, CALIFORNIA, IN REGARDS TO
CASE BA109900.

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1 REPORTED BY:

2 Sara A. Mahan
3 Stenographic Reporter
4 Los Angeles County District Attorney's Office
5 C.S.R. No. 10647
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27 LOS ANGELES, CALIFORNIA, FRIDAY, SEPTEMBER 10, 1999; 10:10 A.M.
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(On the record at approximately 10:10 a.m.)

MR. ROSENTHAL: All right. Today's date is September 10th, 1999. It is approximately 10:10 in the morning. We are over at the offices of the Los Angeles Police Department Robbery-Homicide Division Task Force.

I'm Richard Rosenthal, Deputy District Attorney.

We're

1 going to be starting a series of interviews with Rafael Antonio
2 Perez, Defendant in Case No. BA109900. Mr. Perez is present
3 with his attorney Kevin McKesson.

4 Also present, and the officers who will be conducting
5 this interview, are, uh, Sgt. Luis Segura, Detective Michael
6 Hohan, Detective Brian Tyndall. And, we also have with us
7 Detective Jesse Castillo.

8 Uh, this is being recorded, uh, by District Attorney
9 Court Reporter. Before we begin, Mr. Perez, I just want to,
10 first of all, set the stage for this. As you are aware, we are
11 conducting this interview, uh, based upon the belief that you're
12 going to be completely honest with us during the course of this
13 interview.

14 Uh, you are going to be placed under oath. As a
15 Deputy District Attorney, I have the power to place people under
16 oath. And we'll be doing that. If it is later determined,
17 particularly if it's determined before time of your
18 sentencing, October 22nd, that you have made any false
19 representations or material
20 omissions, during the course of this or any follow-up
21 interviews, you can be charged with the crime of felony perjury.

22 And any intentional false statements made by you, that
23 could -- that might lead to the filing of criminal charges -- or
24 I'm sorry, any intentional false statements made by you, may
25 lead to the filing of criminal charges if it appears that you
26 have falsely implicated an innocent person in the commission of
27 a crime, or violated any other statute in making such statements
28 or providing such evidence.

If you do not intend to be completely truthful with us

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1 about your own culpability in the crimes we're going to talk
2 about, as well as the culpability of any other people who we're
3 going to talk about, you should not proceed with this interview.
4 Do you understand that?

5 THE WITNESS: Yes.

6 MR. MCKESSON: I would like to say something at the outset.
7 I spoke with my client extensively last night. And I -- I didn't
8 read this section to him, although, I was mindful of this section.
9 Now, there's going to be a time in his interview where he's gonna
10 give information where it may possibly implicate somebody else.

11 But he's not saying that person may have committed a
12 crime. And I just want you to know -- I mean, the purpose is --
13 is -- is to be honest.

14 MR. ROSENTHAL: Right. We're not asking--

15 MR. MCKESSON: So that what -- what -- what I'm saying is,
16 you know, because one thing is we don't want you implicating
17 somebody falsely of a crime. I mean, you put him in a -- in a
18 Catch 22. And I -- and if he tells you of the circumstance where
19 he was on a drug bust, and he understood the amount of money to be
20 a certain amount, and a particular officer counted it, and later
21 they found out it was less than that, I mean he's not saying he's
22 a witness to them stealing the money, but he's being honest with
23 you.

24 MR. ROSENTHAL: No, I'm not asking for Mr. Perez to act like
25 an attorney and reach legal conclusions. All we're asking for is
26 for him to be honest about what he said -- or what he saw, what he
27 heard, any reasonable conclusions he might have reached, what have
28 you.

1 MR. MCKESSON: Well, look. Well, that is a conclusion -- I
2 mean, that's not a legal conclusion.

3 MR. ROSENTHAL: Well, we'll deal with that as we get onto
4 it.

5 MR. MCKESSON: See it as 20,000, and turns up it's really
6 16,000. I mean, you know.

7 MR. ROSENTHAL: As long as he's honest about what he saw,
8 what he said, what he heard, that's all we ask. Uhm, based upon
9 what I've said to you now, uh, this interview is also based upon
10 the conditions that have been mentioned in the September 8th, 1999
11 letter, which you read during the time of your sentencing, which
12 was marked as an exhibit.

13 Uh, that letter explains the circumstances of the plea
14 and the circumstances of this interview. So, we'll be proceeding
15 under that agreement and with the knowledge -- obviously, as I
16 said right now, that we do expect you to be completely honest at
17 this point in time. Uh, you're prepared to proceed?

18 THE WITNESS: Yes, sir.

19 MR. ROSENTHAL: Okay. If you'll please raise your right
20 hand.

21 THE WITNESS: Do you want me to stand?

22 MR. ROSENTHAL: Either way. Raising your right hand is
23 sufficient. Uh, do you swear to tell the truth, the whole truth,
24 and nothing but the truth, so help you God?

25 THE WITNESS: I do.

26 MR. ROSENTHAL: Okay. Be seated. All right. Who wants to
27 --

28 (Off the record for reporter to collect cards.)

1 MR. ROSENTHAL: Okay. So, we're back on the record.

2
3 RAFAEL ANTONIO PEREZ,
4 duly sworn and called as a witness testified as follows:

5 EXAMINATION BY DET. SEGURA:

6 Q I thought the way we would start is we wanted to
7 start-- we wanted to start with the basically conditions of the
8 proffer, the information that, uh, that you had given Mr.
9 McKesson, and then was given to Mr. Rosenthal about possible
10 criminal activity -- criminal activity on the part of five, uh,
11 officers -- a couple of different crimes by members of the
12 L.A.P.D.

13 So, in any particular order, what I'd like, if you'd
14 just give us an overview, a general overview, first of each of
15 these incidents. And then, later on, what we're going to have to
16 do, obviously, is go into much more detail on all of these. But
17 anyone -- any one that you want to start with.

18 A Just under the -- the two that were under the proffer or
19 whatever. You want me to start with those?

20 MR. ROSENTHAL: Well, actually what we can do is there -- the
21 proffer that we received, from Mr. McKesson, was, first of all,
22 related to the shooting that we discussed in court. That was
23 one. The second one was a --

24 MR. MCKESSON: I can tell you.

25 MR. ROSENTHAL: Or -- well, let me -- let me do it the way I
26 understand it. The second one was a -- a death that involved a
27 cover-up. Those were the two that involved issues of excessive
28 force. Then, in addition, we were told that there were three --

1 potentially three other officers who were involved in narcotics
2 violations.

3 MR. MCKESSON: Narcotics or money violations.

4 MR. ROSENTHAL: Right.

5 MR. MCKESSON: Okay.

6 MR. ROSENTHAL: Which-- though do you care what--

7 DET. SEGURA: So, basically, what we wanted to get-- what we
8 want to get today, and what we want to get as soon as possible is
9 --

10 THE WITNESS: You want a synopsis of each one?

11 DET. SEGURA: Right. What we want is a synopsis of who did
12 what, first. And then, we'll go into more detail on that.

13 THE WITNESS: Uh, I'll start with the first one, uh, that, I
14 believe, occurred sometime around -- the dates are kind of sketchy
15 in my mind. But I believe it was May or June of '96. Uh, it
16 occurred -- it was the shooting where Officer Hewitt, Officer
17 Stepp, Officer Montoya, Officer Patel, the Sergeant, uh, present
18 was Sgt. Ortiz.

19 Q BY DET. SEGURA: Which Ortiz?

20 A Eddie Ortiz. Edward. The call him Eddie. Uh,
21 myself was present. And Officer Duarte. And, for some reason,
22 those are the only people that stand out in my mind. I don't
23 recall there's anybody else. There may have been somebody else
24 there like perimeter or something, but those are the only officers
25 I remember right now.

26 Basically, what happened was, an officer-involved
27 shooting occurred. We had a Taurus. The Taurus that I used, uh,
28 at, C.R.A.S.H. parked up front. Well, to start from the

1 beginning, there was never a Taurus there. What we did was, uh, we
2 had, uh, -- uh, commandeered, for better words, uh, a yellow
3 taxicab.

4 Sergeant Ortiz was driving the cab. Myself, I was in
5 the front passenger seat. And Officer Duarte was in the rear
6 passenger. We had information that the day before, uh, two 18th
7 Streeters were killed right in front of, uh -- the streets are
8 going to get me again. Uhm, it's an 18th Street location. Uh,
9 oh, I can't remember the name of the street.

10 MR. ROSENTHAL: Well, we'll be able to get the O.I.S. Report
11 so you can --

12 THE WITNESS: Yeah.

13 MR. ROSENTHAL: So, you don't have to remember the name of
14 the street, at this point.

15 THE WITNESS: At any rate, uhm, the plan was they were going
16 the get four officers to the rear of the building. We do that --
17 after we get the cab, uh, all we did was stop a cab driver,
18 illegal bandit cab, took him to the station and say, hey, we're
19 gonna write you a ticket. Wait right here at the front desk or
20 something. We took his cab back to this -- we have, uh, alpha
21 locations where we meet up. Alpha locations. We met up there.
22 We -- because I was working with Duarte. And she was
23 sort of like the -- the weaker link of the unit or whatever --
24 female. She was -- she was my partner, so I was designated to go
25 to the front. The rear officers were Hewitt, Montoya, Stepp, and
26 Hewitt. They were going to go to the rear.

27 MR. ROSENTHAL: You said Hewitt twice.

28 THE WITNESS: Hewitt, Stepp, Montoya -- Hewitt, Stepp,

Montoya.

1 MR. ROSENTHAL: You said Patel?

2 THE WITNESS: And Patel. Thank you. Uh, they were going to
3 go to the rear of the building and set up there because we
4 had -- we had eyes on the location, uh, that the gang members were
5 up
6 front. There was about four, five, six of them out front with a
7 little vigil.

8 Like I said, two of the -- two of them had just gotten
9 killed the day before. So, we had reasonable knowledge that they
10 were probably going to be armed. You know, they were probably
11 going to go retaliate -- do something.

12 We get the officers to go in the back. They set up
13 there. While they're back there, they -- they catch one of the
14 gang members walking to the back of the building. They pulled
15 him. He has a large, uh, caliber weapon, whatever it was. They
16 detain him. They tell us that they got somebody in custody
17 already in the back. He was armed. And there's
18 probably -- there's going to be more people armed up front.

19 At that point, Sgt. Ortiz, uh, advises him, okay, we're
20 going to do it. Let's -- let's hit it. We, uhm, -- we drive up
21 the street. I can't remember the name of the street. But, as we
22 drive northbound, right to the building that's on the east side of
23 the street, the gang members are right there. But we're in a cab.
24 The windows are all tinted. They can't see who we are.
25 Uh, we get out. And we're starting to approach them right then.
26 And, you know, they're right in front of us. They all get up and
27 start running. Well, we have officers on each floor. I believe
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there was three floors. Maybe four floors. We have an officer on

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1 each floor in the back. The guys -- they had no escape route.
2 They have nowhere to go, either towards us or towards the back of
3 the building, towards the other officers.

4 As soon as this occurs, they start running. And once we
5 get out and start approaching them, they start running. They go
6 -- we -- we start telling them on the radio, "They're running back
7 towards you. They're running back towards you."

8 As soon as they start running towards the back, shots
9 begin to be -- be fired. Shots are being fired. Uh, Duarte's
10 sitting behind the -- the -- the cab. She stays behind the cab.
11 Uh, myself and Ortiz started going inside. We don't know what's
12 going on. We don't know where the gun battle is headed,
13 what's -- what's going on.

14 Sergeant Ortiz stays with Officer Montoya, who had just
15 shot, uh, with a shotgun up some stairs at one of the suspects. I
16 run upstairs. I went up -- I believe to the third floor. As I'm
17 running down the hallway to the third floor, Officer Patel's back
18 is to me. And I hear a gunshot. Boom.

19 And it was a gang member. He's laying on the floor. He
20 lays back. He's talking. He gets one in the ten ring.

21 THE REPORTER: In the what?

22 THE WITNESS: In the ten ring. I'm sorry. It's a center
23 mass. Or right in the center of his chest. And I see that he's
24 still like this. And sort of like a little bit in a state of
25 shock or whatever. I tell him de-cock. Holster up. Holster up.
26 'Cause I was going to handcuff the guy. And I'm looking at the
27 guy. And I know there's no gun there. There's -- there's no gun.

28 Uh, I -- I, then -- as I'm looking at the guy, it's

1 right by the stairs. I see Hewitt and Stepp. They had been
2 shooting at this guy the whole way around. Later -- I mean, they
3 discussed that the guy had dropped the gun already when they were
4 running after him. But they're running out -- down the stairs
5 shooting at him as they're going down the stairs. But when he
6 gets down to the, I believe it's the third floor, I see him laying
7 on the ground right next to the stairs that go upstairs, uh, Stepp
8 and Hewitt come down. And they're like, "Oh, shit. You know, we
9 got him." You know, whatever.

10 They run back upstairs. I mean it took a couple of
11 seconds. Then, they run back down. And Officer Stepp takes the
12 gun and places it on the first -- first stair landing. The first
13 uh, -- the first step to the stairs. He places the gun there.

14 Uh, at that point, the guy's still talking. He seems
15 perfectly fine. He's talking. He's like, "Man, what's going on?"
16 Whatever. He's -- he's talking. I handcuff him. And somebody
17 told me, "Let's just take him downstairs for when the R.A. gets
18 here. Let's take him downstairs." I pick him up. I walk him
19 downstairs, uh, right to where the R.A. finally arrived.

20 Uh, several minutes had passed by this time. Uh, what
21 happens in a situation like that is, set up a, uh, not a decoy but
22 a diversionary person up front so that when a supervisor or
23 anybody else shows up, hold them off there. We're still searching
24 the building or something. All the officers meet up that were
25 involved in the shooting and discuss what happened.

26 Everything is straightened out, cleaned up, whatever.
27 That's -- that's what happens. Uhm, that occurred. Then the guy
28 was -- I walked him down to right where the R.A. met us in the

1 front of the building. Uh, the person that put the -- placed
2 the gun down, they both -- they both ran back upstairs and ran back
3 down together. But, Officer Stepp is the one that put the gun
4 on the first, uh, stair landing.

5 That's the first one.

6 Q BY DET. SEGURA: Okay. All right.

7 A Any questions on this one? Or do you want me to move
8 on?

9 Q BY DET. HOHAN: Just what I'd like to do is go over the
10 names of all the parties involved again. Uh, the Sergeant, Eddie
11 Ortiz.

12 A Mmnh-mmnh.

13 Q Uh, Officer Duarte.

14 A Yes.

15 Q Okay. Uh, Stepp?

16 A Officer Stepp, yes.

17 Q Montoya.

18 A Yes.

19 Q Hewitt.

20 A Yes.

21 Q And Patel.

22 A Those are the ones that stand out in my mind because of
23 the -- of the incident. I believe we had a guy in a building on
24 the roof across the street. I think it was Officer Richardson.
25 But he was just the O.P. He never was in the building until after
26 everything occurred.

27 So, I believe it was Officer Richardson that was up in
28 the building. And I believe we might have had somebody else in

the outer perimeter. I just don't remember who they were.

1 Q BY MR. ROSENTHAL: Okay. If I understand correctly, you
2 say Patel was the one who fired the shot?

3 A Yes, sir.

4 Q And Stepp was the one who put the gun near the victim?

5 A Right.

6 Q Okay.

7 DET. SEGURA: Okay.

8 MR. ROSENTHAL: Go on to the next one?

9 Q BY DET. TYNDALL: Well, what was his condition?

10 A Which one?

11 Q The suspect.

12 A He later died.

13 Q Okay.

14 MR. MCKESSON: You also told me there was something involving
15 that, uhm, falsifying a police report. Describe an incident that
16 had happened differently.

17 THE WITNESS: Yeah, well, obviously, we described the whole
18 incident differently. Uh, but, one of the things that we -- we
19 did right away, Eddie Ortiz said, "Get the cab out of here. Take
20 it right away." Before we started notifying, you know, people and
21 everything else.

22 "Take the cab out of there. Get the Taurus back and
23 bring it around and position it where the -- where the, uh,
24 taxicab was."

25 So, we got the cab out of the there and parked it. So,
26 when we were interviewed or whatever, yes, we were driving this
27 police car. Drove it this direction. And it was actually a
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yellow cab instead of a unit.

1 Q BY DET. HOHAN: But, in the shooting report, it will
2 appear that you pulled up in your unmarked police car?

3 A Yes, sir.

4 Q BY DET. TYNDALL: Okay. Let's go on to the next one,
5 please.

6 MR. ROSENTHAL: If you want, you can try and do it
7 chronologically, if that's helpful. Otherwise, do it however is
8 helpful. Whatever's easiest for you.

9 THE WITNESS: I'm trying to think chronologically now.
10 MR. MCKESSON: Why don't you tell them about the second
11 shooting?

12 THE WITNESS: Okay. We'll talk about the second shooting.
13 We'll take the -- the drugs or whatever?

14 MR. ROSENTHAL: Whatever you want.

15 THE WITNESS: Uhm, Lake. The street, I remember. Lake
16 and -- 12th and Lake or 11th and Lake is where this occurred on
17 this one -- apartment building.

18 Q BY MR. ROSENTHAL: You know what? Actually, do we want
19 to -- why don't we hold off on this one, 'cause I'm going to have
20 to ask you a lot of specific questions on this one. We already
21 have a general idea of what it's about, based on what you said in
22 court.

23 So, why don't we skip over this one and go, or generally
24 describe the narcotics -- the non-shooting incidents. And we'll
25 get back to this one in a couple of minutes.

26 A Do you want that in chronological order, too?

27 Q Whatever's easiest for you. If that helps, by all
28

1 means. If it's not, just go with what's the most significant. In
2 that order whatever you think is easiest.

3 A Okay. I'll start with Officer Perez, uh, Officer
4 Coronado! and Officer Durden.

5 Q BY MR. MCKESSON: Perez? That's you?

6 A Yes, I'm sorry. That's me. I'm -- I'm just painting a
7 picture in my own mind. Officer Coronado, uh, the same informant
8 that he's -- he's been using for a long time, gives him a clue
9 that -- and again, I'm not going to remember the name of the
10 street. Uh, you know what I was gonna ask was, that if you guys
11 brought the -- you know, the Narcotics Recap book and the
12 C.R.A.S.H. Recap book, I could refer to it a lot easier, as far as
13 the date. 'Cause everything is recapped.

14 MR. ROSENTHAL: Well, what we're going to be able to do, is
15 once you give us the information, we'll be able to go back and
16 find reports, etcetera. And, then, we'll give you an opportunity,
17 uh, to review those reports and verify that they're the correct
18 incidents.

19 THE WITNESS: Because I'm not going to remember the name of
20 where the building is. I believe it's either Kingsley or
21 Gramercy, or one of the those streets. Uh, well, maybe even New
22 Hampshire. But, at any rate, Officer Coronado received
23 information that there's, uh, several dope dealers in the
24 location. And they're definitely, positively, they're in there
25 dealing, or cooking up and cutting up. Not dealing out of the
26 house, but cooking up and packaging and all this other stuff.
27 Myself, Coronado and Durden go to the location. We make make our
28 way into the building. Uhm, we walk up to where the

1 apartment supposedly is going to be the apartment that they're
2 cooking up. And we listen in there. And we hear some noise. But
3 there's nothing. You know, nothing that we really can do.
4 Officer Coronado -- the apartment is right by the fire
5 escape -- the front fire escape. He walks out to the fire escape
6 and tries to look into the -- the building, or the apartment --
7 the window of the apartment. It has a mattress up on the window so
8 you can't see anything inside.

9 We decide to just knock on it and see if somebody would
10 come out. But you hear people kind of like -- but nobody comes
11 out, nobody does anything.

12 Coronado! suggests, well, let's just do this. Let's say
13 that we came out. We offered to -- to buy, uh, from him. And he
14 was getting ready to buy to us. He came out with the brown
15 baggie. When he came out, he saw who we really were. He dropped
16 it. And that's why we kicked the door down.

17 So, that's pretty much how it went. When the guys
18 didn't answer the door, we kicked the door. I don't remember. I
19 think all three of us, at one point, kicked the door. It took us
20 a couple of tries. We kicked the door and finally went in. As we
21 went in, there's one person, uh, breaking rock and putting it
22 inside the toilet. There's drugs everywhere. Drugs, you know,
23 rock and powder, everywhere.

24 Uhm, at that time, we detained everybody. Uh, Officer
25 Durden, and myself, we recover a white paper bag. Inside the
26 white paper bag or small little white bag, is approximately a
27 pound of powder cocaine. We keep that. We didn't book it. We
28 also, when we get back to the station, there was probably, I would

1 say 24 ounces of rock cocaine already rocked up. And we kept
2 probably, I'll say eight ounces of already rocked-up cocaine.
3 Uhm, we get back to the -- the rock cocaine, we
4 separated and took it out once we get back to the station. We get
5 back to the station, the defendant's pager starts going off. And
6 what we normally would do is call them back and see, you know,
7 what they need and meet us, you know, and just take them down for
8 whatever.

9 Well, on this particular occasion, we do that. And the
10 person that's -- that pages, I call him back. I call him back. I
11 usually did all the calling because it is was all Hispanics. I
12 was basically the only Hispanic-speaker in the unit. I was always
13 the one that made all the contacts. That's why in the reports or
14 in the interviews with Durden, it's always me talking. Because
15 I'm the only Spanish-speaker. All the informants -- all the
16 defendants in Rampart are Hispanic.

17 We call him. And this was the first time that any
18 narcotics was sold by myself or -- I don't know about Officer
19 Durden -- but by myself.

20 Q BY MR. ROSENTHAL: Any idea when this was,
21 approximately?

22 A If I had the Recap book, I could tell you a lot closer.
23 If I had to guess, it was probably, I would say September
24 sometime. August, September of '97-- or '97.

25 Q '97?

26 A Yeah, '97. Uhm, we called the-- the -- we called the,
27 uh, the person that paged. He calls back says, "Yeah, you know, I
28 need a -- I need a quarter." And I'm talking like I'm a

1 dope dealer. Yeah, okay. You know, what do you want in Spanish
2 and everything. And he said, "Yeah, I need a quarter." Quarter
3 meaning quarter pound of cocaine.

4 And, initially, the plan was to just go down there and,
5 you know, get him as he's trying to buy drugs. Which doesn't
6 really explain why we were keeping the -- the powder cocaine and
7 we didn't book it. But the actual intention, initially, was to
8 just go down there and stop him. Well, when I get there, Officer
9 Durden drives the black, uh, Thunderbird that is in Narcotics. And
10 I'm the passenger. And we -- we set up a -- a deal with the
11 guy to meet us at 6th. And one, two streets over from Benton Way
12 going west. I can't think of the name right now. But I believe
13 it's two streets over from Benton Way.

14 At any rate, we get there and we see the guy. He's
15 standing there. And what it is, is he's driving a -- I think it
16 was a blue or very dark green, uh, illegal bandit cab. And he has
17 a guy with him wearing a ponytail. I get out of the car. And
18 right when we park there, when we first got there, Durden said,
19 "Screw it. Let's just sell it to him." And I completely agreed.
20 We went over there. And I got out of the car. I met up with him.
21 And he was looking at me like who are you. I said, "Oh, no, the
22 other guy sent me." The guy that we just arrested. And this is
23 right after we had -- the same day that we arrested the guy. The
24 same day.

25 He, uh, he says, okay, you got it or whatever. And
26 I -- it was in a paper bag. It was a quarter of -- yeah, a
27 quarter of
28 a pound of, uh, cocaine. I put it -- and it's a little grassy

area. I put it right there in the grassy area. He look around,

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1 opens the bag, tears the plastic and tastes it. And he goes,
2 okay. And he gives me a plastic. And inside was the money. He
3 then tells me, uh, wait a minute, I also need 500 worth of rock
4 already rocked-up. Okay. We'll be back.

5 I get back to Durden. I said it happened. But he also
6 wants \$500 worth of rock. We really don't know exactly how much
7 \$500 worth of rock would be, or what he's accustomed to. You know
8 what I mean. If it's 15 rocks per hundred, or 20 rocks per
9 hundred. So we gave him like ample. In other words, more than
10 enough. Probably like 25 or 30 rocks per hundred, or for what a
11 hundred dollars would be worth.

12 So, we meet right back with him. We give it to him. He
13 gives us the money. I get back in the car and we leave. Officer
14 Durden and myself, uh, split up the money. I keep the -- or we
15 kept the -- the other defendant's pager. And we tell the guy, uh,
16 you know, whatever you need just call us.

17 Uh, three other -- or on three other occasions, we met
18 with that same guy. The guy that drives the cab is only the
19 middleman. He's the one paging us for the guy in the ponytail,
20 who has been working with this guy that we had arrested.

21 So, as far as they know, we were just helping the guy
22 that we arrested. We were just friends or whatever. The next
23 time we met with the guy --

24 Q BY MR. HOHAN: Wait. Can I ask you one question? What
25 was Coronado's involvement in all this?

26 A On this part, other than him telling us how to get in,
27 his story about let's just -- let's just say that he came out and
28 was trying to sell to me and him at the door. And that when he

1 came out and started to hand us the baggie, and there was no --
2 this -- this never occurred. It was just a fabricated story. And
3 that when he came out, he saw us, dropped the bag and closed the
4 door, that gave us the circumstances to go in and knock the door
5 down.

6 Q BY MR. ROSENTHAL: So, Coronado made up the probable
7 cause, but did not know that you and Durden stole it?

8 A No, Officer Coronado did not know anything about any of
9 the narcotic part.

10 Q Okay.

11 A No, he did not.

12 Q Okay.

13 AUhm, as I was saying, on three other occasions, there
14 was narcotics deals with the same person. The second one occurred
15 maybe -- I'll only be guessing, but four or five, six days later.
16 I don't know exactly when. We met, and this time, it wasn't the
17 -- it was the guy with the ponytail, the taxi cab driver, and a
18 female. Again, they wanted a quarter and some rock, as well. I
19 don't know why they were buying powder and rock, but that's what
20 they wanted. And narcotics-- the deal was done.

21 On the third one, I was -- I had the guys pager. And I
22 wasn't with Durden. I wasn't -- we weren't in close proximity. I
23 get paged. The guy says, yeah, he wants another quarter and a
24 thousand worth of rock or 500 worth of rock, whatever it was.
25 But, I'm somewhere else. I can't get to him. I called
26 Durden. And I say, listen, that guy wants to meet, again. And
27 wants this and that. Officer Durden said, I -- I'll run. We were
28 already off work. Officer Durden say, I'll run to the station and

get it. Uh, Officer Durden had a green cooler. A tall cooler.

1 Uh, in the Rampart station, there's a -- a, uh -- where the
2 officers sleep. Uh, officers, uh --

3 Q BY DET. TYNDALL: Cot room?

4 A Cot room. And, in the cot room, on the left side,
5 there's a bunch of files and old reports or whatever it is. Well,
6 that cooler was kept up -- up there. That's where that was kept.
7 But, at any rate, Officer Durden came back through. He said, I'll
8 meet with him by himself.

9 Uh, his -- yeah. I called him. I make contact with
10 him. Officer Durden goes down there. I guess the guy waited too
11 long. Durden didn't get there fast enough. The guy left. Then,
12 he paged me, again. Durden says they're not here. And the guy
13 pages me again. I said, "No, my guy is there. He's waiting for
14 you." Or whatever.

15 They go back. They finally meet. Uh, Officer Durden gets in
16 the car. It's the male and the female, he tells me. They do the
17 transaction. He brings back the money, uh, the next day or
18 whenever I talked to him. He was saying that the guy -- the
19 taxicab driver was wondering why he was now delivering it and why
20 Durden was so sweaty and looked nervous. And I also remember, uh,
21 Durden told me that he had the narcotics in his jacket, as well as
22 the rock. But he was pressing it so hard or whatever, that he
23 crumpled up all the rocks.

24 So, the guy was upset. So, he called me, again. So,
25 Durden had to go back and meet with him again to give him rocks
26 that weren't crumbled up. And he told him, "You know what, I
27 don't want to deal with that guy, 'cause he's, uh, he just looks
28

1 too nervous, something is wrong with him. He was talking about
2 Durden.

3 So, I believe it was just one other time we met with
4 him. And this time, the guy wasn't there. It was just a female.
5 The female -- the wife I'm assuming. The commonlaw wife or
6 whatever.

7 DET. TYNDALL: Okay.

8 THE WITNESS: Uh, another deal was done, at that point. But
9 we began --

10 Q BY MR. CASTILLO: What about the money? I'm Castillo.
11 The amount?

12 A On which one?

13 Q On this last one.

14 Q BY MR. ROSENTHAL: You mean how much money did he get?

15 A I believe it's probably another quarter. Yeah, it had
16 to be another quarter. That's -- that's what they asked each
17 time. I think it was a quarter and maybe like some rock on the
18 side.

19 Q BY MR. MCKESSON: A quarter is what?

20 A A quarter pound of cocaine.

21 Q And how much was -- did he sell it for?

22 A I believe it was either two thousand or 21 hundred
23 dollars. Something like that. I believe it was \$2100.

24 Uh, where did I leave off?

25 Q BY MR. ROSENTHAL: That Durden was too -- the guy didn't
26 want to deal with Durden anymore. He was too nervous.

27 A Right. No. Where I left off, uh, the last deal, it was
28 only the female, not the male. We began worrying that maybe the

1 guy got arrested. Why isn't the guy coming down? Maybe the guy
2 got arrested. And, you know, his old lady is going to try and do
3 something, or we got suspicious.

4 So, we said, that's it. The guy kept paging us back
5 wanting to talk or -- or whatever. And there's -- we just threw --
6 I threw the pager away or whatever. There was no way we were
7 going to deal with him anymore. Or that was the end or whatever.
8 That was the end of that. Those were the very first times that,
9 uh, narcotics were sold by me. And I don't know if Durden sold
10 any time before that.

11 But, I'm saying, as far as me and Durden goes, that was
12 the first time we sold any narcotics.

13 Q BY DET. HOHAN: How did you split the money?

14 A Half and half. Half and half.

15 Q BY DET. SEGURA: How much did you get, Ray?

16 A Total?

17 Q On this incident, do you remember? On this, do you --
18 are you saying it came from -- from that -- from this guy?

19 A Total that came from -- from this guy?

20 Q BY MR. SEGURA: Did you get money this time that, uhm --

21 A Each time we met with him, we got money.

22 Q When Durden went, uh -- went by himself?

23 A Yes.

24 Q Okay. And did you get money out of this -- or did --
25 I'm just trying to get about how much money you got this one time.
26 A Which time? The very last time?

27 Q The last time you got the money.

28 Q BY DET. HOHAN: The -- the total number of sales derived

out of it.

1 A That's two different questions. No, no, no. That's a
2 totally opposite question.

3 Q BY DET. SEGURA: Just this last time.

4 A The very last one, I believe it was --

5 Q About how much money roughly?

6 A It had to be, I believe it was a quarter pound and
7 probably some rock on the side 'cause he was a -- he always got
8 rock on the side. And we put it in a film canister. I would say
9 probably 25- \$2600, something -- something -- something like that.

10 Q BY MR. ROSENTHAL: The dope that you sold this guy, was
11 it all dope that was seized from this one incident?

12 A Yes. Up until that point, yes.

13 Q Okay.

14 A That was money, uh, the drugs that were seized from that
15 location. At that location, there was no money whatsoever.

16 Q And then at, uh -- in total from this guy relating to
17 this dope that was -- that you guys took from this location, the
18 pound and the -- and the eight ounces or so of rock, how much
19 money in total did you guys get, between the two of you?

20 A I'm trying to add it up in my mind here. Total, uh,
21 probably -- probably -- well not well above, but a little bit over
22 \$10,000 probably. Probably somewhere around there.

23 Q BY MR. MCKESSON: Five a piece approximately?

24 A Yeah, five a piece. Total 10,000. Somewhere around
25 there.

26 MR. ROSENTHAL: Okay. So, now, let's -- let's move on. Next
27 instance.

28

1 Q BY DET. SEGURA: And, Ray, was this another instance,
2 this last one, where Durden goes by himself and you got about the
3 \$2500, here is what I had in my mind. There were about three
4 narcotics, uh, incidents you were going to tell us about. Am I
5 wrong on that? Three different nar- --

6 DET. TYNDALL: Let's just let him go and talk.

7 MR. ROSENTHAL: Go on to the next one.

8 DET. TYNDALL: Yeah.

9 Q BY MR. ROSENTHAL: Next incident of criminal conduct by
10 you or another police officer, that you're aware of.

11 A Okay. I have a question. Can I ask my attorney?

12 DET. TYNDALL: Certainly.

13 THE WITNESS: Because it may be something that you guys
14 are -- I don't know. You know, I was going to ask you this. That
15 maybe there should have been some guidelines as to what I can talk
16 about and can't talk about.

17 MR. ROSENTHAL: Well, there are no guidelines about what you
18 can or can't talk about. You need to --

19 THE WITNESS: As far as -- no, 'cause we had talked about, I
20 believe, in the letter saying something that if you guys were
21 investigating it, I can't talk about it or something?

22 MR. ROSENTHAL: No, no, no. What you need to understand --
23 why don't you sit back down now? The guidelines of this is you --
24 we need to hear everything.

25 THE WITNESS: Okay.

26 MR. ROSENTHAL: What we've done is we've -- the letter
27 discusses the -- basically, the difference between transactional
28 immunity and derivative use immunity. What we've done is, uh,

1 transactional immunity means, if we were to grant you that, you
2 cannot be prosecuted for anything you talk about. We haven't done
3 that.

4 What we've given you is derivative use immunity, which
5 says that we will not use anything that you say against you, nor
6 will we learn -- will we use anything that we've learned from what
7 you've said, against you.

8 So, in essence, anything derived from what you've told
9 us, we cannot -- and come back and prosecute you for it. Uh, if,
10 however, we get independent evidence -- if there's something else
11 that we had been investigating, and we got independently, we can
12 use that to prosecute you for one of these crimes, at a later
13 time. So --

14 THE WITNESS: That's my concern.

15 MR. ROSENTHAL: Right.

16 THE WITNESS: Because one of the instances were in- -- was
17 investigated. And I don't think the investigation was ever
18 closed.

19 MR. ROSENTHAL: Well, the -- the fact is, what all that
20 means, for your purposes, is that anything that's discovered
21 beforehand, that's independent of these conversations,
22 can used -- be used against you. And there's nothing you can do
23 about that.

24 However, uh, if you tell us about it, now, at the
25 current time, we're not going to be able to use what you tell us,
26 or what we learn from what you -- uh, you told us -- against you.
27 So, it is in everybody's interest, at this point --

28 THE WITNESS: Okay.

1 MR. ROSENTHAL: -- for you to tell us everything, and be as
2 honest and forthright about it as possible.

3 THE WITNESS: Okay. I just --

4 MR. ROSENTHAL: So, those are the guidelines.

5 THE WITNESS: -- wanted to see what the guideline was or
6 whatever. Uh, I want to talk about the incident that occurred on
7 Hoover -- or -- yeah, Hoover Street, a supposed, uh, home invasion
8 robbery. I don't know if you guys are aware of that.

9 @DET. TYNDALL: Yeah.

10 DET. SEGURA: Yes.

11 THE WITNESS: Okay. Uh, you want from the beginning on that?

12 DET. TYNDALL: Sure.

13 DET. SEGURA: Go ahead.

14 THE WITNESS: Uh, Officer Durden and I received information
15 that there's a lady that lives -- I don't know the apartment
16 number, but like 4th and Hoover area, who was dealing narcotics.
17 As a matter of fact, if I remember correctly -- I'm not a hundred
18 percent sure. But I believe it came from Bella. Bella Quesada.

19 DET. SEGURA: Mmnh-mmnh.

20 THE WITNESS: I believe that clue -- that clue came from her,
21 if I remember correctly. At any rate, we went to the location. Uh,
22 the way the female described it that Durden came in through
23 the back and I came in through the front, we described it that we
24 both came through the front and knocked on the door.

25 Now, the way she described it was correct. Durden went
26 through the back. And I came in through the front. When we --
27 uh, when we get there, there's -- we're thinking it's just going
28 to be an older lady, her kid -- her child. They both go to

1 school. So, we're thinking they're at school. We're thinking
2 it's just going to be the lady. There's like 10, 15 -- or 10 to
3 12 people inside.

4 So, right away, who's the lady of the house? This --
5 this is the lady of the house. Okay. Everybody up against the
6 wall. Pat them all down. We want to talk to her. Uh, nobody
7 else has nothing on them. We kick them all loose.

8 Uh, our intention going there was to see if she had any
9 narcotics or see if she wanted to work anything out. That was our
10 intention of going there. We get there, and she's not
11 cooperative. She doesn't want to help, initially. We look
12 aroundthe -- the place. Under the oven, in the, uh, lower part
13 of the oven, the roaster, or underneath there, there's maybe, you
14 know, three or four little pieces of rock in cellophane. And I
15 think maybe a scale or something.

16 We get that. And we're telling her you're -- we're
17 going to have to arrest you. She said -- you know, she indicates
18 that she's on probation. Now, she indicates that she does want to
19 help. She's willing to roll-over on who her supplier is.
20 However, the people that just left know who the supplier is.

21 If she calls this supplier out right now, he shows up
22 they're going to tell her, hey, you know who it was. The cops
23 were just at her house. How -- you know, it had to be her. You
24 know what I mean? It -- so, she says -- and to back up a little
25 bit -- Durden did, in fact, have to speak -- well, that's what he
26 told me, that he had to speak to an attorney about a case. So he
27 had to leave. When I get there -- when we get to the location, I
28 am mostly talking to the lady.

1 Everybody else is kicked loose. While I am talking to
2 the lady, Officer Durden is searching in the bedrooms and
3 everything else. I know that on the report it said -- I don't
4 know how much cash. But it said like \$1600 worth of cash, or
5 something like that, that was supposedly taken. That's not what I
6 was told.

7 Or I'll -- I'll get to that at the end. But --

8 Q BY MR. ROSENTHAL: When you're talking about a report,
9 you're talking about a report that you wrote on the incident, or
10 are you talking about an Internal Affairs report that was turned
11 over in Discovery?

12 A The patrol officers wrote a report. What happened was
13 the lady called, I think the next day, and made a report, uh, that
14 there was a home invasion robbery. And then she just -- she
15 disappears. She takes off, or --

16 DET. TYNDALL: Okay.

17 THE WITNESS: Where was I? Uh, at any rate --

18 Q BY DET. SEGURA: Durden was looking around?

19 A Yeah, Durden -- and, uh, -- and like I said before, on
20 most of -- most of the cases that we did, I was always
21 interviewing the people that talked to us. We can do whatever you
22 want. You know, we can help you out. No one's gonna know.

23 While I'm talking and interviewing, trying to get them
24 to tell, you know, where's the drugs hidden, you know, Durden was
25 usually searching. He's looking around, finding whatever's being
26 found --

27 At any rate, Durden's looking around. Other than the
28 little rock that we found, he's still searching the closets and

1 everything else. She says there's no more drugs there. Durden
2 decides that -- or he tells me that he has to speak to a D.A.
3 This is after he searched -- about a case that he has to go to.
4 Uh, we call, uh, Officer New over, because I don't want to be
5 there by myself. He had to leave. Officer New comes over. She's
6 there. Officer Durden leaves.

7 Uh, while New is there, I'm still interviewing the girl.
8 Listen, how can we do this? You know, you need to talk to us.
9 I'm bluffing. I'm telling her I'm going to call the K-9. We're
10 going to find more drugs in here. I'm doing all kind of little
11 things that -- that we do.

12 She starts telling me about how she's going to help me,
13 who the person is -- all these things. I'm getting more
14 information. I even leave her my -- I left everybody my voice
15 mail number, my 1-800 number. I wrote it on a piece of paper and
16 left it with her.

17 Durden gets back. And I started thinking to myself,
18 this lady is not going to be here when I get back to try and talk
19 to her. She's going to run. She ain't gonna here. And I was
20 like, you know, we need to do this today. We've got to do it
21 today. We have to. And she's like, I just can't. I can't.

22 And I -- I don't know if Officer New had any criminal
23 intent, at that point. But she suggests, "Just take all their
24 jewelry. Take their jewelry and whatever money they have.
25 They'll be here. They're not going to leave. They're not gonna
26 leave without that.

27 So, we look at each other. It's like all right. In the
28 report, I think it says that myself and Durden took their jewelry

1 or whatever. Officer New, because it was a female. And I'm not
2 going to be touching a female. I mean, it just -- Officer New
3 helped take her jewelry off, and whatever little jewelry they had
4 sitting there, and whatever little money. Everything was kept by
5 Durden. Durden held onto it --

6 Uh, we had every intention on coming back and giving the
7 lady back her little stuff, you know, and she was going to help
8 us.

9 Of course, the next day, we go there, and, uhm, she's
10 not there. Uh, somebody else opens the door. But she's not
11 there. The manager comes over and goes, "Man, she took off. She
12 said that she was, you know, a victim of a home invasion robbery.
13 She called the cops. And she just took off."

14 And it was, you know, the cop -- or the manager knew we
15 were cops, because we had talked to him before then. We went to
16 his office and said -- we asked him who lives in the -- we asked
17 the general questions, who lives in, you know, Apartment Number 4
18 or whatever it was. You know, how does she pay her rent? Does
19 she pay her rent with cash or -- just questions to feel out, you
20 know, if she's involved in criminal activity, as far as, she's
21 paying rent, uh, is there a lot of people coming in and out, that
22 kind of questions.

23 So, he knew. We had already talked to him. So, he knew
24 that we were there that day that we went in. And when we came
25 back the next day -- or actually not the next day, the next
26 working day. I think the weekend went by. Uh, I think
27 this might have occurred on a Thursday. We came back on a Monday
28 or Tuesday. Uh, Monday.

1 Uhm, he says, "She said that you guys weren't cops and
2 you guys left." We get back to the trailer. As we get back to the
3 trailer, some detectives are walking up the stairs at, uh, the
4 trailer -- uh, the Narcotics trailer at Rampart. Uhm, and they
5 said, "Look we have a report here of a home invasion robbery, with
6 a phone number left. And that phone number comes back to
7 Rafael Perez. You know, the -- because on my voice mail it says
8 yeah, this is Ray Perez. Uh, leave a message, or whatever it
9 says. You know, so, they were like -- and we were like, well,
10 wait a minute. We were there. You know, uhm, there was no home
11 invasion robbery. We simply went there. We went to talk to her.
12 She was going to cooperate.

13 In fact, we just came back from there. We told the
14 detectives that we just came back from there. Uh, I guess the
15 investigation was launched. And they never found her, or she
16 never -- she moved out or never came back. Uhm --

17 Q BY MR. HOHAN: Who were the robbery detectives? Do you
18 remember where they were from?

19 A It's in the report. Well, no. The report would
20 indicate who the patrol officers were that took the report. But I
21 couldn't tell you the name of the detectives who took the report.
22 But they is a report and a follow-up.

23 Q BY MR. ROSENTHAL: And you -- and you lied to them about
24 the fact jewelry was taken?

25 A Yes.

26 Q What happened to the jewelry?

27 A I don't know. Durden kept the jewelry. He kept the
28 stuff.

1 Q Okay.

2 Q BY DET. HOHAN: Was there any currency -- the currency
3 that was taken, what happened to that?

4 A Initially, you know, when the detectives were there, and
5 everything, the jewelry and the money, Durden had that. And
6 obviously, there was some concern, you know, wherever he had it --
7 he had -- it was bundled up all together, with the intentions of
8 giving it back to the lady.

9 What happened after that, I don't know. I know I never
10 saw it again. I don't know if Durden just threw the whole thing
11 away or -- or what happened. But I know we discussed it days
12 later after this investigation had started. But I never saw the
13 jewelry again. And it wasn't, you know, pounds of gold or
14 anything like that. It was just cheap little rings, you know gold
15 rings. It was mostly rings, as a matter of fact. In fact, the
16 lady was wearing most of the them.

17 Q Did you -- what did New say what -- what happened? Did
18 you get together with New and Durden and discuss what was going
19 on?

20 A Yeah.

21 Q Okay. Did you create a story?

22 A Yes

23 Q Okay. And -- and New agreed to that story?

24 A Mmnh-mmnh. We were all interviewed. We were all
25 interviewed. In fact, I think in the report, it said that the
26 lady's son had arrived. We left him out of it. He did arrive.
27 He had -- he knocked on the door while we were there. And when we
28 looked in, she goes, "That's my son." We let him in.

1 For some reason, we said, no he wasn't there. Uh,
2 he -- when we got our story straight, we just left him out of the
3 picture. So, that's how we left it, you know, no -- no other kids
4 showed up.

5 Q BY MR. ROSENTHAL: Well, we -- we only have a limited
6 amount of time today. So, could we move on? Let's move on to the
7 next one.

8 A Uhm -- all right. Uhm, on one occasion, Officer Durden
9 and Coronado worked on a case that I wasn't involved in. Uh, they
10 did a bust or --

11 (Off the record at 10:56 a.m.)

12 (Back on the record at 11:10 a.m.)

13 MR. ROSENTHAL: We're back on the record. All right. It's,
14 uh, -- it's 11:10. And we're going to continue the interview.

15 Q BY DET. SEGURA: Uhm, go on with what we're -- go on,
16 Ray. You were talking about Durden and Coronado?

17 A Yeah, I, uh, didn't work that day for whatever reason.
18 Uh, Durden, Coronado, and the rest of the unit went and did a door
19 knock, or whatever. They arrested someone. Uh, I guess the next
20 day when we get back to work -- maybe two days later. I'm not
21 sure exactly when, they, uh -- thank you.

22 They, uh -- Coronado, I guess, this is all from the
23 informant. This is the same informant Coronado's been using for a
24 long time. [*****C.I. #1] I can't think of his name right now.
25 [*****C.I. #1] informant that -- that he's been
26 using for -- for awhile.

27 Anyway, he calls him up and says, "Hey, the guy that you
28 guys arrested, he's pissed off." Fine, he got arrested, but

1 Durden didn't need to take his money. That wasn't right. You
2 know, it just wasn't right.

3 Uhm, Coronado runs over and tells Durden -- you know, I
4 just happened to be there. So, I listened in. And, you know,
5 Durden is like, hey, that's bullshit, you know, or whatever. Uhm,
6 excuse me.

7 Uhm, and he, uh -- he says, well, what do you want me
8 to -- Durden -- Coronado is like, "What do you want me to do, I
9 mean?" And then, you know, he's like, "Well, shit, we need to
10 talk to him. You know, we need to do something."

11 Coronado says I'll tell you what, I'll go talk to the
12 informant and see what's up. I'll have him convinced, [*****
13 *****C.I. #1 Description*****
14 *****].
15 So, Coronado said [*****
16 *****C.I. #1 Description*****
17 *****] You know, the
18 call was already made that the guy was complaining, you know.

19 Well, sort of -- Lusby sort of left it at, take care of
20 it before I get there sort of thing. You know, when I get there,
21 I'm going to interview him. Everything better be straight by the
22 time you get there sort of.

23 At any rate, Coronado goes and speaks to the informant.
24 When he gets back, he says, "Okay. Everything's going to be okay.
25 I gave him 40 bucks. I told him to tell the guy not to pursue
26 this, that when the supervisor comes here, tell him that you were
27 just upset that you got arrested and you made up the whole story.

28 So, uh, at that point, Lusby -- they tell Lusby, yeah, I

1 guess the guy is ready to be interviewed. Or you can go interview
2 him. I guess, Lusby goes over there. He said it took -- a
3 90-second interview. He turned the tape recorder on. Uh, well,
4 what do you need to tell me? "Oh, I made up a story. I was just
5 upset." Okay. Thank you. The recorder was off. And he left.
6 And that was the extent of his interview, I believe, with this
7 person. Uhm, if you're asking me if Durden took money
8 from that place, I believe so. Just by the way things were talked
9 out. Uhm, but I wasn't there. So I can't say absolutely
10 positively.

11 Uh, but I do know that Coronado stated [*****
12 *****C.I. DESCRIPTION 1 *****
13 *****.

14 MR. ROSENTHAL: Okay.

15 THE WITNESS: Next one?

16 Q BY MR. ROSENTHAL: The next incident?

17 A The date I won't be able to tell you. I was working
18 Narcotics during these things. It had to be sometime maybe I'll
19 say September, August. No, maybe September. August I went on
20 vacation. September maybe of, uh, '97. We were searching a
21 location. We did a search warrant. We were just about done with
22 the search. And right at the last second, uh, me and
23 Covington see a vacuum cleaner.

24 Yes, Covington. Common spelling. Uh --

25 DET. SEGURA: C-o-v-i-n-g-t-o-n.

26 THE WITNESS: Uhm, unzip it. And there's stacks of money,
27 you know, twenties and tens or whatever. Uhm, right away, we
28 call, uh, Detective Lusby over. He, uh -- he goes, "All right.

1 Just put it in a shoe box." We take all the money out, put it in
2 a shoe box.

3 We start talking to the guy. And he goes, "Yeah,
4 that's my money." Whatever, you know. Uh, there's -- uh, I
5 think he said -- I think he said there was \$22,000 or \$20,000 or
6 somewhere in that range.

7 Uh, Detective Lusby gets the money right away. And he
8 says, "Well, you know what, I'm going to take off so that I can
9 start counting the money. And I'll -- I'll meet you guys back
10 at the office once you guys get there. Uhm, and he left early
11 enough to where, by the time we got back to the trailer, and the
12 office, he was already done counting the money. And there was a
13 lot of money. A lot of -- but, at any rate, we're talking to the
14 guy. And, you know, he's 'fessing up to the money. "Yeah, it's
15 mine. Yeah, it's narcotics money. Yeah, I have \$22,000."

16 When we get back to the trailer, uh, Detective Lusby
17 says, "Yeah, there's \$16,000, you know, even." You know, 16,000
18 or whatever he said. Uh, the numbers, I'm not exactly positive on
19 right now. Whether there was 20 and there was 14, or whether it
20 was 18 and 12 left.

21 At any rate, the guy is saying, well, when we asked him
22 to sign a money slip or whatever, he goes, well, I actually had
23 this amount. And, you know, sort of, you know the supervisor just
24 sort of like just said, you know. They kind of talked to him and
25 said you're going to jail. You're getting a good deal. Relax.
26 You know, that sort of just relax over all this.

27 And it was just totally squashed right then and there.
28 I mean, it was just -- the fact that he was upset and was, you

1 know, wait a minute, fine, you're arresting me. But, the actual
2 amount of money that was there was this amount, and not this
3 amount.

4 So, I always felt that it -- it didn't look right the
5 way Lusby just kind of like, all right, you know, give me the
6 money. Hurry up. Let's go. And took off there. And had it
7 counted before we even got back. You know what I mean.
8 Everything was counted. I'm not saying that he did anything
9 wrong. I don't know. What I'm saying is when that happened --
10 and I know that that complaint or whatever was sort of just --
11 hey. Relax. We're gonna, you know -- we're gonna --

12 Q BY DET HOHAN: Was McGee there?

13 A At the search warrant?

14 Q Yeah.

15 A McGee is such a mild-mannered guy that sometimes you
16 don't know if he was there or not. He's just so -- he -- he
17 probably was, unless he was on a day off, he would definitely be
18 there. But I don't --

19 Q Do you remember him being around when the beef was made?
20 When the guy said the money was gone?

21 A I don't know if he was there. I know Coronado was
22 there. Uh, I was there. Durden was there. I think Covington was
23 there. There were several officers there. I mean, we were all
24 there. Was McGee there? You know, I -- he's always around.

25 DET. TYNDALL: That's all right.

26 Q BY MR. ROSENTHAL: Well, let's go on to the next one.
27 Let's keep going. Okay. Next incident. You can go into the
28 three kilos.

1 A Do you want me to start from the first one? Or I'll
2 start --

3 Q Or the dope switches.

4 A I'll -- I'll tell you right now. Uh, everything that I
5 was accused of, as far as the -- the switches, was correct.

6 And there was no one else involved.

7 Q Okay.

8 A Uh, Quesada, uh, Bella, Veronica or whatever you want
9 with that to call her, uhm, I guess, in a sense is a drug dealer.
10 But she's not the drug dealer. She was just paying -- doing the
11 duty or whatever for her mother. Her mother is the actual dope
12 dealer, not her. Uh, her brother, from the time -- everything
13 that I have testified to, as far as getting them a deal, uh, the
14 way that I described it, I went to the D.A.'s and talked about it,
15 uh, all of in that is exactly true. Right down to the fact where
16 the D.A. said I have enough cases stacked up here.

17 I mean, this is no problem. I'll take care of it. I
18 never even met with the D.A. I wrote him a note. He said,
19 "Remind me."

20 I happened to be in court. Wrote a note, uh, to Mason
21 and left it on his desk. I was not trying to hide something to
22 cover it.

23 Q Well, you knew, at that point, that Quesada was --

24 A Yes.

25 Q -- in fact Bella?

26 A Yes, I did.

27 Q Okay. So, that part is not true?

28 A Yeah -- right. Yeah.

Q From your testimony.

1
2 A I'm sorry. Yeah. Right. That part is not true. What
3 I'm saying is, everything else, [*****C.I. DESCRIPTION 2
4 leniency for *****
5 ***** C.I. DESCRIPTION 2 ***** If you look at
6 the Recap book, you will see that *****
7 *****
8 *****]

9 I mean, in other words, she wanted her family out of
10 this. She wanted them to get out of here. She wanted her brother
11 to get out of here. When she had been arrested prior, uh, in that
12 search warrant that they did by the Sheriff's Department, that was
13 her brother's drugs. She took the hit because the only person in
14 the house was a female pregnant. And she goes, "Well, I'm not
15 gonna let you -- I'll -- I'll go."

16 What I'm saying is, is she a drug dealer? Yes, because
17 she transported those drugs to her mother.

18 Q And you're saying the stolen drugs --

19 A Yeah.

20 Q -- that you stole, were transported by Quesada to her
21 mother?

22 A Is she a drug dealer? Is she out selling and stuff like
23 that? No.

24 Q So, you --

25 A From the time I -- from the time I arrested her brother
26 to the time he got out of jail or whatever, I've never met him or
27 seen him again, ever. So, I mean, I --

1 Q So, when you called his -- his house, you were actually
2 looking for her?

3 A Yes.

4 Q All right. So, you --

5 A And -- and the fact that, you know, that like calls were
6 made and they they cut out and cut back in. Remember when I said
7 that my plug was broken, and I would have to call right back.
8 That was the problem. That was really true that my plug-in would
9 wiggle and, boom, the call -- and the cell phone -- the call would
10 disconnect and you got to call right back. I've never -- if I
11 talked to him at all, it was maybe he picked up the phone. And I
12 said, is Bella there. That was the extent of any conversation that
13 me and him ever had.

14 Q And you -- so, you gave her all the stolen narcotics,
15 all the three kilos?

16 A I never handed her anything. Here's -- here's what
17 happened with that. She had indicated to me that -- this is
18 after she -- and -- and to back up a little bit, uh, as far as my
19 -- our relationship -- or sexual relationship that started. The
20 way I described it, the way that she was living with a guy, the
21 way that it didn't even -- we didn't get get involved in any way
22 'til late October, maybe early November, that is also true.

23 Q All right.

24 A In fact, when I said that I had picked her up 'cause her
25 boyfriend had beat her up, and she was crying and she says, I have
26 nowhere to go. I don't know where I'm going. And I picked her up.
27 And that was the start of our relationship. That is also true. I
28 picked her up one day and she was crying on my shoulder. The next

1 thing I know, she's putting her cheek on my cheek. And it went
2 from there.

3 Q And so, you tried to keep your testimony as much truth as
4 you possibly could without admitting any criminal conduct?

5 A Yes. Yeah. Every -- basically, everything, as far as,
6 how the -- the letter that the other D.A. told me to write,
7 without the heading, he told me how to write it. McGee showed me
8 how to use the little computer in the office on how to write the
9 letter, 'cause I didn't know.

10 It was not the -- the regular computers that we have
11 now -- the new ones. It's an old one that we had in there. I
12 don't
13 even know how to use that. In fact, he helped me put that letter
14 on a disk and how to save these things. McGee helped me write the
15 letter.

16 Q Well, yeah. Well, get -- we'll be getting to all that.

17 A What I'm saying is what I testified to, was actually
18 correct.

19 Q Okay.

20 A Uhm --

21 Q So, you took the narcotics. What did you do with it?

22 A The narcotics? Months prior, she had, uh, --

23 Q BY MR. MCKESSON: She being Bella?

24 A I'm sorry, Bella, wanted to, uhm, get a copy of the key
25 made.

26 Q Key to what?

27 A To her, uh, building. Or the front lobby door or
28 whatever. She gets -- uh, she's in the truck with me. She's with

me. This is off-duty. We're just together. We stop, get keys.

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1 She also gets keys of her car -- her car made. She asked me to
2 keep a copy of the key, uh, to her car and her front door.

3 And whenever I was coming to pick her up, I -- because
4 there is no buzzer, and there's no way to get in. So I just
5 opened the door and go knock. Uh, when I had testified that I had
6 never been to her apartment, that's a lie. I had been up to her
7 amount but only a couple of times.

8 I -- I was also more afraid that her -- 'cause we kept
9 it a secret from her brother that I was seeing her. And that was
10 not something that we wanted to let out. Number one, all her
11 family members are going down, you know, slowly and surely. And
12 if they knew that she was seeing me, obviously, they're going to
13 figure it out. But, anyway, I would very rarely go into her
14 apartment. I was always scared that her mother or her brother or
15 whoever would show up. So, I would go knock, and let's go. And
16 we'd go drive somewhere and do whatever.

17 I had a copy of the key to her car. On three kilos of
18 cocaine, there was a Mad Hatter seal on it. Do you remember that?

19 DET. HOHAN: Right.

20 THE WITNESS: I drove to Home Depot on Sunset Boulevard and
21 Western. I peeled off that Mad Hatter seal. I went into Home
22 Depot and bought more tape. The same time of tape. And I retaped
23 it. I just put more tape on top of the old tape. And I called
24 her. And I said -- we had a -- had a conversation that her
25 mother, you know, was still in the business. But she didn't like
26 the person she was using and all this other stuff. And, in my
27 mind, and I don't know, the minute she told me that, it was one of
28 the those things where all you could think about was the money.

1 It was an impulsive act that took the entire -- those three
2 kilos. The thought of doing it, and the actual act, all occurred
3 in less than two days. It wasn't like a planned-out conspiracy,
4 uh, you know, whatever.

5 She told me. And I started thinking. And I just did
6 it.

7 Q BY MR. ROSENTHAL: Did --

8 A I just did it.

9 Q Okay.

10 A I never -- however, I never, at any time, handed her
11 anything. She was under the impression that I had given this
12 informant -- or this narcotics dealer that I knew that I had
13 arrested, that he had gotten out, and he owed me a favor, that I
14 told him where she lived nearby and what kind of car she was
15 driving. And I told her that I was going to give him a copy of
16 the key.

17 Q Then put it in her car?

18 AI -- I put it -- after I retaped it, I put it in the
19 trunk of her car. I called her. I parked about a block
20 and-a-half away. I told her, hey, my guy -- uh, the guy that --
21 that was going do that for you, he's there. Uhm, but he said he's
22 just going to put it in your car or something like that. So, you
23 may want to go check.

24 I was parked like a block and-a-half away, like I said.
25 She walks out of her building, comes down, grabs the --
26 I think it was a Macy's bag, and walks back to the stairs.

27 Q BY MR. ROSENTHAL: How much did you get for the three
28 kilos?

1 A If I remember correctly, I think it was 21,000. It
2 wasn't 21,000 in one shot. It was \$3000 here, or 5000, you know,
3 it was a process -- a slow process, as far as the money.

4 I always told her the guy doesn't, you know, want to --
5 a couple of times I told, hey, he -- he waited for you. And you
6 didn't show up. Whatever. He told me to tell you to just give it
7 to me and I'll hand it to him. She would always put it like in a
8 paper bag and then tape it all up. And I always said, "Just put
9 it back there. I'll just have him take it." Like I didn't want
10 to touch it. I always made her think that it wasn't me. I don't
11 know if even to this day if she knows that it was me or not. I
12 don't know.

13 Q Well, we'll get into all this later. But did any other
14 police officers, during this period, from January, or it was the
15 very first dope switch, the one that was done in January of '98 or
16 something before that?

17 A I'm not even sure. If there was another one, I'm not
18 even sure if you guys found it or not. There was one. Oh, and
19 this is another thing I -- I want to get into. There was another,
20 I -- I believe I did a dope switch where there was five ounces
21 involved on a guy that I arrested in West L.A. Did you guys find
22 that one?

23 Q No, I don't think we did.

24 A There was five ounces. I called it out, I think though,
25 it was in December maybe.

26 Q Okay.

27 A Or maybe even November. No, it couldn't have been that
28 early. Maybe December or maybe always in January.

1 Q Okay.

2 A They were all done right around the same time.

3 Q Okay. So, from December, January, to March?

4 A But there was a five-ounce one -- right. There was, uh,
5 five ounces that we had arrested a guy in West L.A. area. A -- a
6 Hispanic guy. It was in his dash. The same thing was done. The
7 switch was done. But I don't remember seeing it in any of the
8 investigation paper work. So, I don't know if you guys didn't
9 find it or the narcotics was destroyed already, or what. But --

10 DET. TYNDALL: Who --

11 Q BY MR. ROSENTHAL: The -- I think the most important
12 issue we want to know now, though, is, during the entire period of
13 time the dope switches and dope thefts, did any other police
14 officer know what you were doing?

15 A None.

16 Q Did Durden know?

17 A No. Durden knew something -- and I'll get into that a
18 little later.

19 Q Okay.

20 A I told him after the fact. And he said, well, I want in
21 on it. Something like that. You know, hook me up or something.
22 Uhm, the reason I brought that one up was -- want me to stop?

23 Q No, no. No, I'm sorry.

24 DET. TYNDALL: Go ahead.

25 THE WITNESS: Uh, because there was also a complaint. And
26 there was also some testimony in court that money was taken from
27 this lady. And Durden did take it. And we got into an argument
28 over it, 'cause it upset me. Because I told him that we had went

1 to the -- the guy's house. The wife was there. I asked her, "Is
2 there any money in the house?"

3 She goes, "Yes, I have like \$600. It's in the back.
4 It's my rent money." I tell him. He's searching. I'm talking to
5 her. I said, "It's rent money. Don't touch it. Don't."

6 We leave. We go back to the station. You know, we got
7 the guy. She calls me and goes, "Why did you take the \$600? I
8 told you that was my rent money."

9 And, Durden, what's up? You know, I told you?
10 He goes, "What, man? I don't know what you're talking." You
11 know, so, I am like, oh. I got some money and went back to the
12 lady and gave it to her. And I told him, you know what, just
13 forget it, you know. I was upset.

14 When we got to court where I'm testifying on his case,
15 that comes up. Isn't it true that you came back down and gave her
16 some money? You met with her at her house and gave her the money,
17 or gave her some money back, or whatever.

18 I said, obviously, no. Uhm, but the reason I brought
19 that one up is because there was two connections. One there was a
20 switch done on his narcotics. And also, Durden had taken \$600
21 that I told him not to take, that were there, and the lady said it
22 was there -- the wife.

23 Q BY MR. ROSENTHAL: Okay.

24 A To get back to this one, there was no other officer
25 involved in any of the switches or any of the thefts.

26 Q BY MR. MCKESSON: You were also telling me about that,
27 uh, Robin Schaffer -- I'm talking to him.

28 Q BY MR. ROSENTHAL: Mr. McKesson just made a comment to

1 you about Robin Schaffer, and whether she was right or wrong when
2 she identified Durden as making a phone call on one of the switch
3 cases. Are you saying she was wrong on that?

4 AShe was wrong on -- let me put it this way. Every
5 civilian employee that testified or that -- witnesses that you
6 guys interviewed, pretty much fabricated their story to protect
7 themselves, so that it didn't look bad.

8 Uh, Castellanos and Billingslea, uh, when I went in to
9 go do the narcotics -- I still remember this day. It was a
10 drizzly day. It had been raining in the month of March an awful
11 lot, and February. I had a baseball cap on to about here. I had
12 put on real thick glasses. And I had a really big jacket. And
13 all I had on was a -- my badge holder.

14 Not once did Castellanos ask to see my I.D. or, you
15 know, say, yeah, she read my name. That's -- that's a lie. Not
16 once was I dressed the way they were saying I was dressed. I
17 think they might have -- after the interviews they go, oh, yeah,
18 it was Perez or -- or their conversation, they go, well, it had to
19 be that other Perez. "How was he dressed?" "I don't know." You
20 know, and they just went with it because they didn't want to look
21 stupid, you know, that they didn't ask me for I.D.

22 I could have -- I could have been anybody. I could have sent
23 a civilian person in there. They -- they never checked for I.D.
24 down there. I -- I could tell you that right now. They do not
25 check for I.D. Anybody can walk in there. I can look at -- I can
26 get a halfway respectable-looking person, put a badge around his
27 neck, and tell him to go check it out. And they're gonna give it
28 to him.

1 Uh, I never shouted out to her the D.R. number or talked
2 to her in any rude manner or anything like that. When I asked
3 when I got there, I had the case package. I took the case package
4 out of 90-- uh, the Narcotic's office. You know the Recap book.
5 That's where I found where the narcotics was booked. The --
6 that's where I found it. I went and got the case package out.

7 When I did this, I showed her. I said, "I need this." She
8 looked at the booking, or the D.R. Number, wrote it down herself,
9 went off and got it and did everything. Handed it to me and she
10 had said that I had assigned it three different times. And that's
11 not true.

12 Q Okay. Let's -- let's do this because, again, this is
13 an area we're going to be able to cover. And we're going to be
14 talking about again. And there are certain --

15 A Just one thing. There was a lot of talk about being --
16 another person being in the room. Who was that other person?
17 There was no other person.

18 Q Okay. That's the key with --

19 A I wanted to clarify that up.

20 MR. MCKESSON: Well, to start it off, he had told me that me
21 that Schaffer was wrong when she identified Durden.

22 THE WITNESS: Tell them that? Yeah. That Schaffer couldn't
23 have identified Durden because I'm positive that I called. I know
24 I called. I'm the only one that was involved in this. But, when
25 I called, I always made sure that I was talking to someone who
26 wasn't -- Schaffer's probably the one person I know the best down
27 there.

28 When I call, and Schaffer says, you know, "Schaffer", I

1 would have to hang up. I am not going to talk to Schaffer. Uh, even
2 trying to disguise my voice, I am not going to talk to -- I'm
3 going to talk to one of the other guys, or whoever that don't know
4 me. And that's what I did.

5 I don't know how Schaffer -- I don't know if somebody
6 handed Schaffer a piece of paper and said, hey, you know, put
7 these on the log and -- and do them. I did not talk to Schaffer.
8 And each time I called, I disguised my voice, you know, or
9 whatever I did, you know, to sound a little different or
10 whatever. I mean that's what I did. But Schaffer didn't take my
11 call.

12 Q Okay.

13 A I think that was just --

14 Q And, again, that's areas we're going to cover later.
15 The -- the next question before we get back to the shooting
16 incident we talked about in court, is there any other police
17 officer, uh, who either you know was engaged in criminal conduct
18 or you believe might have been engaged in criminal conduct, based
19 upon what you saw, that have not identified so far?

20 A I'm going to make a very broad statement. And you're
21 not going to like it. It's -- it's not good. Uh, there's a thing
22 called being in the loop, being involved. I was not in the loop
23 or involved in anything, as far as police-wise 'til maybe '95 when
24 I joined C.R.A.S.H.

25 When I got into C.R.A.S.H. before then, I had no concept
26 of -- of what certain officers do. I can tell you this. And you
27 can put me on a polygraph. Oh, well, I know I'm going to be on a
28 polygraph. But --

Q Yes, you will.

1 A Oh, I know. Uhm, and I can say this. And you can ask
2 me this directly on the polygraph. I would say -- I would say
3 that ninety percent of the officers that work C.R.A.S.H., and not
4 just Rampart C.R.A.S.H., falsify a lot of information. They put
5 cases on people. And I know that's not a good thing to hear. I
6 know that's very broad.

7 But the first time I, you know, saw certain things, I
8 was -- I didn't realize that, like I said until '95, when I joined
9 C.R.A.S.H. in '95. I didn't see a lot of these things. I just
10 didn't. I was a patrol guy. I worked Narcotics. Just did my
11 normal job. But, uhm -- and I'm not, number one, proud of this,
12 or, you know, it hurts me to say it. But there's a lot of crooked
13 stuff going in with L.A.P.D., especially L.A.P.D. specialized
14 units.

15 Uhm, you go to the Short Stop and you hear, you know,
16 77th C.R.A.S.H. and Rampart C.R.A.S.H. get into a shooting. We
17 used to be up at the -- at the benches up in the Academy and we
18 talk about how things went down. How they really went down and
19 how they were fixed up. Whether it's Sonny Garcia's shooting of
20 -- working Narcotics, uh, supposedly, the gun -- suspect went
21 after his gun, when actually he was running after the guy and the
22 gun went off accidentally.

23 Uh, there's so many incidents. I couldn't possibly go
24 into every one of them. Because I can't really -- really remember
25 all of them. What I'm saying is, specialized units need to be
26 looked at, because there is -- and believe me when I tell you, if
27 there was 15 officers in C.R.A.S.H., 13 of them were putting cases
28

on people.

1 Q When you say "putting cases on people" do you mean
2 manufacturing probable cause, or do you mean actually, in essence,
3 framing somebody who did not do something, for a crime?

4 A Both. Both.

5 Q Uhm, let me, in fact, then move into this area. Because
6 it's, obviously, very important for us. Uhm, when we spoke on
7 Wednesday, in -- in court for about five minutes --

8 A Mmnh-mmnh.

9 Q I think when I interviewed you, you talked about
10 shooting that occurred, uh, in October of '96.

11 A October of '96, yes. 6

12 Q Uhm, and you gave me reason to believe on that -- you
13 actually said that you guys -- that you and Durden planted a gun
14 on this guy who was shot.

15 A That's right.

16 Q Uhm, obviously, looking at the file, we've got the
17 O.I.S. report, we're able to identify. There was only one
18 shooting you were involved in, in October of '96, I take it?

19 A Yes, sir.

20 Q Uh, what it appears is that, in essence, this person was
21 framed for assault with a firearm on a police officer. Went to
22 trial, was convicted with perjured testimony, and sent to prison
23 son for 24 years. And he's still in custody, correct?

24 A Yes.

25 Q Now, I'm going to ask you about this case, specifically,
26 but what I want to know first is, are you aware or can you give
27 us, today, any specific information on any other person who has
28

1 been wrongfully convicted, who's currently in custody as a result
2 of that?

3 A Like I said, I am going to need to see those books. The
4 books I told you about.

5 Q Okay. Now, we -- when you say "like I said", uh, we
6 talked a little bit about this off the record, where I just asked
7 you, in general, to think about this issue. You're saying you
8 need to look at what books?

9 A The Recap books that I was explaining to you about. I'm
10 sorry, they're the log books of Rampart C.R.A.S.H. and, uh, -- uh,
11 Rampart Narcotics. Uh, we have recap books. We write everything
12 down -- the person that was arrested, the date, the time, the
13 location, what was recovered, that type of thing.

14 Q Was there any other case that comes to your mind right
15 now, without having an opportunity to look that stuff, where you
16 committed perjury, and, in essence, said that somebody committed a
17 crime that they did not commit?

18 A I am going to need to see those books.

19 Q All right. So, nothing comes off the --

20 A Off the top of my head, just like that?

21 Q Did it happen that frequently that you can't remember?

22 A I am really going to need to see those books. I
23 believe -- what -- what I'm saying is there maybe situations where
24 the probable cause was totally falsified, and which led to the
25 arrest, which led to the arrest being wrong.

26 Q Right. And that's, obviously, important to us. But
27 that's not something we have to deal with right now. The
28 manufacturing of probable cause for the guilty person in custody

1 is a serious offense. But, right now, what I have to do, right
2 now, is find out is there any innocent person who did not commit
3 the crime who is in custody that I got to get out?

4 A I can't think of anything right now.

5 Q Okay. Then let's -- then let's go on to this incident.
6 Uhm, the incident that I pulled. And I want to verify that it's
7 the, uh, correct one, involves a Javier Ovando.

8 A Yes.

9 Q And according to the O.I.S. report, uh, the shooting
10 occurred on Friday, October 11th, 1996. Uh, and it was in a, uh,
11 apartment house in the area of 12th and Lake Street.

12 A Yes, sir.

13 Q Okay. So that's the one that we talked about on -- on,
14 uh, Wednesday in court; correct?

15 A Yes, sir.

16 Q Okay. Why don't we start -- uh, we have certain
17 information from the O.I.S. report about how you got there and why
18 you were there. Uh, let's start, though, on that day when you went
19 to that apartment house. Why did you go to the apartment
20 house?

21 A We were doing an observation, what's called an
22 O.P. -- Observation Point -- on the intersection of 12th and Lake.
23 Uh, there was a lot of heavy gang activity going on -- 18th Street.

24 A
25 lot of traffic going on. And we suspected that there was -- we got
26 some information that stuff was going on, because there was a
27 lot of heavy activity. A lot of gang members showing up, getting
28 out of a cab, take off. The cab comes back around. They get in.

A lot of stuff like that. So, we felt something was going on and

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we wanted to look at it.

1 There was a purpose of doing the observation point. I
2 believe we were up on the 4th floor looking down right onto Lake
3 Street. And just north of that would be at 12th Street.

4 Q And you were there with Durden?

5 A Yes, sir.

6 Q And, uh, you had other officers with you downstairs?

7 A That was falsified. Uh, the -- the part that, uh,
8 Officer -- uhm, I can't remember his partner. But Montoya and
9 Rios were in liaison with us. And we kept 20-minute interval
10 contacts. All that was cleaned-up and straightened-out after
11 everything occurred.

12 Again, we met with our supervisor. Everything was
13 straightened-out. You know, this is how it happened. This is
14 what we did.

15 Q BY DET. HOHAN: Who was the supervisor?

16 A Uh, Sergeant Ortiz.

17 Q Eddie Ortiz?

18 A Yes, sir.

19 Q BY MR. ROSENTHAL: And so, were Montoya and Rios
20 actually, uh, down on the .street at the time of the incident?

21 A They weren't there at all. They weren't nowhere.

22 Q They weren't involved in any way?

23 A No. Well, like I said, we had falsified the interview
24 and everything else by saying that, uh, that they were around the
25 corner working as our chase, uh, to -- in case we needed units to
26 move in.

27 Q And that would decrease the reason to believe that you
28

1 would have had a chance to plant a weapon. Because, at least,
2 according to the report, it sounds like they were down there and
3 they would have responded fairly quickly.

4 A I'm not sure. It was just done for a matter of tactics
5 and -- department tactics. And, you know, that you should have a
6 chase unit. And we always, in C.R.A.S.H., always do our own
7 little piece. If we need somebody, then we call them. We're not
8 gonna call somebody and say, sit here, let me see what I find.
9 And if I find something, I'll call you in. Because they're gonna
10 be sitting there all night. Because O.P. sometimes it takes
11 hours.

12 And, in fact, we were there for hours, until you finally
13 see something, you know, you see a guy hiding a gun under a -- a
14 fire hydrant, or -- or whatever. So, it was a lie when we said
15 that -- that, uh, they were around the corner waiting for us and
16 we were in radio communication, in radio communication with the
17 supervisor, uh, every half hour, or whatever it was we told the
18 officer-involved shooting team. That never occurred.

19 Q Okay.

20 A Uh, once he called us to say, you know, how much longer
21 are you guys gonna be there? All right. Later.

22 Q Who called you?

23 A Sgt. Ortiz, over the radio. Over the, uh, the radio.

24 Q So, you're up in the observation post?

25 A Yes.

26 Q What happens?

27 A We're -- like I said, we're up there for hours.

28 Q So what happened?

1 A We had been up there probably a few hours. A couple of
2 hours. Maybe two and-a-half hours, something like that. And
3 right before that, uh, Sgt. Ortiz had called and said, you know
4 how much longer you guys gonna be up there, that type of thing.
5 And we said, probably 15 more minutes. There's -- there's
6 activity but we don't see it. I mean, as far as making dope
7 deals?

8 Yeah, they were doing all that. But we couldn't, you
9 know -- what are we gonna do? We can't -- we were mostly looking
10 for guns.

11 I need to back up a little bit. Two, three, maybe four
12 days before this O.P., Officer Durden and I came across a Tech .22
13 rifle -- a machine gun rifle. The weapon that was planted. Where
14 we got it exactly from, I didn't know. We used to get, uh, you
15 know -- do a gang sweep and everybody runs. And then there's a
16 gun there. And there's a gun. We keep the gun.

17 Q Why do you keep the gun?

18 A Keep -- and I'm going to say this. And I have to say
19 it. That we kept it just to have it in case something like this
20 were to occur, or something, you know -- I -- what exactly we kept
21 it for I don't know. Everybody was keeping -- you know, kept one.
22 Everybody.

23 Q What surprised me on this the most was when I saw a
24 photo of the gun. I mean, if somebody's going to drop a gun, I
25 would assume it would be a Saturday night special, some cheap
26 little nothing. This was a serious weapon.

27 A Right. And I believe it was fully loaded with rounds,
28 uh, in it. But what I'm trying to get to was, a couple of days,

1 up to almost maybe a week before, uh, we decided -- and I'm not
2 sure if it was me or Durden -- but the computers need to be
3 checked -- we ran the serial number to that gun. So --

4 Q It had a serial number when you obtained it?

5 A Yes, it had a serial number when we got
6 it. When we ran the serial number, uhm, -- I don't -- I don't
7 remember if it came back with something. Like, you know, it came
8 back stolen, or no information. But the serial number was ran.

9 So, I think that we can still go back and check to see if
10 that serial number was run, at some point. When the serial number
11 was ran, I don't know if we came back with something. But, I --
12 in my mind, I knew that that serial number was ran.

13 Q Okay.

14 A And it was in the computer. All you have to do is check
15 the system to see if the serial number was run. And it's gonna
16 come back that a Tech .22 was ran.

17 Q So, when was the serial number obliterated?

18 A That's what I was getting ready to get into. A couple
19 of days later, we're sitting in the the car. And I don't know what
20 we were doing. But Officer Durden's sitting in the, uh,
21 passenger seat. I was always driving. And he files off the
22 serial number. He takes the serial number off the gun.

23 Uh, at that point, he was just taking the serial number
24 off the gun. But he was just taking the serial number off the gun.
25 Uh, now to get back on to the day in question, on that day I
26 am standing at the window. A lot of the things that we told the
27 officer-involved shooting team was correct, again. You know,
28 everything was -- was correct.

1 I was -- we were doing an O.P. I am standing at the
2 window. I believe it's Apartment 403 or 404. And I'm facing the
3 Lake Street. Uh, this room's got all kind of stuff in it, trash,
4 turned over couch. It's dark. The apartment building is supposed
5 to be abandoned. Uh, it's all boarded up. We climbed a big tall
6 fence. We went around a window. We got in somehow into the
7 building.

8 Uh, we did walk around. We had told the
9 officer-involved shooting team that we searched every room. You
10 know, made sure it was abandoned. We did walk around. The
11 building was empty. Uh, so we were fairly comfortable being up
12 there.

13 Uh, when we were sitting up there, Elike I said, the last
14 half hour, or right after Officer Ortiz -- or Sgt. Ortiz -- had
15 called us, I am sitting there at the window looking. I got --
16 we always wear earpieces with the radio so that we can hear him.

17 So, I've got my earpiece and I'm looking out the window.
18 Durden's just standing around in the, uh, I guess it would be the
19 living room. It's like a studio. So I guess it would be the
20 living room, uh, sleeping area. And I'm looking out the window.
21 And I'm staring and looking. And we were alternating back and
22 forth as to who was doing the observation.

23 All of a sudden, I hear like talking. And then, I hear
24 like, what the -- excuse me, what the "F"? What the -- what the
25 fuck? Or something like that.

26 Q Say it. Say the words. We're all adults.

27 A Right. And I turn around and I see Durden and beyond
28 him. I would -- where I would be -- Durden would be in front of

me. And then another person.

1 So, I would see about that much of the person. Maybe a
2 quarter -- not even, you know -- a small piece of him. But I see
3 Officer Durden talking and agitated, because he was cursing.
4 As I turn around to get up and start walking towards
5 him, I see him pulling his gun out. I pulled my gun out. And
6 then, all of this that I'm talking about occurred in a matter of
7 seconds. This wasn't, you know. Uhm --

8 Q So, let me -- let me -- let me take a step back to make
9 sure we understand. You're looking out the window. And the first
10 thing that you hear, that's unusual, is you hear voices?

11 A Somebody talking.

12 Q Somebody talking.

13 A Durden talking.

14 Q And it's Durden talking to someone else?

15 A Durden talking.

16 Q And is this -- is the door of the apartment that you're
17 in, open, at this time?

18 A I --

19 Q Or was it closed?

20 A The door would be behind me another room over. In other
21 words, here is the living room. Here is the front entrance. I'm
22 in this room over here.

23 Q Well, in fact, we've got a picture -- we've got a
24 diagram here of the room. Uh, let me just -- we'll have a copy of
25 it. This is a, uhm -- this is a diagram of the room that's
26 attached to the O.I.S report. So, there's only one. Uh, looking
27 at this diagram --

28

1 A I would be over here somewhere. There's a window right
2 there. Where it says window.

3 Q I see. You're at the window -- the southmost window in
4 the kitchen/dining area?

5 A Exactly.

6 Q Okay. And where would Durden -- or, you hear voices
7 emanating from where?

8 A Over in this area right here where Durden is at. Where
9 the "D" is indicated.

10 Q Where the "D" is indicated. That's by the closet, which
11 is near the entryway.

12 A As a matter of fact. And that would be the couch that's
13 turned upside down, or whatever, that's laying on the floor.

14 Q All right. There is a rectangular symbol that's the
15 couch. And it says, in fact, on the diagram, indicates overturned
16 chair. Okay. So, you hear -- you hear Durden talking.

17 A Mmnh-mmnh.

18 Q And you go into the living room?

19 A I -- yes. I start walking from here.

20 Q From the window?

21 A From -- from -- right. From this kitchen area, the
22 window area, this way. In this manner here.

23 Q And, you're saying you're walking basically, uh,
24 northwest through the door into the living room?

25 A Yes, sir.

26 Q Okay. So, what happens then?

27 A Uh, as I'm walking from here to this point here, my
28 final destination was here.

1 Q Okay. Now, you say, your --

2 A Officer Durden --

3 Q -- your final destination was here. That's where the
4 "P" is, which indicates "Perez"?

5 A Yes, sir.

6 Q Okay.

7 A As I'm walking from here, maybe about two-thirds of the
8 way there, Durden's pulling his gun out. As I'm walking here, I'm
9 also pulling my gun out.

10 Q So, Durden is located where the "D" is, by the closet?

11 A The whole time.

12 Q All right.

13 A The whole time. When I get to right about that that
14 location, Officer Durden fires a round.

15 Q And are you able to see the person he's talking to or
16 firing at, at that time?

17 A I could see him, yes.

18 Q And can you -- can you see his whole body? Can you see
19 whether he has a gun or not?

20 A I didn't see a gun on him.

21 Q Okay.

22 A That's like I told you that I did not see a gun at any
23 time.

24 Q Okay. The, uh -- you see --

25 A You want this back?

26 Q No, go ahead and keep it in front of you, just to help
27 you out. Uh, so, you see Durden pull his gun. And Durden shoots?

28 A Yes, sir.

1 Q All right. Did you see the -- were you in a position to
2 see whether this, uh, the guy he shot had taken any kind of
3 aggressive acts or done anything?

4 A No.

5 Q You were not in that position to see it, or he did not
6 do it?

7 A When I started walking towards it, the guy's already
8 standing right there where the "O" is indicated on this sheet.

9 Q Okay.

10 A That's where he was standing.

11 Q All right. And that's about how far away from Durden?

12 A From Durden to him? Less than ten feet.

13 Q And were you in a position, when Durden took out his gun
14 and shot-- and it's Ovando-- were you in a position to have seen
15 whether Ovando was taking aggressive action? That's the first
16 question.

17 A No.

18 Q Okay. So, he could have taken an aggressive act and you
19 wouldn't have known?

20 A Right.

21 Q Because he's blocked. You couldn't see.

22 A Right. My first view of him is after I walked out of
23 the kitchen and I realized that Durden is actually talking to
24 somebody. That's when I first see him. I do not see him -- when
25 I get closer, and Durden has his gun out, and I'm pulling my gun
26 out, he -- I have to react to what my partner is doing.

27 Q Right.

28 A He may see something I don't see. So, I'm reacting to

him.

1 Q So, the sole --

2 A I'm feeding off him.

3 Q So, the sole reason you pulled your gun out was because
4 you saw Durden pull his gun out?

5 A I'm feeding off of him, because --

6 Q Okay.

7 A -- he may see something I don't see. You know, so, I
8 pulled my gun out.

9 Q All right.

10 A It was dark -- uh, it was dark in the room.

11 Q Right.

12 A It was very dark in the room. We did have our
13 flashlights.

14 Q Okay.

15 A We had -- Durden had his light on him. And I started --
16 I got my light out. And I know I started pointing my light at him
17 as I was walking over. Uh, at no time did I see a gun on him.

18 Q All right. So, uh, Durden shoots. What happens next?
19 A And then -- and like I said, again, this was all
20 split-second timing.

21 Q Right.

22 A I fired. I thought I fired once. You know, once. But,
23 actually I fired I think three times. I don't remember what
24 was -- it was three or four times. But it was -- it felt -- you
25 know, being inside of a room and firing a -- a round is just so
26 loud. I felt like I fired once. But I must have just kept
27 pulling.

28

1 Q I think the report said that you fired --

2 A Three times?

3 Q -- two -- two separate times. One twice and one once.

4 DET. TYNDALL: I think so. That's the sequence

5 Q BY MR. ROSENTHAL: Okay. But as far as you know --

6 A Boom. In fact, I told the officer-involved shooting
7 team, initially, that I thought I fired it once. And they said
8 there's more than one casing. There's -- I thought I had fired
9 once.

10 Q All right.

11 A I'm sorry.

12 Q All right. Uhm, the guy goes down. What happens then?

13 A The guy goes down. Uh, at that point, Durden says, hold
14 on a second. Or he-- he said something. He goes out in the
15 hallway. I don't know if he's looking to see if there's somebody
16 else out there or what. But he goes out into the hallway. I'm
17 there covering the guy, just looking at him.

18 Durden disappears -- or disappears out of my sight for a
19 few minutes. He walks back in holding a -- a red rag.

20 Q Okay.

21 A In fact --

22 Q All right. Let's stop for one second. During that
23 period of time that Durden disappeared, did you do anything? The
24 guy's lying there on the ground.

25 A I'm standing there looking at him. I'm just covering
26 him.

27 Q And you didn't call -- make a call?

28 A Nothing was done, at that point.

1 Q Why not?

2 A My partner was still out looking. I thought -- well,
3 I'm sure he was, seeing if there was somebody else out in the
4 hallway, or whatever he was doing -- making sure it was secure or
5 whatever.

6 Q Well, you're involved -- you're just involved in a
7 shooting, I mean, I would think you would want back up; wouldn't
8 you?

9 A Yes. But, at this point, we're sitting -- when -- this
10 is -- when I say my partner went out into the hallway, this is
11 three seconds after shots were fired. I mean, this is all pretty
12 quickly.

13 Q Right.

14 A I mean, this isn't ten minutes later. Sure, we're gonna
15 get back-up. We need to make sure that, you know, as we're
16 requesting back-up, someone behind us comes in through the door
17 again, or something -- you know what I mean. My partner goes out.
18 I'm standing there with the suspect. I stay there the whole time
19 with the suspect.

20 Q Right.

21 A Durden comes back. And he produces a red rag. It was
22 like a red dirty shirt. Probably he found it on the ground or
23 whatever. I don't know. He stands right -- the guy's laying. It
24 doesn't show on here how he's laying. But he's laying on the
25 floor. Durden stands -- can I stand up?

26 DET. TYNDALL: Certainly.

27 MR. ROSENTHAL: Sure.

28 THE WITNESS: The guy is standing. This is the entrance to

the front door.

1 MR. ROSENTHAL: Right.

2 THE WITNESS: And then, this is the room. And Durden's right
3 here. The guy fell in the position like this, and I believe his
4 head was up here and his feet were down here, if I remember
5 correctly. Yeah, his head was up there and his feet down here.

6 Durden stands next to him, and --

7 Q BY MR. ROSENTHAL: Okay. And so, his head is near the
8 entryway?

9 A Yes, sir. Closer to the door than his legs are.

10 Q All right. He takes the rag off, stands right by him,
11 and drops the, uh, the weapon?

12 A He let's it drop. Boom. He let's it fall.

13 Q All right.

14 A And the gun is there. You know, it's there. We didn't
15 handcuff him, at that point. Durden says, okay, I'm going, you
16 know, call an R.A. unit. And what we do in C.R.A.S.H., anytime
17 there's an officer-involved shooting, we have these codes that we
18 use. Uh, if we say that we need a C.R.A.S.H. ten, C.R.A.S.H.
19 twenty, C.R.A.S.H. thirty, and C.R.A.S.H. forty, that is the sign
20 that there's an officer-involved shooting team. All C.R.A.S.H.
21 Units respond to that location.

22 Because there is no C.R.A.S.H. thirty and forty.
23 There's only a C.R.A.S.H. ten or maybe a C.R.A.S.H. twenty. Most
24 nights there's only just one C.R.A.S.H. unit. But that is the
25 sign to get everybody there.

26 We did that. And so we knew that we had everybody
27 rolling. I think the first person that got on the radio was
28

Montoya and Rios. They were the first unit to -- to arrive.

1 That's why they were -- we said that they were the ones that were
2 running chase for us or whatever.

3 Q Did, uh -- you called a rescue ambulance, at that point?

4 A Right after we did the C.R.A.S.H. --

5 (Off the record to change tape.)

6 (Back on the record.)

7 MR. ROSENTHAL: Okay.

8 MR. MCKESSON: Can I just put something on the record? I
9 want the record to reflect that throughout this interview, with
10 respect to the question involving this shooting of -- is it
11 Octavio?

12 MR. ROSENTHAL: The shooting of Javier Ovando.

13 MR. MCKESSON: Yes. Throughout -- throughout this period, up
14 to now, my client has been answering questions without the benefit
15 of looking at a file. I just want that to be noted for the
16 record. And the only thing that he's looked at --

17 MR. ROSENTHAL: Right.

18 MR. MCKESSON: -- except the one page that has the diagram on
19 it. Other than that, he has been testifying exclusively from his
20 memory.

21 Q BY MR. ROSENTHAL: Okay. Very good. All right. The --
22 the question was, when did you call for the rescue ambulance, as
23 opposed to when did you call for the other C.R.A.S.H. officers?

24 A Uh, the C.R.A.S.H. officers were called first. And
25 also, you have to remember, in C.R.A.S.H. we use different
26 frequencies. We don't use, you know, Frequency Number 2, which is
27 Rampart's frequency. Most of the time we will switch to a Clamars
28

1 frequency or a -- I can't even think of the frequency that we
2 used. But we always had a signal to go to a certain frequency.

3 And I can't even remember what the -- the numbers of the
4 frequencies were. But we knew that always one officer in the
5 unit, whatever team it was, was listening to that frequency. We
6 would call it our C.R.A.S.H. frequency.

7 And then, the other partner would listen to the Rampart
8 frequency --

9 Q Right.

10 A -- just in case something came up. But, any time we
11 needed to talk about something regarding the unit, we would get on
12 that frequency. And we would say, uh, go to -- go to, uh, -- go
13 to Channel, uh, -- Channel Blue or something. We knew what
14 channel that was. Listen to your -- your radio. And on that
15 frequency we would put out, we need C.R.A.S.H. ten, twenty, and
16 thirty, and forty, and -- and the location.

17 Q Okay.

18 A And, you know, everybody knew when something had
19 occurred.

20 Q And then you would switch to the Rampart frequency to
21 call for the ambulance?

22 A Yes, sir.

23 Q Okay. From my understanding, from what you've said and
24 you testified at the preliminary hearing, and, although I don't
25 have the trial transcript quite yet, uhm, in the brief of the
26 Attorney General, it indicates that the defendant, Javier Ovando,
27 burst -- basically, broke open the door going into the apartment.
28 That did not happen?

1 A That's something we fabricated, or, you know, that's
2 how -- that's something that was discussed later. And in how we
3 explained it later, how he came he came -- he walked in. He
4 didn't burst in. Well, my thought is he -- we testified, or I
5 testified that he burst in. He -- there was a big -- excuse me.
6 That he bursted in and came in.

7 Q Right.

8 A I don't think -- I know he didn't come in that way,
9 'cause I didn't hear no bursting or no -- no kicking of the doors.
10 If he walked in -- he came in, he walked in.

11 Q And the theory of the trial was that he came into the
12 apartment armed with a semi-automatic firearm to execute two
13 police officers, who were conducting an observation point. That's
14 what the D.A.'s position was. That's false?

15 A Yeah. Well, I don't think -- I don't know if that was
16 the whole position. I -- 'cause I -- the whole position was
17 whether he knew it was too dark, and whether he knew that we were
18 police officers at all. I think it had been talked about whether
19 we were narcotics users and he was there to rip-off narcotics
20 people.

21 Q Okay. What I'm telling you is I -- I've read the D.A.
22 Sentencing memorandum. And that's the theory.

23 A Okay.

24 Q And that's the theory that was used in the Attorney
25 General brief. And that's, obviously, false?

26 A Yes.

27 Q Okay. So, Officer Durden takes the rag, drops the gun
28 next to the body. I am he's not dead, but the defendant. At that

1 point, you call for your C.R.A.S.H. officers, you call for the
2 rescue ambulance. What happens then?

3 A We meet with Sgt. Ortiz, Officer Montoya, Officer -- I
4 believe it's Officer Rios. I'm not positive on that. I keep
5 using his name, because that was his partner, I believe. But I'm
6 not positive.

7 Q The -- the -- the O.I.S. report does indicate Montoya
8 and Rios.

9 A Rios? Okay.

10 Q If it indicates that, then Rios was the one?

11 A Whatever officer that we used, that would be the
12 appropriate officer that was there. Yeah.

13 Q All right.

14 A On the report.

15 Q Why don't you give me back the officer-involved shooting
16 report. All right.

17 A Uh, myself, Durden, Rios, Montoya, and Ortiz, we --
18 again, we sent somebody out to be a -- a diversionary person out
19 in the front. Because there is some people that -- that either
20 worked C.R.A.S.H. before, or have some insight that once we use
21 certain codes, and you hear, you know, requesting an R.A. at 1209,
22 they know something's gonna be up. So, we don't want other
23 officers coming in.

24 Q Okay.

25 A And we set up -- or we send an officer, get at the front
26 door, if somebody wants to come in -- I don't care if it's the
27 Captain, you tell him that we're a building search, there could be
28 possible suspects still around, whatever. The reason we do that

1 is, so that we can sit there and discuss what happened, how it
2 happened, what occurred -- everything that needs to be explained.

3 Q When you met with Ortiz, Montoya, and Rios, did Ortiz
4 and Montoya and Rios know that Durden had planted the gun on the
5 suspect?

6 A No.

7 Q So, you and -- and Durden had told them he had this --
8 this is the gun. He had the gun.

9 A Yes.

10 Q Okay. And did you and Durden have any conversations
11 prior to Ortiz, Montoya, Rios showing up?

12 A Yes, we did.

13 Q And what were your conversations?

14 A Exactly what they were, I don't remember. I do know one
15 thing that we never discussed is how it all went down. You know
16 what I mean, how, uh, you know, you sort of don't even want to
17 talk about it amongst yourselves. You know what I mean. It's --
18 it happened. And, you know, you look at each other like, okay.
19 You just need to fix this. You know, it's -- it's one of those
20 things where you don't go, man, we just shot a guy who was
21 unarmed. You don't discuss that. You know, you say, okay, well,
22 let's get this straightened-out. Let's fix this.

23 Q Who -- who came up with the idea of -- that the guy
24 burst in?

25 A I believe that was Durden's idea.

26 Q Did you discuss that before Ortiz, Montoya, and Rios
27 showed up?

28 A Yes, I believe so.

1 Q Uhm --

2 A Actually, I think we discussed it when they got there.
3 When -- when the supervisor got there, Durden wanted to take
4 the -- I mean, he did all the talking, basically.

5 Q Okay.

6 A And, in a way, I said, okay. Let him -- let him run
7 with it. You know, because he -- you know -- you know, he did
8 basically most of the acts. I mean, he wanted to do all of the
9 talking, so he, for lack of a better word, improvised! everything
10 that he said. That he improvised. He went all out with it. And
11 I just followed with it. Yes, that's what happened.

12 Q Okay. And then, later in a separate interview, you
13 would have said what he said?

14 A And -- and, right. And, you know, how they send you
15 back to the station. You're supposed to sit in separate rooms.
16 And when you go back, they sit you in the same room and you
17 discuss it more, talk about it more, get your story straight more,
18 or whatever. That's what happens.

19 Q Well, why did you testify at the preliminary hearing
20 instead of Durden?

21 A Something that I -- I noticed a lot as time went by.
22 Durden was very smart in that he would always say, oh, I'll book
23 everything. I'll do this and I'll do that. You just go ahead and
24 write it.

25 And, in my mind, now, I think back. I go, you know, he
26 was smarter than I was, because he let me always do all the
27 testifying. Well some Spanish stuff was done, or, oh, Perez you
28 got more time, you testify, or -- he always had me doing the

testifying. Always had me writing the reports.

1 And I didn't mind writing the reports, because a lot of
2 times it was Spanish-speaking. But it seems like everything --
3 any time it was a major case, the D.A.'s gonna say, well, let's
4 get the senior officer. He has more experience about gangs and
5 how gangs work and what they do.

6 But it always seemed like in everything that happened,
7 anything that was -- I always had the majority of the
8 responsibility, as far as writing a report or -- or testifying in
9 court. I always did all the testifying in court. He rarely
10 testified. Even on just simple little cases, I -- you know, the
11 D.A. would go, well, who is the narcotics expert? I'm the
12 narcotics expert, you know, even though he's trying to get
13 narcotics qualified, you know, as an expert they'd always put me
14 on.

15 Q Okay. All right. Let's -- let's go back. We jumped
16 ahead. So, uhm, you're talking about --

17 A I'm sorry. But he also testified too; didn't he?

18 Q Not at the preliminary hearing. It was just you.
19 EAAAt the prelim.

20 Q Uhm --

21 A Okay.

22 Q And at what point -- all right, I'm sorry. You -- you
23 meet with these guys. You talk about what happened. Durden tells
24 them. You follow along. Did anything else of significance
25 happen, uhm, after -- at -- at that point between then and the
26 time, uh, that they started talking about filing charges on this
27 guy?
28

1 A Anything significant?

2 Q Yeah, I mean any conversations. Did anyone -- it
3 sounds, from what you're saying, that the only two people who knew
4 that this was a bad shooting are you and Durden.

5 A Yes.

6 Q Okay.

7 A Unless Durden told somebody else.

8 Q Okay. The only two people who knew that the gun was
9 planted were you and Durden?

10 A Yes.

11 Q All right. At some point, you become aware --

12 MR. MCKESSON: Let me just correct something. I'm not so
13 sure that the statement is correct when you said he knew it was a
14 bad shooting. Because, I mean, objectively --

15 MR. ROSENTHAL: Oh, all right. Well, let's -- obviously, my
16 questions are not evidence, so to speak. And that's a conclusion
17 I draw. It is true we do not know, at this point, exactly what
18 happened that caused Durden to pull the gun.

19 MR. MCKESSON: But I thought that he suspected, too, as
20 whether he knew it was a bad shooting, 'cause he -- 'cause he's
21 testified it was dark and he's feeding off of Durden.

22 I think it was clear that it was bad to drop the gun
23 there. I think that's without question.

24 MR. ROSENTHAL: Well, it was, obviously, a shooting of an
25 unarmed man.

26 MR. MCKESSON: Yes.

27 MR. ROSENTHAL: And, I mean, like --

28 MR. MCKESSON: I -- I don't want to argue the fact. I just

wanted to get --

1 MR. ROSENTHAL: We'll let the facts speak for themselves.
2 And if I make a characterization, that's just my characterization.

3 MR. MCKESSON: Okay.

4 Q BY MR. ROSENTHAL: Uhm, at some point in time, this case
5 is presented to the D.A. And the guy goes to the hospital --

6 A Yes.

7 Q -- in critical condition.

8 A I -- I didn't take him to the hospital. I'm assuming he
9 went to the hospital.

10 Q Right. Exactly. Uhm, when did you first become aware
11 that charges were going to be filed against this guy?

12 A Probably when I got subpoenaed or --

13 Q So --

14 A I don't --

15 Q So, the investigating officer, at the time -- I think it
16 was a Detective Gonzales. Do you know who Detective Gonzales was?

17 A Yvette Gonzales?

18 Q Uh --

19 A Yeah.

20 Q Well, I've got to look here and find the initial report.

21 A She works C.R.A.S.H. Detectives?

22 Q Uh, we've got -- I'm trying to find the -- it was a very
23 short report on this.

24 A It would be in the P.I.R., the -- the name of the
25 detective who is writing the report.

26 Q Here it is. Yvette Gonzales?

27 A Yes, I know her. She works C.R.A.S.H. Detectives.

28

1 Q Okay. Yeah. Serial No. 27594. Okay. Uhm, at some
2 point, did she interview you about what happened? You were,
3 obviously, interviewed by the O.I.S. team.

4 A Right.

5 Q What about by Gonzales? Do you remember being
6 interviewed by her?

7 A I believe somebody interviewed us. To be very honest, I
8 don't remember Yvette interviewed us. But somebody -- I believe
9 the detectives did interview us.

10 Q So --

11 A I just don't happen to remember that it was Yvette.

12 Q All right. But you weren't involved in trying to get
13 the D.A. to file charges?

14 ANo.

15 Q It just happened, as far as you knew?

16 A Yeah.

17 Q You were subpoenaed for the preliminary hearing and you
18 testified. You testified in accordance with your O.I. -- the
19 statement you made to the O.I.S. team, right?

20 A Yes, sir.

21 Q At this point, did it concern you that you were
22 testifying on a Proposition 8 serious felony case against a guy
23 who wasn't guilty? Why did you do it?

24 A Did it concern me? It's concerned me for a long time.

25 Q Okay.

26 A Uh, a long time. I talked to my attorney about this.
27 Uh, you know, when -- when -- and I'm sorry. Let me just back up a
28 little -- uh, a quick minute here.

(Back on the record.)

1 Q BY MR. ROSENTHAL: It's 12:30. And we're back on. Uhm,
2 the only other question I've got, actually with respect to this
3 incident with Mr. Ovando is we do have you testifying at trial.
4 Uh, there's also a note in the probation report. I just want to
5 verify with you that you did say this.

6 Uh, the probation officer wrote that on December 3rd of
7 1996, that the probation -- that he left or she left a message
8 with Investigating Officer Gonzales to have the two officers call
9 this writer. And it's written that the Officer Rafael Perez
10 telephoned and spoke for both victims. Do you remember calling
11 the probation officer?

12 A That I spoke for both victims?

13 Q Yeah.

14 A I don't even understand that statement.

15 Q Well, it's -- uh, you and -- you and Durden. I'm sorry.
16 Were the charged victims.

17 A Oh, I see. We were being the victims.

18 Q Right.

19 A Okay.

20 Q And it looks like it's a -- it doesn't say whether this
21 was a female or a male probation officer.

22 A What -- what was said? I don't know if I said it or
23 not.

24 Q Do you remember calling the probation officer?

25 A I'm sorry. This is three years ago. I -- I
26 really -- but if you say what was said, I might remember.

27 Q Okay. What you -- I think what she wrote was -- what
28

1 she wrote is "Officer Rafael Perez telephoned and spoke for both
2 victims. The officer stated 'There were no injuries. The guy
3 walked in with a machine gun-- armed. And we dealt with him the
4 best way we know how. We never knew his motivation. But he
5 shouldn't have pulled a machine gun on us anyway. He's an active
6 18th Street gang member known as Sniper. And my partner feels the
7 same way as I do.

8 A I never said that we deal with him the best way we know
9 how. I don't know if he's just paraphrasing or -- I never used --
10 I wouldn't use those words. I would say, an officer-involved
11 shooting occurred. And I would cut it very short. You know, I'm
12 not gonna say "we dealt with him the best way we know how." I
13 don't think I ever said that.

14 Q You identified him as an active 18th Street gang member?

15 A Yeah, on his chest he had a 1-8.

16 Q Okay.

17 MR. MCKESSON: Ray? Excuse me. Ray, tell them that you did
18 speak with his sister or something?

19 THE WITNESS: I didn't -- as far as what?

20 MR. MCKESSON: About his condition. You asked if he was in
21 prison.

22 THE WITNESS: He has a girlfriend or a wife that was going
23 through the trial. She would show up. She was pregnant, at the
24 time. Uh, later on, I guess she got hooked-up with some other
25 guy. She got a new boyfriend in 18th Street.

26 But, apparently, she had gone up to see him or
27 something. And, uhm, they had said that he was fine, or that he
28 was -- you know, that, uh, that he was -- you know, that, uh -- I

1 don't know his condition right now. His -- my attorney had asked
2 me his physical condition right now. I don't know what his
3 physical condition is.

4 I haven't seen him again. Uh, but other than the
5 street, that, uh -- the stuff that was heard on the street by
6 these other gang members who was now dating his girlfriend, that
7 he was fine and he was up in prison.

8 Q BY MR. ROSENTHAL: Did -- uh, well, he was brought in on
9 a gurney at the preliminary hearing. Do you remember that?

10 A Yeah. At the preliminary hearing, yes.

11 Q At the trial, though, he was -- no gurney. He was
12 sitting there?

13 A I believe so. In fact, the reason I think he was
14 brought in a gurney, from what I remember now, was that somebody
15 told me that he had needed to have a follow-up surgery done.

16 So, he had -- months had gone by. He had not been on
17 the gurney. But they had to do a -- a small surgery. Or some
18 type of additional surgery on him. And that's why he was on a
19 gurney, at that specific -- at that specific time.

20 Q Right.

21 A That's why he was on the gurney.

22 Q Is there anything else on that case that you think that
23 we need to know about, at this time?

24 A I think it's very important that -- and I can't -- I
25 don't know if it's an Afa system or what it is -- that --
26 because one of the things after everything that's -- the dust
27 settled, I started thinking, my goodness, that was the worst gun
28 to put out there. I mean, we ran that serial number. In my mind,

1 I was thinking that that serial number was run, even though he had
2 scratched it out days later.

3 Uh, I'm just saying, I guess for the case, that
4 something needs to be run to check that that serial number was
5 run. You know -- you follow what I'm saying?

6 Q Yeah. Yeah. That, obviously, if you run -- see whether
7 or not that weapon showed up --

8 A As being runned. I would say the date of the shooting
9 that you said occurred October 11th. Maybe a week or so. Uh, I
10 would say venture -- look ten days before or ten days from the day
11 of the shooting back. And I believe the terminal that was used
12 was the terminal at Rampart Detectives, the one where you walk
13 into the detectives -- the first computer. The only thing I don't
14 know was somebody already logged on and we ran the serial number,
15 or did me or Durden log on and use our serial number.

16 Q When you found the gun -- when it was placed on the --
17 Mr. Ovando it had a banana clip?

18 A Uh, yes.

19 Q And, uh, when you found it, it had a banana clip?

20 A Yes.

21 Q So, same -- same condition. What about the -- the
22 ammunition that was in it? I think, according to the report,
23 there was something like maybe 17 round in there.

24 A Everything was the same.

25 Q Same? So it was just picked-up, run, serial number
26 obliterated, and otherwise kept in the identical condition?

27 A Yes. Yes.

28 Q Okay. Any other questions? I know Brian had a

question, and he stepped out -- Detective Tyndall.

1 Q BY DET. HOHAN: There are a couple of questions I have,
2 Ray. Number one, how did you determine what drugs to take when
3 you did the switches or the three kilos? How did you determine?

4 A Which ones to call out and --

5 Q Yeah.
6 A On most of the cases on the switches, if you remember,
7 there was only -- if I remember correctly, one that was not like
8 in the Rampart area. There was one up in Hollywood area. Do you
9 remember that one?

10 Q Yes.

11 A I had occasion to be up in the Hollywood area. For what
12 reason, I don't know. But I used to work up there. I don't know
13 if you -- I used to work Narcotics. And we worked out of the
14 Hollywood F.E.S. Office. And I was up there, and I was going
15 through a recap. I don't know if I was looking -- I had gotten a
16 subpoena and needed to go on an old case, or whatever it was.
17 But I was -- I looked at the recap. And I saw a name
18 De--- Demmons. You think that's the Hollywood one?

19 Q Yes. Demmons. That's the guy, Demmons.

20 A Now, I saw that there. And it was old. That's an old
21 case, right?

22 Q Right.

23 A I had wrote the D.R. Number down, because I had noticed
24 that it was the amount of, uh, grams or whatever. I had called.
25 And I think they said -- oh, you know what, it was just scheduled
26 to be destroyed. But it hasn't been yet. And that's when I just
27 ordered it. The -- the only reason I -- I did that one is because
28

I just saw it there. It was -- I saw it on the recap book.

1 Q BY MR. ROSENTHAL: Did that have anything to do with Liga
2 being the seasoned officer?

3 A I don't even know who Liga is. I don't --

4 Q What unit -- did you know Gaines?

5 A I don't know who Gaines is.

6 Q The officer who was shot.

7 A You know, I read that somewhere. I don't -- I've never"
8 met him in my life. What is that about? I mean, if I can ask.
9 I don't know. I have -- you know, obviously, I'm taking a
10 polygraph. I've never met Gaines. You know, and I don't know who
11 he is.

12 Q BY DET. HOHAN: Was there anybody ever inside Property
13 Division involved any this at all? Any Property officers, anybody
14 that helped you, in any way?

15 A None. None.

16 MR. MCKESSON: Other than by being stupid.

17 THE WITNESS: And -- and them making up stories as they went
18 to protect their jobs or whatever else.

19 MR. ROSENTHAL: Let me step back here.

20 THE WITNESS: There's a lot more that I haven't gone into.
21 But people just sort of, you know -- oh, yeah, I remember his
22 voice. Number one, she definitely couldn't have remembered
23 Durden's voice. And she got very articulate that she knows his
24 brother. She knows him. And she knows his voice very well, and
25 all that. That's wrong. Because it was me.

26 And Number two, I disguised my voice. And Number three,
27 I didn't talk to her. I talked to somebody else. They might have
28

1 wrote it on a piece of paper, handed it to her, and said, hey,
2 could you put these on the log and -- and order it.

3 And to look good or whatever -- to not cause any waves,
4 or whatever, that's what she said. I would not talk to Schaffer.
5 Schaffer is the one girl that I know the best down there. I would
6 not talk to -- I would not call order narcotics, and when she
7 picked up the phone, yeah, this is Schaffer. I'm not going to do
8 that.

9 Q BY DET. HOHAN: Okay. Now, went over on -- on the
10 narcotics incidents. It was you, Durden, uh, involved in -- in
11 selling the cocaine. Were there any other officers involved in
12 selling drugs, stealing drugs, or guns from drug dealers, other
13 than what you talked about today?

14 A No. Not that I know of. Or that I could have seen
15 personally, no.

16 Q Okay. So, it would be -- what we're talking about is the
17 money incident with Lusby.

18 A You know what -- I'm sorry. We -- there's still a lot
19 of things that we have not talked about.

20 Q Right.

21 A Okay. But go on.

22 Q Okay. Are there -- are we going to talk -- yeah, that's
23 what I mean. Well, we're sort of running out of time here. But
24 there are other incidents?

25 A There's a big block of time that we need to talk about
26 that I have not even gone into yet. But you guys said that you
27 only wanted to hear about certain things right now. So, I need to
28 get into that later, I guess.

1 Q We have information from various narcotics dealers of
2 the rip-offs where, basically, they were -- searches were done,
3 narcotics was taken and not booked. Uhm, other than what you have
4 already told us, were there any instances where you would have
5 done that, or were involved in that occurring?
6 AI have to look at the reports to remember. I'm certain
7 there weren't very many drug rip-offs. There were money
8 rip-offs, not drug rip-offs.

9 Q Okay.

10 A That -- that one question where an informant said that I
11 offered to sell him a kilo of cocaine.

12 Q That -- that was the next question.

13 A And he said uh, that I told him \$17,500. And he said --
14 that's lie. He made that up either to get himself out of trouble,
15 or whatever. I never offered to sell an informant a kilo of
16 cocaine and then said, "Nah, you're \$500 short. I'm not gonna do
17 it."

18 And if you notice, he never said, hey, keep this quiet.
19 Uh, this is between me and you. Uh, -- I am not gonna -- number
20 one, I hated to even communicate with that informant, 'cause he
21 was Coronado's informant. And he was very loyal to Coronado. And
22 I didn't get along with Coronado. He knew I didn't get along with
23 Coronado.

24 And I would never -- an informant? His whole thing,
25 he's an informant. The minute he's gonna get in trouble, he's
26 gonna say something. That was a lie. I had never offered to sell
27 that informant a kilo of cocaine.

28 Q Ray, when you ordered - out the narcotics -- at one time

1 on the -- on the, uh, pound you ordered - out under the name of
2 Coronado. Was that because you were pissed off at Coronado?

3 AI don't know why this turned so big that supposedly I
4 don't like Coronado. Coronado was not liked by the entire unit.
5 Two -- three weeks before Coronado was made to leave or left, back
6 in September -- several weeks before that, myself and Durden--
7 me, specifically, went up to Lusby and told him, uh, I appreciate
8 you having me here. I really enjoyed my stay. I would like to
9 leave. And Lusby said, "Whoa, you know, why you want to leave? I
10 mean, you're doing such great work."

11 I said, "You know what, Coronado -- I don't know what it
12 was, you know, 'cause I was putting a lot of cases -- a lot of my
13 cases were very good cases. I was bringing a lot of people to
14 jail. Uh, but Coronado had a problem with it. You know, I took
15 sort of the limelight away from him. But I never had this, you
16 know, this thing that was made up that I hated him, where I just
17 -- Coronado was just the serial number that I used because he
18 worked the unit. It was not something that I had against him or
19 -- or -- or vengeance or anything like that.

20 But I -- I asked to leave that unit. And Lusby said,
21 "I'll get rid of him before I get rid of you."

22 Q What other dope switches involved Officer Canister ?

23 A Just a serial number. It has nothing to do with the
24 officer. It was just a serial number.

25 Q And the three kilos, you decided -- why did you go use
26 another Perez?

27 A I have no idea.

28 Q That couldn't have been a coincidence.

1 A No, no. I -- I intentionally got Perez. But I have no
2 idea why I used that name. I -- I thought that -- I don't know
3 what I thought. I thought in case they ask me for a -- a -- an
4 I.D., they'll see the name Perez. But I should have know that,
5 you know, they're not gonna ask me for I.D. They never do. They
6 -- and like I said, you could send anybody down there, and they're
7 not gonna ask for -- uh, back then. I don't know what they're
8 doing now -- what procedure is now. Back then, they never asked
9 for any I.D.

10 Q So, in retrospect, that was a major mistake
11 on your part?

12 A Certainly.

13 Q You should have used some other officer's --

14 A Anybody's. And -- and in my mind, that's the only way
15 that Campbell -- I'm sorry, Campbell and Billingslea connected it.
16 Because there's no way they could have identified me. Like I
17 said, I had a hat on. I'm surprised they didn't go, can you lift
18 your hat up or something. You know what I mean. I had the hat on
19 to my eyebrows.

20 And I put on these thick glasses that I found.
21 Coke-bottle glasses. And I never wear, you know, glasses, other
22 than maybe sunglasses or something like that. You know what I
23 mean. The only way they connected it is because Perez, Perez. Is
24 that another Perez? Well, it kind of looked like that other
25 Perez. You know what I mean.

26 Q Okay. What did you do with the money you got from the
27 three kilos?

28 A Well, there was a lot of things I did. Number one, I

1 gambled a lot of it away. You asked me, on August 6th, that one
2 day, hopefully when this is all over we can talk about what really
3 happened. Do you remember that?

4 DET. HOHAN: Yes.

5 THE WITNESS: Uhm, and not many people have ever asked me
6 that since. And there's all kind of addictions and behaviors and
7 impulses. And you do things out of impulse. Uh, I started
8 gambling, going to Vegas on the turnarounds, even if it was just
9 for one day, I had to get out there.

10 Uh, I did a lot of gambling. I spent money on just
11 whatever -- stupid little things. Nothing -- as a matter of fact,
12 the money from the 20 -- uh, the three pounds of, uh-- I never
13 even really needed it for anything.

14 Q Wait. The three kilos, or --

15 A The three kilos. The other money I used it to,
16 basically, live on. Just spend on this, do that, whatever. I
17 might have paid --

18 Q BY MR. MCKESSON: Was any of it placed in the bank?

19 A Not really. Uhm, if some was placed in the bank-- uh,
20 a lot of the money that you guys saw the transfer-- there was a
21 lot of -- can I talk about this?

22 Q Yeah, go ahead.

23 A My wife -- we have very good friends. For example, like
24 you saw some money deposited in late October. I sold my Ford
25 Explorer. She gave me \$4000, or \$4500 cash. And she took over
26 the payments of the truck. Some money like that was deposited.
27 So, it looked like this money is coming from somewhere.

28 My wife's best friend opened up a paralegal service. We

1 have a credit card that -- we have really low balances on them.
2 But the credit limits were like \$18,000. And her credit was not
3 good. But she had just gotten a settlement from where she was
4 working and was going to open up her own paralegal service. She
5 asked my wife, "Listen, can I use your credit card. Buy all this
6 furniture for my office. And then, I will pay you back, you know,
7 once my business starts going I will pay you -- and I'll pay the
8 interest on it." And, basically, they were using our credit card.
9 I don't know if you looked into the credit card. A lot of it was
10 office furniture, blinds, uh --

11 Q BY MR. ROSENTHAL: Mmnh-mmnh.

12 A All of that was to a legal -- uh, to a paralegal company
13 that she was opening up using -- and then, she would pay us cash
14 and we'd deposit it. So, it looks like money was being deposited
15 into, uh, accounts that, you know, where were they coming from. A
16 lot of it --

17 Q Why would she pay in cash?

18 A She -- that's how she gets paid. She works -- she has a
19 paralegal service.

20 Q Her own business.

21 A She had her own business. She opened up the business.
22 You could put me on a poly. I'm going to get a poly. And this is
23 actually how it's -- how it's hap- -- how a lot of it happened.

24 A lot of the -- like there would be charges for \$600.
25 It would be eight tickets to go see a play or something. And
26 everybody would pay me back cash. Or my wife would get it. And
27 she would deposit \$400. Uhm, very little of that money ever
28 got -- if it did, it was very little of it got deposited into an

account.

1 Q But, I mean, we're talking about January and February of
2 '98 when this -- when the dope switch was going high speed. We're
3 talking about when the dope switching was going on, the vast
4 majority of the dope switching.

5 A Oh, yeah. I'm sorry.

6 Q Uhm, you've got 25,000 in cash deposits and 11,000 cash
7 used to buy cashiers checks for your house.

8 A Yeah. You know what, and it showed one being purchased
9 in San Francisco or something?

10 DET. HOHAN: That was a mistake.

11 MR. ROSENTHAL: That was a mistake.

12 THE WITNESS: Okay.

13 MR. ROSENTHAL: It was like a San Francisco cashier's check,
14 but it was actually purchased in Culver City. But, --

15 THE WITNESS: Okay.

16 MR. ROSENTHAL: -- uh, the only reason it was San Francisco
17 was because the bank had run out of cashiers checks.

18 THE WITNESS: Oh, okay.

19 MR. ROSENTHAL: So, it had nothing to do with San Francisco.

20 THE WITNESS: And then, --

21 MR. ROSENTHAL: But we've got 36,000 in cash in a period of
22 two months.

23 THE WITNESS: Yeah. The \$8000, uh, that was for -- I'm
24 sorry, \$12,000. That was deposited.

25 MR. ROSENTHAL: Okay. I've got a -- a list. It's, uhm, of
26 the -- of cash deposits. Let me just mark it. And you can refer
27 to it. Uh, I've got an exhibit book here that was going to be
28

1 used in the trial. And this was marked as 38B-1. So this is, uh,
2 cash deposits. And let's go through really to the -- the period
3 that we're talking about here is January '98 through February
4 '98.

5 And what I have is \$25, 540 in cash deposits in the first
6 two months.

7 A Okay. Do you remember the -- my credit union account?

8 Q Mmnh-mmnh, yes.

9 A Did you notice how every payday I'd withdraw like \$200.

10 Q Okay.

11 A I mean that was money that I was not using. Like I
12 said, I was using the money that was made from the narcotics --
13 or I was -- and I don't remember where exactly this came out that
14 my wife had a problem spending or something like that.

15 Q Okay.

16 A That's partially true. I started saving money behind my
17 wife's back. When you -- do you remember when you interviewed
18 my wife, and you said, did you that you had -- he had like \$6000 in
19 a credit union account? It was direct deposit.

20 Q Correct.

21 A She never knew about that. Because I was trying to save
22 a certain amount of money, because I didn't want her to know about
23 it. I had the statements going to the police station. The -- I
24 don't know if you noticed it. There -- it was actually being
25 billed -- or sent to -- the statement was being sent to the
26 station, simply because I didn't want her to get comfortable,
27 saying, well, we have this certain amount of money. That means we
28 can spend this on this, when I actually wanted to, you know, do

other things with it.

1 But the money that occurred -- or the things that
2 occurred late into the '97 time. I'm sorry, I can't turn my next
3 this way, 'cause I'm stiff.

4 Q All right. I'll -- I'll go.

5 A But a lot of that money was saved. I actually did save
6 that money. I won't say that, uh, none of this was part of that
7 money. Because I still had some of that residual money. You got
8 to remember anything that I -- in '95, the -- the large sum of
9 money that I got from the March 2nd, was after all of this.

10 You see what I'm saying.

11 Q Right. Yeah.

12 A The -- the narcotics that was taken early on, were very
13 little amounts. Uh, well, other than the one that -- the first
14 one that occurred was like \$10,000 -- \$5000 total. And that could
15 be spent very quickly.

16 But the March 2nd was later on. And that -- that's what
17 I gonna say that that amount, I never even knew why I even really
18 needed it. I really didn't need it. And I did it anyway.

19 And I don't know if it was the impulsive thing or what.
20 But March 2nd was well after. We had to repurchase the house. We
21 were, you know, -- why I did it? I don't know. But this other
22 money here was -- a lot of it was actually saved-up money that we
23 had -- a lot of it I saved up, 'cause I didn't want my wife
24 thinking, okay, we got this in the bank. That means I can go buy
25 a new pair of shoes.

26 Not that she's a -- a compulsive shopper or anything
27 like, 'cause she's not. You know, and I -- I told you guys this
28

1 from the very beginning. Denise does know about nothing. She
2 doesn't. She didn't.

3 Q All right. Let's -- let's stop. 'Cause we'll able to
4 go into finances later. But one question I think everyone will be
5 interested in, and we only have a couple of minutes, is do you
6 know anything about the bank robbery with Mack? Were you involved
7 in any way?

8 A I've -- I've said this from the beginning. And early
9 on, in fact, when the FBI agents came to interview me, without an
10 attorney, I was interviewed. I offered to take a polygraph right
11 then and there. They said, "No, that's not necessary." I did not
12 know anything prior, during, or after. When David Mack was
13 arrested, I was as surprised -- in fact, my wife called me, uh,
14 because there was a press release. And I hadn't heard about it.
15 I was as surprised as anybody.

16 Uh, supposedly, we went to Vegas together two days or
17 three days after the bank robbery.

18 Q Right.

19 A He gave no indication that he had done anything. As a
20 matter of fact, we were calling him cheap because, uh, he only put
21 in like ten bucks towards the gas. And, you know, and then, I
22 used my truck. And, in fact, he was not gonna go to Vegas. The
23 day before -- 'cause we met at the station. We all met at the
24 station to go.

25 He, uhm -- he decided that he was gonna go at the last
26 minute. But I did not know anything about the bank robbery. Not
27 involved in anything about the bank robbery. Did not have any
28 knowledge. He never said anything to me about a bank robbery.

Any of that nature.

1 Q The Vegas trip you brought somebody with you?

2 A Yes.

3 Q Who?

4 A Uh, myself, uh, Sammy Martin. Him and, uh, Quesada.

5 Q Okay. Uhm, so, you don't -- you have no idea what he
6 did with all that money?

7 A None.

8 Q Now, you have to understand there is -- there is a
9 concern here. Because it seems just remarkable, frankly, that you
10 and Mack were partners, friends, involved in a shooting together,
11 and both of you independently -- you know, one became a bank
12 robber, and one became a drug dealer. That seems like a
13 remarkable coincidence.

14 And you're saying it is a coincidence?

15 A I'm going to be put on a polygraph, believe me.

16 Q Yes.

17 A I will -- I will --

18 Q You are.

19 A I will be -- I'm putting everything on the table.

20 Q All right. What about -- what --

21 A You guys think that David Mack is a very, very good
22 friend of mine, for some reason. Before, uh, we went on that
23 Vegas trip, and after I stopped working with him in Narcotics, I
24 have seen David Mack maybe four or five times. Once was on a
25 cruise. One was we got together as a family, uh, wives and
26 family, to -- I'm not -- David Mack is a friend and a person who
27 saved my life. I don't know if you know about that incident.
28

1 Q Yes.

2 A I had a gun to my head. And he did what, you know --
3 what, you know.

4 Q So, that O.S.I -- O.I.S. report was true?

5 A Oh, that's very accurate and very true, yes. All of it.
6 I mean, that's all true. Uhm, --

7 Q But --

8 A -- so, I considered him a very good friend who saved my
9 life. Was I involved in that bank robbery? No. Was this a big
10 coincidence that we both end up in this kind of trouble, or he
11 ends up in that type of trouble, and I -- it's a very big
12 coincidence.

13 Q BY DET. SEGURA: What about Sammy Martin, Ray?

14 A "Sammy Martin was not involved in anything. And, again
15 -- I know I keep saying it. But I know I'm going to be put on
16 polygraph. Sammy Martin is not involved in anything.

17 Q That you know of? Because it seems like you had
18 something going here. And Mack had something going here. And we
19 have suspicions about Sammy.

20 A I'm going to be put on a polygraph examination and you
21 can ask me directly.

22 Q Mmnh-mmnh.

23 A From me. And me and Sammy were very good friends. He,
24 I do consider a very good friend. Mack was a friend from a while
25 ago, but we really didn't communicate anymore. I don't believe
26 Sammy Martin is involved in anything. Not in narcotics, not, uh,
27 a bank robbery, uh, none of it.

28 Q Okay.

1 Q BY MR. ROSENTHAL: One -- one question is, you knew that
2 there was suspicions against you as a result of your relationship
3 with Mack, after Mack was arrested for the bank robbery?

4 A I was stupid.

5 Q He was arrested in November '97. December '97. And
6 within a couple of weeks you start stealing narcotics from
7 Property Division, and dealing it. I mean, --

8 A This is after the FBI told me that they would probably
9 follow me, simply because they feel that -- they had found a
10 picture of me and him at his house.

11 Q Mmnh-mmnh.

12 A And that they feel, not that I was involved, but that if
13 he is gonna call anyone and tell them where the money is, I'm the
14 most likely that they would call.

15 Q Even with that in mind --

16 A And you -- you -- I know -- oh, I'm sorry. I know it's
17 -- it's hard to understand. But there's something about
18 compulsive behaviors. There's something about you get put in a
19 position. And -- and you just go, "I'm gonna do it."

20 And it becomes a compulsive behavior. Just -- it's
21 something. I knew -- I even thought the FBI was following me.
22 They said they were gonna follow me. Simply because they thought
23 I would go find the money.

24 Q Mmnh-mmnh.

25 A What in the world led me to do that, I have no idea. No
26 idea. I will also say this. Before I met Officer Durden -- and
27 his girlfriend -- you know his girlfriend is a P.S.R. Used to be
28 a P.S.R. His ex-girlfriend Jeanine.

Q Yeah. Go on.

1 A Before he got married to his girl, he used to go
2 with -- he was dating a P.S.R. Uh, Jeanine -- I don't know her
3 last name now. Her name is Jeanine. Uh, he was working Rampart
4 Patrol.

5 And her and my wife were working together, obviously.

6 And she kept bugging my wife, Nino really wants to come
7 to the unit. He really wants to come to the unit.

8 I didn't like Nino. I never really liked Nino. We were
9 -- and you know how you guys were wondering whether we were real
10 friends, we're not friends. We just worked together. I never
11 went out with him -- went out clubbing or anything that he was
12 saying. I never did.

13 I didn't want him in the unit. I just didn't like his
14 attitude. I just never did.

15 Q What didn't you like about his attitude?

16 A He came back from saying, you know, he -- he was a
17 probationer down in 77th C.R.A.S.H. Or he worked those last few
18 months down in 77th C.R.A.S.H. He had the 77th C.R.A.S.H. tattoo.
19 He came down to Rampart, you know, man, 77th, this is how we do
20 it. That type of attitude, you know. Wearing the 77th C.R.A.S.H.
21 jacket at Rampart now. You know, just something I just didn't
22 really -- you know, you see each other, you're kind of standoffish
23 when you're walking down the hallway, you look at each other like.
24 But, my girlfriend, or my wife and his girlfriend knew
25 each other. She kept asking my wife to get him in the unit. So,
26 basically, -- and the way unit works, is you either sponsor
27 somebody or you vote them in. I sponsored him in. I said -- when
28

you sponsor somebody in, that means you will work with them. If

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he screws up, you'll get rid of him.

1 That type of thing. I mean, get rid of him out of the
2 unit. You know what I'm saying, listen, we tried it. It didn't
3 work out. And you have to go. So, when you sponsor somebody, you
4 have to work with them. That is your partner, 'cause you're
5 vouching for him and -- I'm sorry.

6 Uh, up until before, I believe it was May of 1997, I had
7 never ever taken \$20 from a narcotics dealer. Never ever sold any
8 narcotics. Never committed a crime. I don't know what it was.
9 But Durden just had this way of saying things that was kind of
10 very influential. He would say things to you, like -- like the
11 very first time we had made a bust. And I told him, "Hey, book
12 the money and the drugs. I'm gonna write the report."

13 And he calls me up and he goes, "Man, there's like a
14 thousand dollars here." And I'm like, "Yeah." "Well, shit, we
15 ain't got to book all of it." And he said it in a manner which
16 everybody's doing it. He said in that way that -- and I was like,
17 "Man, book the money." And he goes, "Nah, I ain't -- I ain't
18 booking all this money."

19 And I was like, "All right. Whatever." And he didn't
20 book all the money. And -- but, then, he gave me half. And I
21 took it.

22 Q BY DET. HOHAN: Do you think this is something that
23 Durden came from 77th with, maybe that he started doing it down
24 there? You mentioned before that 77th C.R.A.S.H. had problems.
25 They would meet --

26 MR. MCKESSON: I think he said all C.R.A.S.H. units had
27 problems.
28

1 Q BY DET. HOHAN: Yeah. He did say that. But the one unit
2 I remember specifically that you talked about in this loop stuff
3 and going up to the Academy and talking everything out on the
4 benches was 77th C.R.A.S.H?

5 A Yes.

6 Q Okay. And do you think that --

7 A A lot of that too was we had liaison with now Sgt.
8 Ortiz. 'Cause he went down there and started running the 77th
9 C.R.A.S.H. Our Rampart C.R.A.S.H. sergeant went from there -- Lt.
10 Helmsley -- Helmsley -- lieutenant turned captain who worked
11 Metro.

12 DET. TYNDALL: Hillman.

13 THE WITNESS: Hillman. I guess, uh, that he used to work for
14 him or something in Metro, or something. And he wanted to go --
15 go down there and run the C.R.A.S.H. unit down there.

16 So, we started developing more liaison with other
17 C.R.A.S.H. units talking about how things are going, and what
18 happened -- what actually happened and what was done, you know.
19 It was sort of like this is a meeting that stays -- everything
20 stays here. That type of thing.

21 DET. HOHAN: Okay.

22 Q BY DET. TYNDALL: Ray, are you going to be able to
23 provide specifics in regards to that?

24 A In regards to --

25 Q You're talking about meetings with other C.R.A.S.H.
26 Units, citywide. You also talked about, uh, some other
27 shootings. Sonny -- .

28 Q BY DET. HOHAN: Sonny Garcia shooting?

1 A I can give you -- I can give you a lot of things that we
2 talk about. I wasn't there to see it. All I can tell you is
3 scuttlebutt, you know, hearsay.

4 Q BY DET. TYNDALL: So, it would be -- yeah. Okay.

5 A They talk about it all the time. I mean, if -- if you
6 give me a shooting that occurred, I can tell you what was talked
7 about at the Short Stop. Or if we talked about it at the benches,
8 I can tell you what things -- uh, I remember there was a --
9 there's a guy down at, uh, 77th C.R.A.S.H. who got into a
10 shooting. His dad works Metro. He's a squared-away kid. He's
11 young. Maybe has five or six years on the job. Got into a
12 shooting. That was not a good shooting. Uh, and I'm only going
13 by what was all said to us. And -- and the guy, I think, and, in
14 fact, I think the guy went to Metro already. The officer that got
15 into that shooting.

16 Was I there? No. I remember that it was a chase. The
17 guy falls or something -- gets shot. And then, they clean it up.
18 That's what I heard. That's what we -- they talked about. And
19 that's what I heard. But I didn't -- I wasn't there. I can't
20 tell -- you know. I don't know why they would say they cleaned it
21 up and it was actually a good shooting, you know what I mean.

22 Q Mmnh-mmnh.

23 A Why -- why go backwards. I don't -- I don't see that.

24 Q One question on the pay/owe sheet that were seized from
25 Quesada.

26 A Coincidence.

27 Q R.P. stands for Rampart Police. I never met -- uh, I
28 arrested her brother on July 31st. I had never met either one

them before then. That was just a coincidence. R.P. is probably

1 Rampart Police

2 Q All right.

3 Q BY SGT. SEGURA: One last thing. Then, again, the other
4 thing you were saying there's a few other things that you're
5 gonna tell us, that it doesn't involve any other police officers or
6 any -- any other -- any one that you haven't told us, criminally?

7 A No.

8 Q Okay. Uh, in fact, all of them is with Durden.

9 Q Okay.

10 Q BY MR. ROSENTHAL: Okay. We'll, uhm -- what we'll do is
11 -- it's 1:02. So, let's stop the interview now. And we will,
12 uhm, make arrangements to set up another date. And, uh, we're off
13 the record.

14 (Off the record at 1:02 p.m.)

15 -oo0oo-

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STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, the undersigned, say that I have read the foregoing deposition and hereby declare under penalty of perjury the foregoing is true and correct.

Executed this _____ day of _____, 1999, at _____, California.

D E C L A R A N T

1 STATE OF CALIFORNIA)
2) ss
3 COUNTY OF SAN MATEO)
4

5 I, SARA A. MAHAN, C.S.R. #10647, a Certified Shorthand
6 Reporter in and for the County of Los Angeles, State of
7 California, do hereby certify:

8 That prior to being examined, the witness named in the
9 foregoing deposition, Rafael Antonio Perez, was by me duly sworn
10 to testify the truth, the whole truth, and nothing but the truth.

11 That said deposition was taken before me at the time and
12 place set forth and was taken down by me in shorthand and
13 thereafter reduced to computerized
14 transcription under my direction and supervision, and I
15 hereby certify the foregoing deposition is a full, true and
16 correct transcript of my shorthand notes so taken.

17 I further certify that I am neither counsel for nor
18 related to any party to said action nor in any way interested in
19 the outcome thereof.

20 IN WITNESS WHEREOF, I have hereunto subscribed my name
21 this ____ day of _____, 1999.
22
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26 _____
27 Sara A. Mahan
28 Certified Shorthand Reporter No.10647

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