

STATEMENT OF

**RAFAEL ANTONIO PEREZ,**

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

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

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sam/00-10  
LOS ANGELES, CALIFORNIA, WEDNESDAY, FEBRUARY 23, 2000;1055 HRS

MR. ROSENTHAL: It's February 23rd, 2000. It's 10:55 in the morning. These are the continuing interviews of Rafael Perez. Present are Mr. Perez; his attorney Kevin McKesson; myself, Richard Rosenthal, Deputy District Attorney.

Also present, at this time, is Detective Michelson and Detective Demucha of the Robbery Homicide Task Force.

Mr. Perez, if you would please raise your right hand. "Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

THE WITNESS: I do.

MR. ROSENTHAL: All right. Thank you. Go ahead.

**RAFAEL ANTONIO PEREZ,**

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

EXAMINATION BY DETECTIVE MICHELSON:

Q Okay. Mr. Perez, you were interviewed on January 26th, of this year, regarding this Arthur Rudovsky case. Do you remember that?

A Yes, sir, I do.

Q Okay. And --

MR. ROSENTHAL: I'm sorry. Let me just put on the record the case number here.

DET. DEMUCHA: It's in this transcript.

MR. ROSENTHAL: It needs to be in this transcript, too, though. This relates to Case No. BA162633. And there's been a Defense Writ of Habeas Corpus that's been filed.

Q BY DET. MICHELSON: Okay. So, when you reviewed this case, back on January 26th, you said that everything about this particular stop and the subsequent arrest were legit, and everything was -- was good with it. Is that true?

A That's correct.

Q Okay. I wanted to ask you, were you driving that day?

A I believe -- actually, I believe I was the passenger.

MR. MCKESSON: I want to record to reflect that -- I just want the record to reflect that Mr. Perez paused for several minutes before responding to the question. And --

MR. ROSENTHAL: Several minutes?

MR. MCKESSON: Several seconds before responding to the question and appeared to be thinking about it.

THE WITNESS: I believe I was a passenger. If I could look at the report, it might indicate whether I was the passenger or the driver officer.

Q BY MR. ROSENTHAL: Would we be able to tell by looking at the DFAR for that day?

A No, I should be able to find it in the report. I usually put whether I was driving or not. I was the driving

officer.

DET. MICHELSON: Okay.

Q The report states that you made a U-turn, and --

Q BY MR. MCKESSON: Your statement that you were the driver officer, is that based upon your review of the report?

A That's correct.

Q BY DET. MICHELSON: Is that in the report?

A Yes, sir. Second paragraph, page 2, under "Observations." "I, Officer Perez, was driving southbound on Alvarado."

Q Okay. Now, it says here that you drove past 450 North Alvarado and you noticed two male Hispanics standing on the east side. And you -- you made a U-turn. And I'm going to assume that you pulled in behind a vehicle?

A Yes.

Q Based on the testimony that you gave here, on January 26th, you said that you remember that Defendant Rudovsky was either talking to somebody at a car that was parked at the curb?

A That's correct.

Q Okay. When you exited the police vehicle, did you -- did you have a clear view of Mr. Rudovsky?

A When I walked around and walked up -- walked up towards him, I could see him completely.

Q Is that --

A He didn't --

Q Go ahead.

A He didn't recognize or realize that -- who we were up until we were walking right up on him.

Q Okay. So, would he have been facing you?

A We were in a plain car. No, actually, he would have his left profile to me. He was -- his car parked facing northbound. He's sitting there talking to someone inside of a car. So, as I'm coming north, now, his left side -- his left profile would be to me.

Q Okay. And, at what point, did you see him, as you stated in the report, reach into his right front pant's pocket?

A Right as we were walking up to him. When he realized who we were, and we were walking towards him, he produces the bindle and places it on the ground.

Q Okay. And you said that there was two males. Where was his -- the other male?

A The male that was in the car?

Q Well, you said you saw two males. And you were gonna stop for a consensual encounter.

A Right. I was talking about the male that was in the car.

Q Oh, so, when you said that you were talking about the male in the car? Okay. In the report here, it says that two



male Hispanics standing on the east sidewalk.

A Okay.

Q Or on the east side of the street. Is there somebody standing with Mr. Rudovsky?

A There -- there may have been. I -- right now, I don't remember who the other person was, or --

Q Okay.

AA In fact, I don't even think I mentioned him in the report.

Q Okay.

A In other words, he had nothing to do with what was in front of me.

Q Okay.

A So, I didn't put it in the report. I know that there was a male in the car and a male standing. And he was talking to that male in the vehicle.

Q Okay. What happened to the vehicle when you made contact with Mr. Rudovsky?

A Eventually? Or --

Q Yeah.

A Nothing. I -- I didn't impound it. Is that what you're asking me? Did I impound it?

Q Well, did he take off? Or did he stay?

A No, the vehicle stayed.

Q The vehicle stayed throughout your contact with Mr. Rudovsky?

A Yes.

Q So, you never talked to that person?

A Yes, I probably talked to him. I don't know if I did F.I.'s or not. I don't think I put them in the report.

DET. DEMUCHA: No, they're not in there.

THE WITNESS: No.

DET. DEMUCHA: Other than the fact that there are two males standing on the corner.

THE WITNESS: It wasn't on the corner.

DET. DEMUCHA: Or on the street rather.

THE WITNESS: Okay.

Q BY DET. MICHELSON: So, you don't remember if you would have gotten him out and talked to him, run him?

A Oh, I'm sure I probably got him out and talked to him. Did I run him? We don't have MDT's in the car. I don't know if we ran him over the air or not, or if we just ran, you know, like probably later, or -- this was a real simple, you know. We were just driving, we see him, we know it's a dope house. And it's not that big of -- of a deal.

It was sort of like -- I think I was working with Wang, his first week and, you know, he wanted to make the arrest for his purposes. You know, he wanted to become a narcotics

expert. And he made the arrest. But it was no big -- I mean, big deal, as far as getting everybody's names and things like that.

Q Would you have remembered if you took that guy out of a car and took him to the station?

A Would I have remembered?

Q Would you have remembered that?

A Like I said, this doesn't stand out so much. I mean, I know how the arrest was placed, and what I saw. But did I transport him to the station? It's possible. I don't -- it's possible that -- that I transported him to the station, because, quite often, we don't have MDT's in the car. And to run the person, we have to take him to the station to make sure they don't have felony warrants or parole holds and things like that.

Q Right.

A Do I remember that person right now off the top of my head? I really don't.

Q Okay. Starting with the location, I have some photos here. Just for the record, there is no 450 North Alvarado. There is 430. There is 434. There's 440. And that's it. And now, you're at the on-ramp off the freeway.

A What I'm talking about is the white house. Maybe 434. There's a white house there.

Q I'm going to show you some pictures. Do you want to

see these before? I'm gonna show you some pictures. And maybe this will refresh your memory. You can tell me.

A The only thing this does is this confirms the house that I'm talking about. As far as refreshing my memory as to the number that's affixed to the house, I don't know. I've always thought -- 'cause we've made many stops here -- that it was 450. That's what I've used on other reports -- 450. But this is the house that the vehicle was parked in front of.

Q It is? Okay.

A Yes, sir.

Q BY DET. DEMUCHA: You said the white house, are you referring to the color or the occupant?

A The color of the house. The white house.

Q There is a guy -- no, never mind.

MR. MCKESSON: That's a good question.

DET. DEMUCHA: Mr. White.

THE WITNESS: The white house with the lime green door.

DET. DEMUCHA: Okay.

Q BY DET. MICHELSON: Yeah, this house had been discussed earlier on some other cases. This is 430. And, actually, on the face sheet of the arrest reports shows the arrest being at Temple and Alvarado. But it did -- you made the stop in front of this location, 430.

A Directly in front it, yes, sir.

Q Okay. If I mention a name to you, would that spark your memory into who you might have talked to that night, along with Mr. Rudovsky?

A Hold on just one second. I think you just -- there was a male Hispanic maybe by the name -- and I don't know why this just entered into my mind -- but, Ruben, or Robert, or -- as a matter of fact, -- as a matter of fact, we did transport him. He's a male Hispanic. I want to say 50 years old maybe.

Q Mmnh-mmnh.

A Short. Some of this is starting to come back to me. As a matter of fact, I tried to make contact with him. I think I had transported him to the station and I tried to make him -- or tried to get him to give me information on certain things.

But I don't know what happened. I never made contact with him again, or never saw him again.

Q And we're talking about the man that was inside the car?

A Not Mr. Rudovsky, the other person. Yes, sir.

Q Okay. I'm going to show you some pictures. Do you recognize these two people?

MR. ROSENTHAL: Are these booking photos?

DET. MICHELSON: Yeah. Mmnh-mmnh.

MR. ROSENTHAL: Could you just read what the booking number is?

THE WITNESS: The booking number for Mr. Rudovsky is 5523793. And the -- another booking photo for a male Hispanic about 50 years old is 6230361.

And it's possible that this is the person that was also there at the car. Or at the -- in front of the location.

Q BY DET. MICHELSON: But you're not a hundred percent sure?

MR. MCKESSON: How tall -- do you know how tall he is?

DET. MICHELSON: Well, I know his name.

Q Would that refresh your memory? That's Raymond Romero.

A Raymond?

Q Romero.

A It's possible. I thought it was maybe Ruben or something like that. But, yeah, it -- he looks familiar. I'm not a hundred percent sure it's him. But that looks that it'd be -- does he live somewhere in the Northeast Division?

MR. MCKESSON: Or did he, at the time?

THE WITNESS: Or did he, at the time live in --

DET. MICHELSON: I believe so.

THE WITNESS: -- Echo Park maybe -- off of Echo Park, or something like that?

DET. MICHELSON: I believe so.

THE WITNESS: Then, that would probably be him.

Q BY DET. DEMUCHA: Would you -- generally speak, if you took somebody to the station, you'd take them and -- and do an M.I. run or whatever on the NEX machines.

A Right.

Q So, everybody you brought in --

A M.I. Master Inquiry.

MR. MCKESSON: Detective, just one thing. And don't take it personally. Sometimes it's difficult if you speak a little bit fast, for the reporter to get it down. And if you talk at the same time he's talking, it's difficult, also.

DET. DEMUCHA: Sorry. Yeah.

THE WITNESS: Yeah, generally, what I would do is bring them to the station, do a Master Inquiry, which gives me information on everything, possible warrants, rap sheets, everything. And that's what I generally do. We don't have computers in our cars.

DET. DEMUCHA: Right.

THE WITNESS: But this appears to be the guy that was there. And I believe, at the time, if I remember correctly, he lived somewhere in the Northeast Division off of Echo Park Boulevard or something.

Q BY DET. MICHELSON: So, you -- you -- that appears to be him? And you think that you might have taken him to the station?

A Yes, sir. I think I -- I know I had some contact -- I made contact. I discussed certain things with him. I wanted him to give me some information on something. Probably drugs or guns, or -- but, my job is to gather intelligence and try to try over informants. And, I'm pretty sure I might have tried to do that with him.

Q To the best of your knowledge, did you -- would you have run him? Or would your partner, Officer Wang?

A I'd be guessing if I said I ran him or he ran him.

Q And, as far as, you know, was he arrested that night?

A No, he wasn't arrested by me.

Q Okay.

MR. MCKESSON: Excuse me. Can I just get a definition of what you mean by "arrested that night"?

DET. MICHELSON: I'm sorry. Booked.

MR. MCKESSON: Thanks.

THE WITNESS: I -- I don't believe I booked him.

Q BY DET. MICHELSON: Okay. One last question. That arrest occurred in front of this house, which you've referred to as being a narcotics location. Was anybody on this porch? Or would have seen this contact that you had in front of the house?

A There may have been someone inside. But was there someone on the porch itself? I mean, generally, there's usually



a lot of people in there. I don't remember seeing any on the porch. They may have been at the window. I don't know. It's possible that someone could have seen, sure.

Q Okay. When you took the male out of the car, the car didn't get impounded? It stayed there?

A Yes, sir. No -- yes, sir.

Q Okay.

Q BY MR. MCKESSON: That's the best you can recall?

A To the best of my recollection, yes.

Q BY DET. DEMUCHA: Just one question. When you saw him drop the bundle on the ground, how far away were you, roughly?

A Ten, fifteen feet. It was so -- if I can say this -- it was so obvious. It was -- it was kind of silly. I mean, it was one of those, "No, you just didn't do this in front me?" 'Cause this was dumb on his part. He just took it out and just put it on the floor. I mean, it was -- it was obvious. I mean, it was just obvious. There was -- and, again, this was like no big deal to me.

Q Well, did he actually drop it? Or did he actually put it down?

A He actually placed it down.

Q He didn't want to lose it.

A I think he wanted to come back to it, yeah.

Q Okay.

Q BY DET. MICHELSON: That's all we have.

MR. ROSENTHAL: Okay. All right. That concludes this interview. We'll go off the record and we'll get more detectives in.

(Off the record.)

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

MR. ROSENTHAL: We're back on the record. It's 11:10 in the morning. We have Detective Wich and Sgt. Segura.

SGT. SEGURA: We don't need a tape number. Basically, two issues we want to cover, Ray, real quick. One is regarding ATF -- uh, an ATF informant and working with the INS. Reviewing some of the transcripts, and one of the prior interviews, you said that the C.R.A.S.H. unit had a good working relationship with the INS through an ATF agent.

And, as a matter of fact, if deport -- deportation proceedings or something like that, need to be initiated, that could be done. Our question was, if -- who the ATF agent was.

MR. MCKESSON: Sgt. Segura, do you have a specific transcript he should be referring to?

SGT. SEGURA: I don't have it. No. No, Mr. McKesson, I don't have it.

DET. WICH: We believe the question has been asked. Be we never -- we can't find the name, if there is an ATF agent.

THE WITNESS: There's an ATF agent, male, White. Has a moustache. Tall. Maybe 220 pounds. He and INS worked together. They'll come in on Fridays and Saturdays sometimes and work out of Rampart.

DET. WICH: Okay.

THE WITNESS: On many occasions, we have deported people just before -- for different reasons. I can think of one right now that was on a rainy night, working with Officer Wang, as a matter of fact, the officer that I was just working with. We went and woke him up out of his house and took him to INS -- or to the ATF agent. And he talked to INS. And the guy is like serving five years for illegal returning back into the country. He's a Temple Street Gang member. But we did that, you know. ATF would tell us, "Hey, bring us some bodies. You know, we're working here today. You know, just let us know."

And, of course, they would tell us what our -- I guess, our affidavit that they would have to do --

MR. WICH: Right.

THE WITNESS: -- would say. You know, they would come back and tell us, "Hey, your affidavit said this. You were driving down the street, saw this guy, detained him, we happen to come in along and saw you. As soon as you let him go, we did -- you know, we detained him to do our investigation."

So, that was the routine procedure. And that's what

most affidavits would read, or how they would read. You know, if you said -- I think his first name was maybe Robert or --

Q BY SGT. SEGURA: Ray Fragosa. Fragosa?

A Ray?

Q Do you know?

A You know, if you showed me some photos of him. I mean, they worked at Rampart for a long time. They worked with Adler -- Josh Adler for a long time. They worked -- I mean, they were working their little task force together.

Q Do you know Agent Fragosa?

A You know what? I do know the name.

Q Mmnh-mmnh.

A But I want to make sure I'm not confusing -- because there's an INS and then, there's an ATF. There's two ATF agents.

Q Mmnh-mmnh.

A If I -- if you showed me their picture, I can say "Yes, that's him. Yes, I've done this amount of deportations with him." But, you know, if I had their photo, it would definitely help.

Q BY DET. WICH: And how many guys normally would work from ATF and INS? You said two ATF agents? And would there be more than one INS agent for the Friday and Saturday that they were working there?

A Generally, there would be about between six and eight of them. But, the people in charge, -- I mean, that's who we dealt with directly. The other agents were sort of like new. And they just did whatever they were told. But the guy that we dealt with were the two main guys -- the INS and the ATF guy.

Q Okay.

A It appeared, to us, that the ATF guy was in charge of the INS guys as well. But he was -- he was, basically, telling them what to do, so.

Q Why was the ATF guy there? In case you guys found guns or --

A I guess. This -- the task force was running before I even got there. They've been doing this for a while.

Q BY SGT. SEGURA: And the last question on this, on the ATF, would this ATF agent have known that some of people who were being deported were complainants or witnesses in -- in complaints? Personnel investigations?

MR. MCKESSON: Just -- just so I understand the question. Just so I understand the question, Sgt. Segura, you're asking him if -- to give you what he thinks is the ATF's agent's personal knowledge with respect as to why these guys are being deported?

DET. WICH: Or -- we understand that maybe you could use this as an intimidation with witnesses, that they will get you

deported if you don't cooperate.

MR. MCKESSON: Well, I -- I understand that.

DET. WICH: But does the ATF agent understand that these guys are getting deported because they're not cooperating with Rampart C.R.A.S.H.? Or does the ATF agent just believe these are illegals and that's why they're getting deported?

MR. MCKESSON: Obviously, I'm not objecting to these things. But I just want to make the question clear so you understand. I mean, the question asks for him to, basically, peep into the ATF agent's mind. I mean, do you have any knowledge which you can give them that would assist them in determining what the ATF's personal knowledge was in this regard? That's what you're looking for?

DET. WICH: Correct.

Q BY SGT. SEGURA: Right. And we don't want you to just speculate. But, I mean, were there conversations between you, or -- or the -- or the unit, and agents, or within the unit, that guys knew that the ATF agent would help out in the case of a complaint?

A I have no personal knowledge or direct conversation with the ATF agent, as far as, "Hey, this guy made a personnel complaint. And we want to deport him." I do have some knowledge that discussions that I've had with the unit, that the ATF are aware, they know -- I'll put it to you this way. ATF was aware

of certain complaints. And on the days that they would show up, they would vigorously look for those people based on conversations that they had with C.R.A.S.H. officers.

In other words, if somebody -- Snoopy from 18th Street came in and made a complaint against a C.R.A.S.H. officer. And on Friday night, when ATF shows up, some of the guys would go and talk to him. Da, da, da, da. And, you know, ATF, by the way, has a book of every gang member, every Crazy Rider, let's say, that was in -- in the Crazy Rider gang. They know them all by monikers, their first names, who's been deported and who hasn't.

They would vigorously go out and search and then try and find those guys that have made complaints against C.R.A.S.H. officers, for the purposes of deporting them. That I know by conversations that have taken place within the C.R.A.S.H. unit and the subsequent result of the people being deported by these agents.

Q BY MR. ROSENTHAL: Were you present when any officer actually told this ATF agent the reason why they wanted this person deported? Do you actually ever hear anyone say, "This guy made a complaint and we want to take -- we want to get rid of him?"

A I was present for the discussion that was had with the C.R.A.S.H. officers about the discussion they had with the

INS and ATF agents. Was I absolutely -- was I present when the officers went and told the agents that? No.

Was I there probably on some of the conversations where they were taking place in the C.R.A.S.H. office? Yes. Was I like just listening to them? No. I mean, if Hewitt wants to tell this -- you know, this ATF agent, you know, while he's over here and I'm doing something else over here, about, "Hey, you know -- you know, this guy from this particular gang."

Uh, I've heard --

Q BY DET. WICH: You didn't -- you didn't hear it?

A Right.

Q Okay.

A I heard some of the conversation. I know what it's about. But it's not important to me at the moment. You know, unless it was my beef or my complaint, I'm not paying that much attention to it.

Q BY MR. ROSENTHAL: And -- I'm sorry -- there's just one other thing that you mentioned, which was the ATF agent would tell you what the Declaration would read. And from the way you described it, the Declaration was false.

A Yes, sir.

Q You would actually go in somebody's house, take them out, and instead the Declaration would say that you were driving down the street and you them.



A That just -- that's happened to me several, several times.

Q Would the ATF agent, who was involved in this, actually have known that the declarations were false, and it was simply something that he told you the way it needed to be done to be correct, and then, you just went out and told him that you done it the correct way?

A The later. He knew what would happen. For example, -- and for some reason, this one just jumps out of my mind --

MR. MCKESSON: Just a second. You didn't answer Richard's question.

MR. ROSENTHAL: Well, he said the later. But it sounds like you're saying the former.

MR. MCKESSON: That's what I'm saying.

Q BY MR. ROSENTHAL: So, the first one is he would have known that the affidavit -- the affidavits were false. The second one would have been that you simply knew the way it needed to be done and that's what you told him was done.

A I'm sorry. Yes, the first one. He -- he knew what actually occurred. He knew that I would go, or we would go seek these people out, bring them to the station, or have them meet us at a location. And he knew -- he knew what would take place. In fact, I wouldn't know what the affidavit would say until after he came and told me what it would say,

just in case I didn't show up to court.

MR. MCKESSON: Sgt. Segura, can you, just for the court reporter, can you -- is it possible to ask questions that elicit a short response?

SGT. SEGURA: Okay. Yeah, sure.

(Laughing heard.)

Q BY SGT. SEGURA: The next -- the next issue -- the next area or issue we've -- we've covered before on a couple of different interviews. And it's about the taxi cab. The bandit taxi cab at Shatto. And we just want to make sure we have all the people who knew that a bandit taxi cab was used.

MR. MCKESSON: Sgt. Segura, is it possible that you can ask him -- because we've established a policy. When he's doing these subsequent interviews, he's going through the police report, he's going through his -- his testimony to make sure his recollection is totally refreshed so he can give accurate, you know, testimony.

MR. ROSENTHAL: Well, let's go off the record for a moment.

(Off the record.)

(Back on the record at 11:30 a.m.)

MR. ROSENTHAL: We're back on the record. It's 11:30. We just took the opportunity to have the detectives to go get the Daily Work Sheet and the Crime Scene Log for the Shatto Place incident.

DET. WICH: Correct.

MR. MCKESSON: Just for the record, I want to point out that because the transcripts were so voluminous regarding the Shatto incident, the Task Force was unable to provide him with all the transcripts. And, so, he's testifying without the benefit of the police reports and the transcripts, because we have spoken about the Shatto incident on at least three to four different occasions, including a walk-through at the scene.

And, so, what he's been given to refresh his recollection are the logs that Mr. Rosenthal just mentioned.

Q BY SGT. SEGURA: Okay. And, again, Ray, what we are -- we're trying to find out is to assure that we have all the people that had knowledge about the -- the taxi cab, other than, obviously, Raquel Duarte, yourself, Sgt. Ortiz -- we -- we know. But what about in the -- well, as we were discussing before, in the meeting beforehand, was there anybody else who would have had knowledge about the taxi?

A Officer Montoya, Officer Patel, Officer Hewitt, Officer Stepp, myself, Officer Duarte, and Sgt. Ortiz, while at the meeting prior to moving into the location, briefed as to what was gonna occur at this location, while receiving information from McNeil and Richardson as to what's going on in front of the location.

While at that meeting, Sgt. Ortiz, in front of all of

us, directed myself, and Officer Duarte to obtain a cab, preferably with tinted windows to use as a approach vehicle. Officer Richardson and Officer McNeil were advised that officers were gonna be approaching in a cab coming northbound. I advised them, personally, that I was gonna be approaching from the south coming north, driving a cab. We were gonna be in a cab.

Everyone -- the nine officers that I've just named -- all knew that a taxi cab was being used that day.

Q Okay. And, then, afterwards, if the huddle -- or the meeting afterwards, it would have included everybody -- everybody here. There wouldn't have been anybody else?

Q BY DET. WICH: Afterwards meaning after the incident when the shooters met together inside Shatto, you were told to move the taxi by Sgt. Ortiz?

A That's correct.

Q Okay. Was this told to you in front of these other officers?

A Yes.

MR. MCKESSON: And I just have -- because I don't recall Duarte being present at the second huddle-up. That's my personal recollection.

THE WITNESS: That's correct.

DET. WICH: Right. I'm sorry.

Q BY SGT. SEGURA: She was not at the huddle?

A But she would have knowledge because I told her, "Move the car."

Q BY DET. WICH: And Duarte's the one that moved the car back to Rampart?

A That's correct.

Q Did any of the officers, in this huddle, who -- besides McNeil and Richardson, who were at the O.P., did any other officers have a chance to see the taxi cab?

A I think all of them. When McNeil and Richardson -- I mean, they're watching us as we're approaching north.

Q Correct.

A When they leave the building and come over, they see that the cab is there, you know --

Q Correct.

A I mean, everyone would have had a chance to see the cab.

Q And when we go back to everyone, the guys in the huddle, did you bring the taxi cab back to the huddle, were all these officers still at the -- what you call the snoopy-up location. Are they still there? Or had they already deployed to the apartment building?

A When I went back to -- before we deployed on the location, --

Q Correct.

A -- when I went back, we advised Sgt. Ortiz, who was at the snoopy-up location, that we had obtained the vehicle and we are on our way back. The -- all the other four officers like Montoya, Patel, Hewitt, and Stepp had taken off to make entry to the rear of the building.

Q Okay.

A So, the only person left was Sgt. Ortiz who was gonna ride with us. And then, we decided, what if they run north. So, we had him use his vehicle by himself and come south, while we came north.

Q Okay.

A But everyone knew. I mean, that was very clear, because we didn't want to get it mistaken. You know, we've got people jumping out of taxi cabs with guns or whatever. It was very clear that we were responding northbound with a taxi cab.

Q Okay. That's -- that's it.

SGT. SEGURA: No, that's -- that's all. That's all we have.

DET. WICH: That should do it. I'm sorry. Just one -- one more question.

Q The guys inside after the shooting went down, when you guys met, you were told to have the taxi cab moved, Duarte moved it, did any of the guys inside did they see her outside

moving the taxi cab? Or were they still inside?

MR. MCKESSON: The problem I have with that it calls for speculation.

DET. WICH: Speculation. Okay.

MR. ROSENTHAL: But the question is not so much --

MR. MCKESSON: Were they in a position to see?

Q BY DET. WICH: Were they in a position --

MR. MCKESSON: Yeah.

Q BY MR. ROSENTHAL: When you -- did you see anyone who was in a position to see that?

A It still is a matter of interpretation because I could have been --

DET. WICH: Okay.

THE WITNESS: -- over here doing something while they walked out front and saw her --

DET. WICH: It's just the question I asked.

THE WITNESS: -- in the cab leaving or something. It's hard. It's very difficult.

DET. WICH: I understand. Okay. I'm done.

SGT. SEGURA: Okay. Thank you gentlemen.

MR. ROSENTHAL: And we're off the record.

(Off the record.)

(Back on the record at 11:50 a.m.)

MR. ROSENTHAL: We're back on the record. It's 11:50.

And we have two new interviewing detectives. Please state your names for the record.

DET. BARLING: Detective Barling. B-a-r-l-i-n-g. 25264.

DET. SKAGGS: Detective John Skaggs. 25252.

MR. ROSENTHAL: Okay. Let's proceed. You're still under oath, Mr. Perez.

THE WITNESS: Yes, sir.

Q BY DET. BARLING: Back in Spring of 1997, I believe you were working FES, at that time. June, July of '97?

MR. MCKESSON: You got to answer.

THE WITNESS: Okay.

Q BY DET. BARLING: Yes?

A The Summer of '97?

Q Yeah, Summer, or just a little bit maybe before. When did you go to FES?

A I went to FES in June. So, that's why I'm saying.

Q Okay. So, June of '97, in the summer. When you worked FES, was it always in plain clothes, I'm assuming?

A Yes, sir.

Q Okay. And how would you keep your identification, meaning your badge? Would you keep it on a belt buckle? Would you keep it around your neck? Would it change from day-to-day?

A Yeah, on certain days, I would just affix it to my belt in the back towards the side. Or sometimes I just wear it



on a necklace type and put it under my shirt.

Q When you wore it on a necklace --

MR. ROSENTHAL: I'm sorry, for purposes of our record, keep -- if you could, please identify the case you're going to be discussing in some manner, either just the name of the alleged victim or D.R. number or something.

Q BY DET. BARLING: We're going to be discussing a Alou Foster case. And that's what I'm asking you questions in relation to. Alou, A-l-o-u. Foster, F-o-s-t-e-r.

MR. MCKESSON: Detective, can I ask you a question?

DET. BARLING: Sure.

MR. MCKESSON: Have we spoken about this case before?

DET. BARLING: No, we have not. And like I briefly said before the record, it's along the line of a Grace Cox type of case.

MR. ROSENTHAL: It's a -- it's an individual alleging --

DET. BARLING: It's an individual who's alleging a crime.

MR. MCKESSON: Can you tell me when you first got the report of this?

DET. BARLING: Yeah, we were first contacted around -- I want to say maybe November -- October of '99. October the 13th, I think of '99, or October the 8th.

MR. MCKESSON: Do you have photographs of the individual?

DET. BARLING: Yes, I do. And I'm about to show them in

a second here. I just want to ask some background about FES, before getting into it.

MR. MCKESSON: Okay. I understand. This is just questions for my record.

DET. BARLING: Sure.

MR. MCKESSON: Do you have an arrest report?

DET. BARLING: No.

MR. MCKESSON: There's no arrest report?

DET. BARLING: No arrest was made. Okay.

Q When you wore it around your neck, would you wear it on a chain? A shoelace? A string?

A On a chain.

Q On a chain? Or like a --

A Like a beaded chain.

Q A beaded chain. Okay. And here's a picture of -- Mr. Foster's a male Black. That picture is not the maybe the greatest of his face. He's about six foot, 400 pounds. What -- you know, what he's alleging is that you stole money from him around June of '97 at his residence. Near his residence on Redondo Boulevard. It was near Redondo and Adams. I think in '97 that might have still been in Wilshire Division and not Southwest Division. He describes the vehicle that you were in. And he describes that you were with two other police officers.

And he said that you took \$1500 from him. He had

just came home in a taxi cab. He stopped, the taxi cab driver was to leave. He was pulled to the back of his residence and said that some money was taken from him, that his residence was searched, asked him where the narcotics were, and then, you -- then, you

-- then, you left. Left in a car.

A I do have some memory of this.

Q Okay.

A What's his name, again?

Q Alou Foster.

A Foster?

Q Four hundred pounds. I mean, like I said, the facial of that picture doesn't give him justice.

A Did he -- did he talk about us having him in the back porch area and talking to him?

Q He said behind --

A Did he say there was another male Black, and a Hispanic officer?

Q He describes a Black and Samoan.

A I think it was Officer Canister and Officer Durden. I do remember this. A -- I'm starting to -- he was not arrested?

Q He was not arrested. And, according to Mr. Foster, he had no idea what -- Mr. -- by Mr. Foster's own admission, he's a narcotic dealer. Okay. He doesn't know how you guys

came across him. I mean, he's specu- -- I think he's speculated that maybe somebody snitched him off to him, clearly. But he doesn't know how you guys came across him. He never met any of you before.

Do you remember what kind of car you came up that day? Or what car you would have came up in?

A I want to say a maroon vehicle. But I'm not a hundred percent sure. A maroon --

Q Could you have been -- in a maroon?

A Some type of maroon, two-door vehicle. I can't remember even the make on it.

Q When you working FES, back then, is that the car that was assigned to you guys?

A Yes.

Q Okay. What kind of car was assigned to Officer Canister; do you remember?

A I think he had a Toyota. A white Toyota.

Q Let me show you a photograph here. There's a license plate on it. It's three photos. They're labeled 9, 10, and 11. And the bottom, Photo 9 has a license plate of 2PMV162. There's the photos.

Does that car look familiar to you?

A That appears to be the car that was assigned to Officer Canister.

Q It's actually a white Nissan Sentra.

A I'm sorry. Yes. It looks real similar to a Toyota.

Q Right.

A Yes.

Q Okay. Do you remember what led you to Mr. Foster?

A If I had the recap book for Rampart C.R.A.S.H. -- I'm sorry, Rampart FES, -- but then, we didn't arrest him.

In other words, we -- somebody gave us this information. We arrested someone. And they told us, "Yeah, I get my dope from this guy who lives over here."

Q Right.

A We went there. I don't think we found any narcotics. So, it would be difficult for me to say who it was that gave me the information. We did get it from someone. We did respond there. We waited -- I'll back up. There was a female -- there was a female Black. We arrived at the location, no one was home. We detained a female Black, who had probably come by to buy some dope. She admitted to us, that, yeah, she buys the dope, from this house, from this particular guy. A big guy. They call him whatever.

So, we stood there and waited. He shows up in a cab. He says he was doing something. He came from somewhere.

Q It's okay. I talk with my hands, too.

MR. MCKESSON: I didn't want him to muffle.

DET. BARLING: Oh, yeah.

THE WITNESS: Okay. Let me -- things are starting to --

DET. BARLING: Right.

THE WITNESS: -- kind of unravel here. I know we had talked to a female. We arrived at the location. We kind of sit back and watch the place. It's kind of quiet. But we do see a couple of people coming to the door. No answer.

Apparently, the guy's not home. We see a female and we detain her. We say, "Hey, we're gonna book you. And you know what's going on." And she tells us everything.

So, we sit there and wait for him to show up. He, eventually, shows up in a cab. In fact, we even detained the cab and asked him where he picked him up. And then, he gives us -- I believe, -- well, I'm not too sure. But I know we search his place. We didn't recover any narcotics. I know Officer Canister had nothing to do with any money being taken or any knowledge of any money being taken.

I, personally, don't remember taking any money. However, from past practices, I know that Officer Durden, would, at times, search and say he found nothing --

DET. BARLING: Mmnh-mmnh.

THE WITNESS: -- when in actuality had found money or certain things and just kept it. So, I'm not gonna say that absolutely nothing was taken from him, because it's definitely

possible.

DET. BARLING: Okay.

Q Do you remember what kind of cab he came up in? What the color of the cab was?

A I remember that it was a Black -- a Black man driving a cab. And he came from somewhere. He was like, "Well, I need to get paid." Or something like that. He had just come from somewhere. Maybe a casino, or -- he had told us where he had just came from. Some -- some event. Something he was doing.

But the color of the cab, if I had to take a guess right now, I would say it was a green cab. But I'm guessing.

Q Yeah, you don't know for sure?

A Yeah. I don't remember.

Q That's a guess. But it was a Black man driving the cab?

A I believe it was a Black man, older gentleman, driving the cab.

Q Did the cabby get paid? Or did you shoo him off? Did one of the three of you shoo him off? Do you remember anything like that?

A I think he was shooed off.

Q Okay.

A I think he did not get paid. He was a little bit upset. I think that this gentleman told him, "Come back later.

I'll pay you." Something to that effect.

Q Okay. And then, at that point, that you detained him, were your guys' guns already drawn out? Or were they -- or was it a low-key detain, where you just walked up to him without guns? Or do you recall any of that -- part of that?

A I remember us thinking, whew, this is a big guy. It's possible that our guns were drawn. I believe it's very possible that our guns were drawn.

Q And then, from there, were did you proceed with -- with Mr. Foster? Now, the cabby's leaving.

A I know we made entry into the apartment. What I specifically recollect was sitting with him in the back of the house. Like there's a porch -- enclosed porch area. And see, I was with him most of the time, you know, talking to him, while Durden was searching. And Canister was doing some searching. But me and Canister was mostly doing -- we would -- we would be the ones to do most of the interrogating and trying to get him to roll over on whoever.

Q And -- and you said house. That you took him back to the porch house. And you also said apartment. Is your recollection is that it's a house or apartment? And you said you took him to the back porch of a house. But, prior to that, you said something about an apartment.

A I believe it's a house. It -- the back porch area -



- if you enter through the back porch area, there's another door that leads to, I think, a bedroom, and then, the rest of the house.

Q Okay.

A I mostly sat with him in the back porch area while the other officers were searching whatever they were searching.

Q Now, you said that -- earlier you said that Canister wouldn't have known if you or Durden took some money from him. Why do you say that? How can you say that with certainty that he wouldn't have known?

A Canister is very -- from my experience -- he's not involved in any taking of money. And I can assure that I -- you know, we -- if we had taken money -- that, you know, if I said "Yeah, we took some money." You know, we definitely wouldn't have told Canister. I mean, he was not involved in anything like that.

Q But sometimes in -- in -- well, from there, you guys searched the house. What would the protocol be to do at FES if this occurred on a certain -- you know, if this occurred, let's say, June the 1st of '97. Hypothetical date of June the 1st, '97. If that occurred that hypothetical date, what would have been your protocol at FES to do? If you went to a location -- and I'm -- what I'm talking more is administratively.

MR. ROSENTHAL: Remember we're on the record. And you're

talking real fast.

DET. BARLING: Sorry.

MR. ROSENTHAL: That's all right. Go ahead.

DET. BARLING: What I'm talking is if -- if June the 1st was a hypothetical date that this occurred, while you guys were working FES and responded to a location that you thought narcotics were being used or sold, and you went there, and there was no narcotics sale, and there was no arrest, what would have been the protocol for you guys to do to document that location? And is there one? Or was there one?

MR. MCKESSON: The only thing I'm having problems with, and maybe it's my lack of knowledge of law enforcement. When you use the term "protocol" are you asking him what is the proper policy that should be done or are you asking him what was his custom, policy, and practice?

Q BY DET. BARLING: Well, I'm asking the later. What was the custom and practice, at that time, and what you guys would have done, as opposed to what the official LAPD manual says you should have done? I'm talking reality. What you did or didn't do?

A What we would actually do? We may log it in our log book, "Checked location for narcotics, negative results." We probably wouldn't have told a supervisor. Probably -- other than putting it in our log, very little after that. And that

-- I'm not sure is LAPD protocol --

Q Right.

A -- that was what we were doing at Narcotics FES.

Q And -- and asking it kind of again in another way, is that clearly this isn't Rampart -- this was probably in '97, we'll say Wilshire?

A This is Wilshire Division.

Q And Wilshire, maybe Southwest because now, it's Southwest. I don't know if by the time this occurred it was Southwest or not. Is there anything in your head that would have jarred you, at the time, that would have took you from Rampart FES to Wilshire or Southwest area, in that part of June of '97?

A You're asking me why I went out there?

Q Yeah. What would -- if you're working Rampart FES, -- if you're working Rampart FES, and you had a -- and you gained information that there was dope-selling in 77th Division, I'm guessing, that in your head, it maybe a specific individual, a person, would have drawn you to 77th to do a follow-up. That's what I'm kind of asking.

Is there anything in your head that kind of clicks because clearly you're working Rampart FES, at that time, and it took you all the way over to that division. And I'm just trying to help you jar your memory if there is something that

clicks to get you there.

A I can tell you that this is -- did not occur on June 1st of '97.

Q I -- and that's a hypothetical date.

A Again, if I had the recap book for FES, I might be able to remember a little better. And it's difficult for me to just say, "Oh, yeah, I arrested John Doe on this day and he turned up."

Q I understand that.

A It's kind of difficult. So, it's -- it's almost impossible for me to answer, boom, this jars my memory.

Q But, if -- other than looking at the book, if you looked at your like daily log or Canister's daily log, would that also maybe help you, too, that daily log. And that's what you were saying earlier is that not always, but if you went to a location and you found nothing, you would write in your daily log, "Went to ABC location, no narcotics found" just for reference, in case it came up again, so you could go back there and you had some reference.

Is that a fair statement, Ray?

A Yes, sir.

Q That's all. It's terminated.

(Off the record to turn tape over.)

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

MR. ROSENTHAL: We're back on the record. It's 12:10.

THE WITNESS: I just need to know what the last question was. I'm sorry. If there was a pending question.

Q BY DET. BARLING: It was more of protocol would be that you would write probably something in your log that you went to a location, and found nothing, in case you went back to that location?

A Absolutely. And, I mean, when we're talking about logs, we're talking about not DFAR's. We're talking about a book --

Q Yeah, the green book.

A -- that we keep a daily --

Q The green book. And it's kind of a Narcotics version of a daily log.

A That's correct.

Q BY DET. SKAGGS: Ray, now, you've had a few minutes to think about it. Can -- can you remember if money was taken from him, by anyone that day?

A I can tell you that Officer Canister was not involved in any money taken. I can tell you that I was not involved in money taking. The reason I can tell you that is this is a male Black in Southwest or possibly Wilshire Division. We primarily dealt with Hispanics.

Me, myself, I would definitely -- especially not

arresting this gentleman. I would have not taken money because, customarily, from what I've seen working Blacks and Hispanic divisions, Blacks, if you do any kind of misconduct, or a dime is missing, they will sit there and they will complain up and down to anybody -- I.A., whoever.

Hispanics, on the other hand, will just kind of leave it alone, say, "Forget it" and chalk it up as a loss. I, definitely, would have told Durden, "Do not take any money out of his place." Because, number one, we're working with this guy who we're probably not gonna arrest. He'll probably make a complaint if anything is missing. Plus, we're working with Canister. And Canister's not involved in any of this.

However, knowing Durden the way I do, and based on several things that have occurred while I was working with Durden, it is quite possible that Durden might have taken the money -- taken money, and just left it alone and didn't say anything.

Had he taken money and told me about it, we would have split the money. But I would have definitely told him not to do it on this kind of instance, because we didn't even arrest the guy. Like if this is an illegal immigrant and is afraid to make any complaint, 'cause he's afraid of deportation. I know how Blacks would, you know -- they don't have any problem voicing their -- their concern and their complaints.

But what I'm trying to say is, I'm not saying that it didn't happen. I just don't remember it, or I didn't see Durden taking any money.

Q BY DET. BARLING: Okay. Yeah.

A But it's possible that it occurred.

Q And I understand what you just said about you would probably have a conversation with Durden not to do it. But if the three of you came together in the white Nissan car, how would you -- do you think you would have that conversation there, or that would have been a conversation you had prior to this day? And prior to the stopping of this guy?

MR. MCKESSON: I'm confused.

DET. BARLING: Well, he's --

MR. MCKESSON: What conversation -- what conversation are you talking about?

DET. BARLING: The conversation that he just said, or -- or alluded to that might have possibly happened, the fact that he would tell Durden, "We can't steal from this male Black because he would probably report it. And we're not gonna arrest him for narcotics." Okay.

MR. ROSENTHAL: I'm not sure he's saying that happened.

DET. BARLING: That's what I'm trying to clarify. That probably didn't happen necessarily that day. That might have been some other conversations with him along the line.

THE WITNESS: Right. And what I'm saying is, had I been sitting there detaining this guy, while they were searching, and Durden came to me and told me in my ear, "I found \$1500." I would have said, "No way. Just leave it alone. Let this one go." And that's because of the reasons I gave you earlier.

MR. MCKESSON: But, I think, what he also said -- I also think he also said it's possible that if Durden would have told him, after everything was over, and they were away from the location, told him on the Q.T. that he got \$1500, they would have split the money.

DET. BARLING: Right.

Q BY MR. MCKESSON: Correct?

A That's correct.

DET. BARLING: That's if Durden would have told him.

MR. MCKESSON: Yes.

THE WITNESS: After the fact.

DET. BARLING: After the fact. Right. I got that. Yeah, I was just trying to clarify that. I wanted to make sure it was clear that that conversation with Durden didn't necessarily happen in the white car in front of Canister.

THE WITNESS: That's correct.

Q BY DET. BARLING: And that's what I was trying to clarify. And I'm gonna show you a photo. And it has a number 26107. That's the -- is this the Canister that we're talking



about?

A Yes, sir.

QO Okay. And I'm gonna show you another photo. And --

MR. MCKESSON: Who is the Samoan guy?

THE WITNESS: They probably think he's a Samoan, or --

DET. BARLING: Or --

THE WITNESS: Or Durden.

DET. BARLING: Or Durden.

THE WITNESS: He's a light-skinned male Black. If you look at him, it's possible.

Q BY DET. BARLING: When he said it, to be honest, I -- in his descriptions I think he's talking more about Officer Durden.

A I would say him. But --

MR. MCKESSON: Could you tell me what he alleged happened?

DET. BARLING: That he got robbed of \$1500, basically, what --

MR. MCKESSON: Who did he say took the money?

DET. BARLING: He said that Ray took the money. That's his recollection of events.

THE WITNESS: That he saw me taking some money and --

DET. BARLING: He said you took money from him. From his person.

THE WITNESS: Out of his pockets?

DET. BARLING: Out of his pockets.

THE WITNESS: I thought that he didn't have any money, because that's why couldn't pay the taxi cab driver.

DET. BARLING: Well, he said that -- well, --

THE WITNESS: Okay. Never mind.

DET. BARLING: I'll get to it. First I'd like you to look at that picture, so --

THE WITNESS: It is possible that this gentleman here may have been the cab driver.

DET. BARLING: Okay.

THE WITNESS: If -- if that's what you were going to ask.

DET. BARLING: That might -- that's what I was about to ask you.

THE WITNESS: He looks -- he appears to be the person that -- that was driving the cab that day.

DET. BARLING: Okay. Did you want me to talk to you about that on or off the record, regarding that? Well, what do you prefer? He wants to know what Mr. Foster said. Would you like to do that on or off the record?

MR. ROSENTHAL: Well, I -- actually, I think, at this point, we -- we don't want to discuss it, at this point.

DET. BARLING: Okay. Then, I don't think there's anything else.

Q BY DET. SKAGGS: There is one other easy question.

When you were in the Marines, you had a friend who later became a policeman also in LAPD. Who was that?

A I have no idea who you're talking about.

Q You don't have -- or you don't have any friends on LAPD that were in the Marines with you, that you knew while you were in the Marines?

A Oh, you may be talking about Officer Morrison.

Q I'm -- I'm just asking you.

A I think once I talked about there was a Marine and myself -- I was also a Marine -- who went and took the written examination, went to the physical fitness test. We just happened to be -- he wasn't my friend in the Marine Corps. We met while we were doing the process of coming on the -- the Department. But we were not friends in the Marine Corps. prior to coming in.

Q BY DET. BARLING: But you were both Marines?

A Yes, sir.

Q BY DET. SKAGGS: And you were both on the job?

A Yes, sir.

Q What's his name?

A Joe Morrison.

Q And that's about the only thing that you can think of that kind of fits someone you were in the Marines with that came on the job, or --

A Again, let me clarify. We were not in the Marines together.

Q Right.

A We were in the Marines at the same time.

Q Right.

A And we took our physical fitness exams and things like that together. That's the extent of our relationship prior to coming on the job. But there is no one else that fits that criteria to someone who I -- I knew in the Marine Corps.

Q BY DET. BARLING: There was nobody in your squad, or nobody in your platoon that's on LAPD?

A No, sir.

MR. MCKESSON: That you recall, at this time.

THE WITNESS: That I can recall, yeah.

DET. BARLING: Okay. That's it.

DET. SKAGGS: That's it.

DET. BARLING: Thank you. Thank you for your time.

MR. ROSENTHAL: Okay. We'll go off the record.

(Off the record.)

(Back on the record 12:22 p.m.)

MR. ROSENTHAL: We're back on the record. It's 12:22.

Mr. Perez, you're still under oath.

THE WITNESS: Yes, sir.

MR. ROSENTHAL: And we have two new detectives -- sergeants

handling the questioning. Could you please identify yourselves for the record?

SGT. GIBSON: Sgt. Dallas R. Gibson, G-i-b-s-o-n. 16036.

SGT. ROMERO: Sgt. Rigoberto Romero. 26914.

MR. ROSENTHAL: And Mr. Perez is going to be interviewed about a multi-three arrest, Edin Benitez, D.A. Case No. -- Court case number is FJ14763. Jose Barajas, B-a-r-a-j-a-s. That's Superior Court Case No. WJ06092. And Enrique Acosta, Superior Court No. FJ14632. And do you need the spelling of Benitez?

THE REPORTER: B-e-n-i-t-e-z?

MR. ROSENTHAL: B-e-n-i-t-e-z. And Edin is E-d-i-n.

Okay.

Q BY SGT. GIBSON: Okay. I'm just going to do my quick lead-in here. This is a tape-recorded interview of an Internal Affairs Investigation 99-4625. Today's date is February 23rd. The year is 2000. And the time is 1225 hours.

Location of the interview is the MTA Building, One Gateway Plaza. Present to be interviewed is Rafael Perez. Interview is being recorded on Tape No. 223333, Side A. Being conducted by myself, as again, Sgt. Dallas Gibson, 16036, and my partner, Sgt. Romero, Serial no. 26914.

Also present for my tape purposes are the court reporter, Sara Mahan; Deputy District Attorney Richard Rosenthal; and Mr. Perez' attorney, Winston McKesson.

Ray, I -- before we went on tape, I showed you the arrest report. Can I just have one face sheet?

That was dated July 12th of 1996. And I also gave you your paraphrased statement from previously that you have reviewed. Now, this is a -- a case that you were not present at; is that correct?

A That's correct.

Q And, in reading the reports, you had some concerns. You could tell me, again, what those are?

A Well, initially, the reason I pulled this report over to the side to discuss it, was because the fact that there was three people booked for one gun reminded me of an incident that I think occurred maybe just a few days or a few weeks prior to this incident.

And there was discussion in one of the C.R.A.S.H. Detectives meetings, and it was sort of like a standing joke, at the time. I had arrested two people for one gun. And that's one of the cases that we've reviewed. I believe it's the Zetino and Cande- --

MR. ROSENTHAL: Candelero.

THE WITNESS: Candelero case where I planted -- well, we planted a gun in the report saying that it was in one location and that two people possessed it at different times, and we booked both people. And that was a complete fabrication.

We had discussed it in one of our meetings as to the fact that the C.R.A.S.H. detectives actually got a filing on both guys. And we were laughing about it. And Detective Wessel made some remarks about it.

So, for a few days, it was sort of a joke about getting two filings on one person, or for one gun. A few days later, or -- I'm not exactly how many days later. Maybe a couple of weeks later, Officer Lujan and Officer Veloz arrest three people with one gun.

And this becomes an even bigger joke. I think it was Officer Veloz who was talking to me about how they beat me, that they -- they booked three people for one gun. And what I thought was interesting in the report, looking at it was it was pretty similar to what I had written that one person possessed the gun, he then, handed it to another guy. The guy possessed it for a little while and then handed it to another guy. Which is what we had talked about in the meeting that how -- that's how we were able to get filings, the fact that each person independently and willing, at one point or another, possessed the gun.

And it was interesting that that's exactly how it was written, that each guy, at different times, possessing this gun. I do not have any direct knowledge. I was not present at the arrest. I did not talk to anyone, as far as the defendants

go. But, based on the joking that was going on with Veloz and Lujan and the C.R.A.S.H. office, per se, or everybody that was in the C.R.A.S.H. office, it appeared to me that this arrest was -- there was some fabrication in this arrest.

Q And that's -- that's a perception on your part then?

A Based on the little jokes and comments that were being made, at the time. It appeared to me that this was a real obvious fabrication to get a filing on three people.

Q Did you believe they had taken it as some sort of a form of a competition for them to take and put three people on one gun instead of -- and beat your two people on one gun?

A Yes, sir. I think that was the whole purpose. The main discussion was, "Ah, we beat you. We got three people for one gun."

Q Were, at this time, were Lujan and Veloz aware that you had manufactured that previous arrest?

A Again, this was a sort of standing joke within the C.R.A.S.H. Detectives and C.R.A.S.H. officers. When we, initially, had the meeting, what we do is we talk about people that have been arrested, that we've arrested, and whether we got filings or not. Detective Wessel had informed all of us that we actually got a filing for both guys on Perez' two-defendant one-gun case.

And he started making wise cracks about it. Little



jokes. So, based on the -- the way the conversation was going, it was sort of like one of those, "Yeah, sure, that's what he saw." I mean, some officers that were there, obviously, knew what occurred, because they were at the scene. But, if -- it seemed like everyone knew because -- just the way the conversation was going. Detective Wessel and the things that he was saying, you could almost imply or you could almost read what he's trying to say that, "Yeah, sure, you know. We got your filing this time, Perez, you know, for -- for these two people."

Q Okay. Did anyone ever tell you, after this arrest for three people on one gun, that it had gone differently than what was written in the report?

A Not in -- in those words, no.

Q Okay.

A It was more of implying things and jokingly about, "Yeah, see, we beat you. You know, we beat you. We got three filings." And that type of thing.

Q BY DET. ROMERO: When you talked about that there was some innuendos or some jokes that were going around about this multi-three arrest --

A Yes, sir.

Q -- and your multi-two arrest, could you recall specifically what those jokes were that made you think in this

manner?

A I will -- I will tell you what Detective Wessel -- what I remember Detective -- Detective Wessel is standing addressing all of us. And he said something like, "Oh, on Perez' caper, we did -- we did get a filing on -- on both guys on that really good arrest that he made, you know, for those two guys." And he said something like, "Well, at least we got Moreno and -- the monikers of the guys -- he said, "At least we got them off the street." Or something like that.

But, it wasn't that he said, "Oh, wait, I know that we planted a gun on these guns." It was more like, "On Perez' real good caper." You know, that type of -- you know, it's kind of hard for me to re-enact it. But it was more of a -- implying something. That he knew what really went on but we don't need to say it, or we don't need to talk about it.

Q Could that be construed or looked at as something that happens commonly in roll calls when somebody has an arrest and then they want to joke around with the officers in the roll call and give them kind of a hard time and say, "Oh, that's right. By the way, on your -- like for example on your petty theft 666 arrest that you had on that felony." I mean, is it related -- is it kind of the same thing?

A No, I -- I know what you're talking about. You know, you get your -- your fraud case or your forgery case, or your

-- you know, those. It wasn't -- that's not -- first of all, we don't handle, you know, those type cases. We deal with felonies. And we rarely deal with misdemeanors. You'll see that most of C.R.A.S.H. cases, most of them, just about all of them are felonies.

So, when we make little comments like that, it's regarding what actually happened and the fact that I don't need to tell you what happened, I think you know what happened and we were just successful in getting a filing on two people for these -- for this one gun.

Q Okay.

Q BY SGT. GIBSON: Okay. So, just for the record, at this time, the only -- what you have is a perception that because of the circumstances of this arrest closely match the circumstances of a previous arrest of yours that had been joked about in roll call, that you -- your belief is that -- that possibly this was a manufactured arrest also done somewhat in a competition effort to take and beat you out of a two-fer and get a three-fer?

A Yes, sir.

Q Okay. Anything else that you can tell us about this at all?

A No, sir.

Q Oh, these -- these individuals here Edin Benitez,

Enrique Acosta, Jose Barajas, have you ever had any contact with those three individuals? Do you recall them at all from any contacts?

A I may have had contact with them, but --

Q I don't ring a bell with you at all?

A No. No.

Q Okay. I don't have anything else, sir. Anybody else have anything?

MR. ROSENTHAL: No.

SGT. GIBSON: Okay. We're going to conclude this interview at 1232 hours. Thank you, Ray.

THE WITNESS: Thank you, sir.

SGT. GIBSON: I made it as short as I could.

(Off the record.)

(Back on the record at 12:38 p.m.)

MR. ROSENTHAL: Okay. We're back on the record. It's 12:38. The new detectives doing the interview, if you could identify yourselves for the record.

DET. BURDITT: Detective Michael Burditt, B-u-r-d-i-t-t. Serial Number 24454.

DET. CAZARES: Detective Diane Cazares. The last name is C-a-z-a-r-e-s. Serial Number 25267.

MR. ROSENTHAL: All right. And this is going to be relating to a -- an incident we call the "fire escape incident"

It's be previously discussed on Monday, November 22nd, 1999, in Volume 10. It's contained on -- it's now Numbered Pages 15 through 22 of that volume.

DET. BURDITT: Okay. This is a tape-recorded interview for an Internal Affairs Investigation. The CF Number is 00-0474. Today is February 23, 2000. And I have 1238 hours.

Location of the interview is One Gateway Plaza. Present to be interviewed is Rafael Perez. The interview is being recorded on Tape No. 225020, Side A. The interview is being conducted by Detective II Michael Burditt. My serial number is 24454. And I'm assigned to Internal Affairs. And by Detective II Diane Cazares. Serial number 25267. Also assigned to Internal Affairs.

Present also is Attorney Winston McKesson, District Attorney Richard Rosenthal, and Stenographer Sara Mahan. And for the record, there is no arrest or BA number connected with this incident, and no identified victim.

Q Ray, prior to us going on tape, I gave you your prior statement dated November 22, in 1999 to review. And you reviewed that, is that correct?

A Yes, sir.

Q And, I also presented you with a summary of your interview from the same date. And you reviewed that also?

A Yes, sir.

Q I also presented you with some photographs. What I have here in front of me, for the record, are three photographs of the front of an apartment building. It's a three-story white apartment building with an address of 1110 South Lake Street, in Los Angeles.

And if I can show these to you, do you recognize this building?

A Yes, I do.

Q And the incident that we're going to discuss, is this the building where that incident occurred?

A Yes.

Q Okay. Just to take you back to a prior interview, you were interviewed on January 26th, of the year 2000, by a Detective Segura -- Detective -- or I'm sorry, Sgt. Segura. Sgt. Segura was investigating another incident that occurred at this same building. And, at that time, the sergeant showed these photographs and, if I'm correct, when you saw these photographs, you recognized it as the location where the fire escape incident occurred and brought it to his attention.

A That's correct.

Q Going back to this incident there, at that building, and we had determined, at least from your prior interview, roughly the date when this incident occurred. And you had indicated it was around the time that Cohan had come to the

unit?

A Yes.

Q And how do you remember that it was when he first came?

A I remember that I didn't know him very well, at the time. I remember that it appeared to me that he was trying to impress me. He had called me to his location, 'cause he had several defendants, or gang members, detained in front of the building. But he was upstairs on the second floor with another -- I guess, one of the defendants that ran from him.

When I went upstairs, he and Brehm had the -- the guy up in the -- standing there. And he was trying to tell me that the guy had ran, that he believes that this guy may know about some guns. And they were trying to get him to talk, to give them some information.

Do you want me to go on to what occurred?

Q No. I'll -- I'll --

A All right.

Q -- ask the next question. I did some research on this incident around the time that Cohan came to Rampart C.R.A.S.H. And I came up with a date roughly around the beginning of September. And I believe it was September 7th, of 1996 to be exact.

At that time, -- I also reviewed the DFAR's, the Daily

Field Activity Reports for that time period. Do you recall if, at that time, Durden was your regular partner?

A Yes. You're talking about September of '96?

Q September of 1996.

A He would have been my regular partner, yes.

Q Okay. Going back to this building here at 1110 South Lake Street, what gang territory is that building in?

A That's the 18th Street Gang territory.

Q In September of '96, were you handling 18th Street? Or were you assigned to 18th Street?

A I was not.

Q Would you have been assigned to Temple?

A Temple and La Mirada, yes.

Q Which is --

A North.

Q -- more the north end of Rampart Division?

A That's correct.

Q This building in question, had you ever been to this building, or the area of this building, prior to the date in question?

A Yes.

Q And would it have been numerous times?

A Yes, sir.

Q Had you ever detained gang members at this building?



A Yes.

Q You personally?

A Yes.

Q Did the gang members that usually hung out in the vicinity of this building, from your knowledge, back at that time, did these gang members live here? Or was this where they just hung out?

A In -- from my knowledge, in this building, most of them were hanging out. They were selling narcotics in front of this building, or -- I -- I'm calling this the front of the building. And also this building on the 11th Street side, they would hang out. I think there's more gang members that live in this building than in this particular one here. There aren't too many -- from what I know, of this gang, they lived in this particular building.

Q Okay. The -- the night in question that this incident occurred, do you remember about what time it was?

A It was -- it was dark out. I couldn't tell you the time.

Q And it would have been summer and the daylight savings time. So, we're estimating probably after eight o'clock?

A I think it was probably later than that. I think it was in the late hours of the day -- of the night.

Q Do you know if when -- when Cohan first came to the

unit, do you know his partner was?

A I think he might have bounced around a little bit, until -- up until he met up or -- or started -- started working with Brehm. But I -- I'm not sure his first week or two, or first month or so, if he might have bounced around. I'm not exactly sure.

Q How was it that you ended up responding to this building?

A I was called there.

Q By whom?

A By Cohan.

Q When you arrived at this location, do you remember -- I know we've established that Cohan, Brehm, and yourself were there. Do you recall any other officers that were there when this incident occurred?

A No. I know that there were more officers there. But I just couldn't tell you right now who they were. In fact, I'm not even a hundred percent sure that Tovar -- or that Durden was my partner this particular day.

For some reason, I don't see his face. I don't -- I can't really -- I wanted to say it was Tovar. But, then, again, certain days when an officer is off, you work with a different partner, and, you know, things like that. But I don't even remember Durden being there on this particular incident.

Q When you arrived at the location, how many suspects do you recall that were detained?

A I remember there was about three -- or four or five that were detained out front, plus the one that was on the second floor.

Q When you say "out front" would you be able to tell me from this photograph where they were detained?

A When I showed up, they were detained on this side here, as you're facing the building, you're looking at the door, it would be on the right-hand side just south of the door. Right around here.

Q Okay. Indicating, for the record, Ray Perez indicated the south -- south end of the building to the right of the front doors.

The -- the individuals that were detained, do you recall if they were male or female?

A They were all, that I can recall, they were all males.

Q Were they gang members?

A Yes, sir.

Q Do you know the names, or the aliases, of any of the individuals that were detained?

A I do not.

Q Could you give me an idea of the age?

A They were all young males. They were all, from what

I recall, Hispanic and young. That's about all I can say.

Q When you arrived, where were Cohan and Brehm?

A They were already in the building on the second floor.

Q The photograph that we're looking at here, there is a fire -- a black fire escape in the center of the building above the doors.

A Yes, sir.

Q The incident regarding the fire escape, do you recall specifically if it was the second floor or the third floor?

A I, specifically, recall that it was the second floor.

Q Okay. Do you recall -- strike that. How many officers were with the gang members that were detained in front?

A I'm pretty confident there was at least two or three officers with the people that were being detained out front, including whoever my partner was.

Q Do you know if these gang members were run for warrants, or if Field Interview cards were completed on them?

A I remember that it appeared that they were -- F.I.'s were being filled out. Were those people run? I don't know.

Q I know that you don't recall the names of the parties that were detained, at the street, do you remember if you recognized any of them from prior contacts?

A Some of the guys that were detained out front, I had seen or talked to before, yes.

Q Do you know if any of the people detained in the front you had arrested before?

A I don't -- I don't think I had arrested any of them. I know I've seen them. I might have just talked to them on occasion. But I didn't arrest any of them.

Q Okay. When was the first time that you saw Cohan or Brehm at the location?

A On the entrance of the fire escape on the second floor.

Q And --

A I walked up to them. When I arrived -- let me clarify. When I arrived at the location, he got me on Simplex and said, "Come upstairs to the second floor by the fire escape."

Q And he would be who?

A Cohan.

Q Were you able to see him, at that point?

A No.

Q And did you respond to his location?

A Yes. I -- I went up by myself. I went upstairs. And my partner stayed up front.

Q And for clarification, when -- did you go up the stairs to the second floor?

A Yes.

Q And would that have been in a hallway?

A The stairs?

Q Where did you meet Cohan when you went up the stairs?

A If you were to look inside -- if you were to look at the second floor fire escape, the door. On the other side of the door, that's right where they were standing with the -- the male. And I met them right there.

Q Okay. So, when you got up there to the hallway, it would have been yourself, the juvenile, Cohan and Brehm?

A Yes, sir.

Q Do you recall anyone else being there?

A No, sir. They were, from my recollection, there was no one else.

Q Were there doors to the apartments adjacent to where you were?

A I believe there is a little bit further back some doors that go to apartments, yes.

Q Okay.

A But when you get -- there is none right where you are standing to get ready to walk out to the -- the court -- or the fire escape.

Q The pictures show that there is a red -- actually red or orange door that leads out to that fire escape?

A Yes, sir.

Q Do you recall that door being there that night?

A I do not. I don't recall the red door like that. It doesn't stand out in my mind.

Q When -- when you went up there and met with Cohan and Brehm and the juvenile, do you recall if that door was open?

A There was --

Q And if you could see out to the outside?

A Yes. You could see right out. You can -- I don't know if there was a door and it was just propped open, but from standing in the hallway to walking out into the fire escape, you just walk right out. There was nothing in there that you had to open or prop. If it was propped, it was already propped when I got there.

Q Okay. The juvenile that was detained, that Cohan and Brehm had in the hallway, could you describe him to me?

A Male, Hispanic, probably 15, 16 years old. A kind of Hispanic, but kind of a brown complexion. A little bit going more towards the brown complexion. Shaved head. He looked young. You know, you had got some gang members that look a little bit older than what they are, this particular one looked -- you could tell he was young. 15 maybe 16.

Q Do you recall what he was wearing?

A No.

Q Do you know what his name was?

A No, sir.

Q Did you recognize him from prior contacts?

A I do not.

Q Since the night of that incident, had you -- did you ever see this juvenile again?

A I don't know if I did or not. What happened, you know, you run across so many gang members and you stop ten, fifteen of them. And you don't realize that, hey, that's the same guy that was -- you know, it doesn't enter your mind. So, it's possible I might have run into him again. But I don't know when or where.

Q When you arrived in the hallway, who did you talk with first?

A Cohan.

Q And what did Cohan tell you?

A Basically, what had just occurred, that they detained some guys. A couple of them ran. He detained this guy, the one that he was detaining, and he thinks that he might know where some guns are. He was trying to convince him to talk.

So, he, basically -- I guess he just wanted to try and interrogate the guy in front of me, in case maybe I had some expertise to add or -- I'm not exactly sure what he was looking from me, other than watch how I try and get this guy to give me some information, that type of thing.



'Cause, I, basically, just sat there and listened to him and asked him, you know, some questions.

Q Was the juvenile handcuffed?

A I don't think so.

Q I presume Cohan interrogated him?

A Yes, sir.

Q And what was the end result?

A The kid kept saying, "I don't know where there's any guns. I don't, you know." He just kept saying that he didn't have any information. He didn't know about anybody having guns out front right now.

I -- I get the feeling, from the interrogation, it was that like maybe one of the other defendant that are out front, might have told Cohan, yes, somebody had a gun in here earlier. And that possibly this guy that was detained on the second floor was one of the ones that was -- that had that gun.

So, it appeared that Cohan had already had some information, and he was trying to get it out of this juvenile.

Q How long did that conversation occur or take, between Cohan and the juvenile?

A Are you talking about while I was there? Or before I got there?

Q No, during -- while you were there, what time period?

A I was probably there ten minutes up on the second

floor with them.

Q Did -- did Brehm partake in this conversation?

A Brehm was mostly sitting back just watching.

Q After this juvenile indicated that he didn't have any information, what happened next?

A He got continuously interrogated up until the point where he -- Cohan -- pulled him out into the -- the fire escape. Brehm walked out onto the fire escape. And I walked out right to the very -- I was standing somewhere about -- I think this one's better -- right about there to the back wall to the left side of the fire escape towards the back. I was standing right about there.

Q On the actual fire escape?

A On the actual fire escape.

Q On the -- the grating?

A And what was particularly, what I remember was that I could look down and see that there was gang members standing right there. I mean, from here to the ground is maybe, I don't know, twenty feet or something like that. But they were right there.

Q So, yourself, the juvenile, Cohan and Brehm, were all on the fire escape?

A Yes, sir.

Q Did something else occur involving use of force with

that juvenile before he was taken out onto the balcony?

A From what I remember, Cohan had punched this guy a couple of times. Talking to him, he punched him a couple of times. And then, he just pretty much got frustrated and pulled him out to the fire escape.

Q Was that during the -- the roughly ten-minute interrogation is that when that occurred?

A Yes, sir.

Q And you observed Cohan punch this juvenile?

A Yes.

Q Where was he punching him?

A In the stomach.

Q And this occurred in the hallway?

A In the hallway. If I was walking from the hallway, towards the balcony, or the fire escape, it was on the left wall. He was holding him, propping him up against the left wall.

Q How far away from the open door would that have occurred?

A Just feet. Four to six feet.

Q Was Brehm in a position to see Cohan punch him?

A Oh, yes.

Q If there were people standing, I presume that the gang members that were down below, the way you've described it,

would probably not have had a -- a view of this?

A Of the punching?

Q Of the punching.

A That's correct. They would not have.

Q Could someone who was maybe across the street have been able to see that?

A That's possible, yes.

Q Okay. Do you recall, if during that interrogation, if any civilians were present that may have come out of an apartment?

A I did not see any.

Q Okay. After this juvenile was -- was punched -- how -- how many times do you recall him being punched?

A It was only once or -- or I think twice that he was punched. And a couple of times just kind of thrown up against the wall.

Q Prior to the juvenile being walked out to the fire escape, did Cohan or Brehm say something as to what they were planning on doing?

A No, they -- once they got up to the fire escape they told the juvenile what they were gonna do.

Q Do you recall what was said?

A That they were gonna hang him upside down from the -- from the fire escape.

Q And who said that?

A Cohan was telling the juvenile that.

Q Did Brehm say anything?

A Brehm did not say anything.

Q What was the juvenile's response?

A He just kept saying that he didn't know anything about nothing.

Q Do you recall exactly what Cohan said to this juvenile?

A Exactly everything that he told him? No, I can -- I remember bits and pieces of it. I know he was looking for guns. I know that he kept telling him that you -- that he did know. The juvenile kept telling him he didn't know. Brehm kept -- or Cohan kept telling him that he did know. And Cohan just kept constantly getting a little bit more and more perturbed, a little bit angrier.

But the exact conversation, everything that was said, no.

Q The juvenile is walked out to the fire escape. You were out there at the fire escape, you indicated to the left - - the left side. Or the north side of the fire escape.

A Yes, sir.

Q And Cohan and Brehm have the juvenile?

A Yes, sir.

Q And what did they do?

A They walked him right up to the front of the fire escape, about the center, a little bit offset to the left, and it was Cohan, who first sort of just pushed him over the -- the railing. They hadn't picked him up yet. But he kept telling him, "I'm gonna hang you upside down. You know, give me something."

And the guy was like, "I don't know. I don't know." At that point, they both picked up his legs and they were just hanging him upside down.

Q When you say -- did you have a question?

MR. ROSENTHAL: No. I was just gonna mention, it's one o'clock. We're gonna have to break for lunch soon. Do you want to finish this? Do you have much more?

MR. BURDITT: If we could finish this, I probably have at the most ten minutes.

MR. ROSENTHAL: Okay. Let's go ahead.

Q BY MR. BURDITT: You -- you indicated that Cohan first pushed him?

A He had the juvenile kind of just leaning over the -- the railing -- the front railing here. And was again asking him some information. And the kid kept saying he didn't know anything. At that point, that's when they each picked up a ankle and picked him up and hung him upside down.

Q Was he handcuffed, at that point?

A I don't remember him being handcuffed. I don't.

Q When you say he pushed him over the rail, would that have been his torso first, bent at the waist?

A Yes, sir.

Q And then, each of them grabbed this juvenile by the ankle?

A Yes, sir.

Q And how long did they hold -- they actually held him over the balcony?

A Yes, sir.

Q How long did they hold him in that position?

A Not very long. Maybe -- maybe a minute to a minute and-a-half.

Q Which is a pretty long time?

A Okay. I guess so.

Q I mean, yeah. I mean, just for clarification, a minute is a pretty long time. What was this juvenile when he's hanging there upside down?

A He made some noises, or he might have said some words. I couldn't tell you exactly what the words were. He wasn't crying or begging, or anything like that. But he -- he was saying some -- something. But I couldn't make out what he was saying.

Q And do you recall, what, if anything, Cohan or Brehm or yourself may have said to this juvenile while he was hanging there upside down?

A I don't think I said anything. I just stood there and watched. I think some words were said to him. And I think it was Cohan that said them. But I couldn't tell you exactly what it was that he was telling him.

Q BY MR. ROSENTHAL: Do you remember the gist of it?

A At that point, where he's hanging upside down, I really don't remember the gist of, you know, what he was saying. I know he was telling him something. But it was sort of like his back was to me. And I'm just hearing mumbles, you know. I know he's telling them something, but I couldn't pick up what it was.

Q When you were standing up there on that balcony, from the position from where you were standing, did you still see the other juveniles, or the other gang members detained below you?

A Like I said, when -- when the two officers had the juveniles right here, hanging them upside down, where I'm standing from, I could look straight down and see that -- that there's like three or four males being detained right -- you know, -- you know, they could see what was going on, you know.

Q Do you remember seeing them looking up?



MR. ROSENTHAL: Let's stop for just one moment. You guys are talking right on top of each other. You need to take a pause between question and answer.

Q BY DET. BURDITT: My last question -- my last question was did you see the gang members that were detained below looking up to see what was happening?

A I don't -- I, specifically, don't have an independent recollection of them looking up. I'm assuming, at one point or another, they did kind of look up. But I don't have an independent recollection of watching them look up.

Q Do you recall the officers that were down below looking up?

A I don't.

Q Do you recall seeing any civilians in the vicinity that observed this?

A I do not.

Q After this juvenile was hung upside down, what happened next?

A They pulled him back in. Took him back out into the hallway, or into the hallway, and talked to him for a few more minutes.

Q And were you present during that conversation?

A Yes.

Q Do you recall what that conversation was?

A It was something to the effect that the juvenile was gonna have to be made to give Cohan some information at a later date.

Q During this entire incident, did the juvenile ever give any information, to your knowledge, to Cohan?

A Not to my knowledge.

Q Do you know if Cohan, Brehm, or yourself documented the name of that juvenile on a Field Interview card, or --

A I didn't. I definitely did not write it down or -- or write it down somewhere. I don't know that they did. I'm assuming they -- that they might have, you know, to update his I-card. On the back of an I-card we try and put down, you know, when we stop these guys, you know. So, it's possible that they may have done it. I don't know.

Q This juvenile, the one that was hung upside down, if you were shown photos in the future, do you think you'd recognize him?

A You could probably show me ten photos and I'd say each one of them looked pretty close. But I couldn't, you know, I couldn't say, "Yeah, that's definitely him." It would be very difficult. He -- he was a typical-looking young male, shaved head, Hispanic gang member-looking type. You know, 15, 16 years old. There's nothing distinct about him that would stand out.

Q Did -- how do you know that they were 18th Street, besides the location?

A Besides the location, I don't know.

Q So, it's possible that they could not be 18th Street?

A It's possible.

Q When you had indicated before that you were asked, in the prior interview, if he was an 18th Street, would it be correct that that was an assumption on your part, given the location of the detention?

A Right. I based it on the location. This is a heavy 18th Street area. Any other gang in this area would have a problem. I mean, hanging out like that, that wouldn't happen.

Q After the juvenile was brought back into the hallway, did anything else occur physically after the conversation that Cohan had?

A No, sir.

Q What happened after that conversation ended?

A Eventually, I came back downstairs. It seemed that they had the situation pretty well at hand. And me and my partner left. And when I left, they were still -- some people were detained there.

Q Okay. Do you know if any of the parties that were detained, at that location, that night, were subsequently arrested?

A I do not know. Like I said, I left prior to the group being dispersed, or anybody being transported.

Q When you came back down and met up with your -- your partner -- and we don't know who that was -- were those other juveniles -- the other gang members -- still present?

A Yes, sir.

Q And the officers?

A Yes, sir.

Q Do you recall anything else that occurred on that night that might remind you of what specific day it was?

A What specific day?

Q If you don't, do you recall if you may have arrested someone after that incident, or you might --

(Off the record momentarily to change tape.)

(Back on the record.)

Q BY DET. BURDITT: I was asking Ray Perez if he recalled anything else about that evening that might be able to help me identify when it occurred.

A Unfortunately, there is -- I couldn't tell you what day of the week this occurred.

Q After you left, at any time, after this incident occurred, did either Cohan, Brehm, or any other Rampart officer discuss this incident with you?

A The only time it was discussed again, was Cohan

telling me about it, you know, joking about it. But that was Cohan who joked to me about it.

Q And when did that occur?

A Either probably that night or probably the very next day. It was right after. I -- it was probably that evening at end of watch or something like that.

Q Do you recall that conversation, what he joked about?

A The fact that he did that. There was nothing more to it, other than, you know, -- other than they held this guy upside down on the fire escape.

Q Do you know who the primary invest- -- who the primary officer was that was handling that incident that night?

A I believe it was Cohan. I don't -- I don't think -- I'm not positive if he had 18th Street yet. But he was -- he -- he made it known that he wanted to work 18th Street. So, he would go over there a lot. But I think he was the primary officer that actually chased these guys or he detained these guys.

Q Would there be documentation from Rampart C.R.A.S.H, for that time period, indicating who was assigned to each gang? Or each section?

A We do a -- we do a -- an assignment line-up. But it's a monthly one as to who is working what particular gang. Where that is kept, at this point, I don't know. But we do

have a -- what we would do, every -- every month, at the start of D.P. -- Deployment Period, we, -- you know, the senior officers would talk about, you know, we got these new officers coming in, let's give them a light gang -- an easy gang to work. You know, 18th Street would be a difficult gang to work. It's a big gang. We, in fact, we have -- we usually have four officers handling 18th Street, and handling different cliques within the city.

But we did have a -- a sheet that would indicate who's working what gang.

Q After this incident occurred, did you ever have contact with an 18th Street gang member that ever mentioned this incident to you?

A No, sir.

Q Were there any supervisors, to your knowledge, that responded to this location?

A Again, I left prior to the area being secured and dispersed. So, I don't know, if after I left, a supervisor arrived. But while I was there, there were no supervisors present.

Q I don't think I have any other questions. Diane?

DET. CAZARES: I just have several.

Q When Cohan had detained that -- this individual, did he call him by his moniker, do you recall?

A I think he did. I definitely don't remember him calling him by a name, like a John, Paul, David. He talked to him as though he may have known him, or -- or knew who he was, that type of thing. But to be quite honest, I also don't recall him calling him by a moniker either. I definitely don't recall him -- recall him calling him by a first name or something like that. But I don't recall him calling him by a moniker.

Q When you guys are out in the hallway, did Cohan, or did Brehm just, by chance, if a tenant had opened a door, and they yelled out, "Stayed inside. Close the door." Did --

A Did that occur?

Q Exactly.

MR. ROSENTHAL: Hold off one second. Can we go off the record for a moment?

(Off the record.)

(Back on the record.)

MR. ROSENTHAL: Okay. Back on the record. I'm sorry.

Q BY DET. CAZARES: And just one more question.

A Well, I don't -- did I answer that question?

MR. ROSENTHAL: No.

THE WITNESS: I don't think I ever answered that question.

DET. CAZARES: I'm sorry.

THE WITNESS: Did somebody come out and say, "Hey, what's going on?" And we tell them, "Go back inside?" I don't remember

that occurring.

Q BY DET. CAZARES: Okay. And the last question. Working as a C.R.A.S.H. -- gang C.R.A.S.H. member, did -- were your gang photos up-to-date, as far as in the 16-pack?

A Mine -- mine? Or the 18th Street?

Q The whole unit.

A It was each -- it was up to each individual officer to maintain and keep up their -- their -- you know, their gang books. I tried to keep mine up. If you're asking me the status of what 18th Street gang book was, I don't know. I -- I deal with my book, my gangs, my book. I'm in charge of that.

How they had theirs updated, I wouldn't know because I don't work that gang. So, I don't know if there's some missing or not. I don't know if that answers your question.

Q In particular with 18th Street, were most of the photos placed in the 16-pack?

A There were several. 18th Street has several cliques. And each clique has it's own book. And 18th Street is one of the most active gangs. So, you know, I know for a fact that they try to keep those books updated.

Q Okay.

Q BY DET. BURDITT: This location, Ray, what clique would that have been, if you know?

A I believe this is the Peewee Locos. You got your



CLCS, Columbia. I believe it's the Peewee Locos. PWLS, or Peewee Locos. I believe this is the Peewee Locos. But I'm -- I'm not a hundred percent sure on it. Like I said, I never worked 18th Street. But give me a second. This is also -- they have the Red Shield clique. And if I remember -- I do remember one thing. This is the Red Shield clique. And also there's another clique. And I think it's the Peeweess, that they both hang out in this area. Red Shields and Peeweess.

Q When Cohan punched this juvenile, did he also C-clamp him? Which, for the record, is grabbing someone by the neck with your hand.

A I know he had him up against -- he -- he had pulled -- pushed him several times up against the -- holding his clothing and pushing him up against the -- the wall, holding him up. But I'm not a hundred percent sure if he actually had him C-clamped or not. I know he had him holding him up.

Q That's fine. I don't think I have any other questions.

DET. CAZARES: I have none.

MR. ROSENTHAL: All right. We're off the record. We're going to take a lunch break. It's 1:17.

(Off the record at 1:17 p.m.)

(Back on the record at 2:25 p.m.)

MR. ROSENTHAL: Let's go back on the record. It's 2:25

p.m. Mr. Perez, you're still under oath.

THE WITNESS: Yes, sir.

MR. ROSENTHAL: The next case that will be discussed, relates to a three-defendant arrest, Raul Calderon, D.A. Case No. BA157731. Calderon is C-a-l-d-e-r-o-n.

Claudere Castro, C-l-a-u-d-e-r-e, Castro. Superior Court Case No. FJ14889. And Javier Alvarez, Superior Court Case No. FJ18298.

Go ahead.

DET. BURDITT: There was also, for the record, a CA Case number for Javier Alvarez, under 97-CR-30184.

MR. ROSENTHAL: 97-CR- --

DET. BURDITT: 30184.

MR. ROSENTHAL: Is this the one who was filed on for -- as a juvenile, but it was discovered he was an adult?

DET. BURDITT: Correct.

MR. ROSENTHAL: All right. So, the actual -- the actual case number should be the City Attorney number then?

DET. BURDITT: Correct.

MR. ROSENTHAL: Okay.

DET. BURDITT: Okay. This is a tape-recorded interview for a complaint investigation. The CF number is 99-4636. Today's date is February 23, 2000. And the time is 1425 hours. Location of the interview is the MTA Building. Present to be

interviewed is Rafael Perez.

The interview is being recorded on Tape No. 226067, Side A. The interview is being conducted by Detective II Michael Burditt. My serial number is 24454. I'm assigned to Internal Affairs. And Detective II Diane Cazares, Serial number 25267 of Internal Affairs.

Also present is District Attorney Richard Rosenthal, and Attorney Winston McKesson, and Stenographer Sara Mahan.

Q Ray, before we went on tape, I gave you a copy of an arrest report, a multi-three arrest dated October 11, of 1997. I also gave you a transcript of your prior interview which was dated November 5, of 1999. And also a summary of that prior interview. Did you review these before we went on tape?

A I have.

Q I'd like to show you three photographs. And, for the record, the first photograph is of Calderon. He has an aka of Doggie. The second photograph is of Javier Alvarez, aka: B-boy. And the third photograph is Claudia Anaya.

And for the court record, her last name was Castro, aka of Downer.

Ray, do you recognize any of those three individuals?

A Yes, I do.

Q Who do you recognize?

A I recognize Calderon and Alvarez.

Q Referring to Calderon first, where do you know him from?

A I just know him from the streets. Seen him from prior contacts.

Q Had you ever arrested him?

A I don't believe so.

Q Have you ever discussed, during this investigation, any other cases that involved Calderon, besides the one we're talking about?

A I'm not sure. It's possible. But I'm not sure.

Q Do you know Calderon to be a member of a gang?

A Yes.

Q Do you know which gang?

A Which gang?

Q Yes.

A 18th Street.

Q Yes.

A Which clique, I'm not sure.

Q Okay. Referring to Alvarez, where do you know him from?

A Again, from the streets and booking photos, the mug books, uh, the gang books.

Q Do you recall any specific incidents that you had with him?

A No.

Q Any prior arrests?

A No.

Q Okay. The -- the case in question here, was a case where Officer Cohan, Brehm, and Vinton arrested these three individuals. And Calderon had a gun. And Alvarez had a gun. When you were interviewed before, and you reviewed that arrest report, you had some concerns about what you read.

A Yes.

Q Can you tell me what your concerns were?

A Firstly, I'll say that I have no personal knowledge. When this arrest took place, I believe I was working Narcotics -- Rampart FES. So, I was not present when this arrest took place. Or was I working Rampart C.R.A.S.H. The problem I had with this report, was simply based on my training and experience.

While reading the report, I noticed several statements that were made under the second page of the arrest report, under "Observations" which included the officers making an observation of someone standing in front of a porch, reaching into his front waistband, producing a handgun, and throwing it behind him onto the porch.

Based on my training and experience, this is not someone who you know lose sight of, or get distracted and start

looking elsewhere to see if there was anything else going -- you know, whatever's going on. You have someone that definitely has a gun in front of you, has discarded the gun, or could possibly have another gun on him, you don't start looking over, you know, I wonder what this guy's got, or that guy's got.

Reading the report, it indicated that when they saw this person reach into his waistband and discard a gun, they now began looking in a different direction and saw another male by a vehicle producing another gun. You know, again, I was not there. But based on my knowledge of how the Rampart C.R.A.S.H. unit works, or worked, and my training and experience, I felt that there was probably some misconduct, as far as fabrication of evidence and fabrication of -- of observations, in this case.

Q Was your opinion at all based on any established M.O. that you're aware of for Cohan, Brehm, or Vinton?

A Yes, especially, Brehm and Cohan. This is a situation where you have two guns in custody and two people that are gonna go to jail. That's what our normal standard practice was. You know, you -- very rarely did we just do a property report of a found gun, because we couldn't put it on someone. Usually somebody went to jail for it.

Q Prior interviews that you've had with investigators, who were investigating other cases, were there times where you discussed with them incidents in which Cohan or Brehm planted

guns on people?

A Yes.

Q How many cases roughly?

A I think there might have been three or four that I discussed where I had some -- some form of knowledge. There was many more where I can only say, "Well, this is my opinion." But I couldn't -- I couldn't make a determination, because I had no -- no knowledge, or no direct knowledge. But cases that I've actually discussed where I knew something, I think about three or four.

I know there was a .45 where it was thrown out of a vehicle down at the south end.

MR. ROSENTHAL: Okay. Repeat the question for me.

DET. BURDITT: The question that I asked Ray was, during his prior interviews with other investigators, were there cases that he, specifically, talked about guns that were planted by Cohan and Brehm?

MR. ROSENTHAL: And that's correct. It's probably two or three.

THE WITNESS: Two or three. I don't know the exact number.

MR. MCKESSON: Yeah. The problem I have, Detective Burditt, is I want him to give you -- I want him to be forthright and give you the benefit of his best recollection.

DET. BURDITT: Sure.

MR. MCKESSON: I think it's difficult to do that if you have nothing to refresh his recollection with. I mean, I don't want him to go on record and say, Brehm on case and Cohan two cases. And as it turns out, when you review all the transcripts, that we knew the L.A. Times and the Daily News has, it turns out that it's something different.

DET. BURDITT: That's fine.

MR. MCKESSON: And the problem I have with it, is that I know it's a very difficult task for you to try to review two thousand pages to see whether it comes up.

What I would suspect could happen is could you key Brehm and Cohan's name in, Richard, from the disk, and just have -- have it -- ask the computer to spit out anything where they're mentioned?

MR. ROSENTHAL: I think -- I think, at this point, what I'm gonna do is just represent that there were two or three, during the course of all these interviews, there have been two or three cases. There are -- I'm actually looking through my list now. I have recollection myself of one in particular involving the .45 that you mentioned.

There may be -- there's another one where there is speculated the gun may have been put on the defendant, and some gang members. And that's also by Brehm and Cohan.

Q BY DET. BURDITT: Let me ask a more general question.



And then, we can -- is it your opinion, from what you've read, in this arrest report, that these officers may have planted those firearms on these individuals?

A Based on my training and experience, based on what my time spent at Rampart C.R.A.S.H., based on the fact that I worked with Officer Cohan for approximately two years, and Brehm for about three years, and based on the knowledge as to what goes on in Rampart C.R.A.S.H., I am very confident with my statement by saying that I am positive or confident that these guns were planted on these guys.

Q BY MR. MCKESSON: When you say "guys", you --

A No, just the two guys.

Q Okay.

A I think they were the only two charged with possession of guns.

DET. BURDITT: Correct.

Q Now, is it possible that the arrest could have actually occurred the way it was written, being that the officers drive up, they see a group of individuals standing together outside a party, three of which are the three involved in this case. And that the three officers, they were driving -- they were three-deep. It was just two officers.

But as they exited the vehicle, that the two officers that exited one side of the vehicle, observed Calderon throw a

gun. And that the other lone officer was looking in the other direction, observed Alvarez remove a gun and drop that gun into a vehicle?

A Again, this goes back into --

MR. MCKESSON: His question is, is that possible? Is that possible?

THE WITNESS: Anything is possible. Anything is possible.

MR. MCKESSON: Okay.

Q BY DET. CAZARES: With regards to this case, the -- you mentioned that these guns may have been planted. But I just wanted to clarify one thing, when you say "planted" where these guns found at the location, or were these guns actually placed by the officers that they brought to the location?

A You're asking me where these guns, as though I was there. I wasn't there. What I'm saying with that is, it is possible that -- it's possible that these defendants may have even possessed these guns, at one point or another.

But, based, again, on my training and experience, you got Officer Cohan and Officer Brehm who are well-known within the 18th Street Gang. You've got them driving up to a party, going to a gathering of gang members. They can see the car and the officers coming long before the officers can see the defendants.

They're not gonna sit there and wait for the officers

to pull up to then, remove their guns, hide them, or place them, or throw them down, or whatever it is that they wrote. It's possible that they could have possessed and discarded them and had them hidden somewhere and they -- and officers found them. And when I say, planted on them, meaning they know found some guns. And these are being charged with them.

If you want to say they're planting or fabricating evidence to sub- -- substantiate the charge of possession of a weapon, then, that's what I'm saying.

MR. MCKESSON: Let me -- not to be rude, but I think one of the things she's getting at, did you have any information that these two officers possessed these two guns prior to this arrest. Is that what you're trying to get at?

DET. CAZARES: Yes.

THE WITNESS: No.

Q BY DET. BURDITT: Did you have -- do you recall having any conversations with Cohan and Brehm or Vinton, regarding this arrest?

A No.

Q A couple of last questions on this. Dave Vinton, did you ever work with him?

A We worked the same C.R.A.S.H. unit. I don't think we ever worked the same car together. We may have once. It might have been like a three-deep thing -- or three people in the

vehicle. I worked with him, but not directly with him.

Q Were there times when they -- when officers would drive four-deep?

A No.

Q Did that ever happen?

A Yes.

Q Would it be correct that more commonly three?

A No. More commonly two.

Q Well, let me rephrase that. Is three officers driving together in a car more common than four?

A Yes, sir.

Q Okay. And I presume because if you had four you could man another vehicle?

A That's correct. I will say that sometimes when we are going to break up parties, or things like that, we will go four-deep, 'cause we want to get there simultaneously. So, I just want to make that clear.

Q Officer Vinton, I know the term has been used, because I've sat through some of these interviews, "in the loop".

A Yes, sir.

Q Was Officer Vinton in the loop?

A Yes, sir. But he was not that I would -- I personally used. He was in the loop. He did his own dirt and did his thing. But I didn't trust him with anything I did. And I

didn't want to get into whatever he did. He would work a lot with Rico, another person who I don't -- I don't like to work with.

Q Do you know if Cohan and Brehm trust Vinton?

A Yes, sir.

Q BY MR. MCKESSON: Yes, you know, or yes, they did trust him?

A Both.

Q BY DET. BURDITT: And what do you base that on?

A They were -- they were very tight. They were -- I'm not even sure. They may have even been like classmates or pretty close. Maybe in the Academy at the same time. They were very -- they were very tight. They -- they would talk a lot.

Q I don't have any other questions.

DET. CAZARES: None.

MR. ROSENTHAL: All right.

DET. BURDITT: Okay. We'll be off tape at 1441 hours.

(Off the record at 2:41 p.m.)

(Back on the record at 3:06 p.m.)

MR. ROSENTHAL: Okay. We're back on the record. It's 3:06. The next case that's going to be discussed is a five-defendant arrest. It involves Alfredo Gomez, D.A. Case No. BA153098; Ricky Mena, M-e-n-a, D.A. Case No. BA153766; Omar

Partida and Ernesto Arana, A-r-a-n-a, City Attorney Case No. 7CR21790.

And Ramsey Guzman, a juvenile for which we do -- we do not have a record.

DET. BURDITT: And, for the record, on Ramsey Guzman, he was issued a citation.

MR. ROSENTHAL: Oh, all right.

DET. BURDITT: Okay. This is a tape-recorded interview for an Internal Affairs Investigation. The CF No. is 99-4634. The LAPD D.R. No. of 97-02-24513. Today is February 23, of the year 2000. 1505 hours. Location of this interview is One Gateway Plaza. Present to be interviewed is Rafael Perez. The interview is being recorded on Tape No. 225019, Side A. The interview is being conducted by Detective II Michael Burditt. Serial No. 24454 of Internal Affairs, and Detective II Diane Cazares, Serial No. 25267, also of Internal Affairs.

Also present is District Attorney Richard Rosenthal, Attorney Winston McKesson, and Stenographer Sara Mahan.

Q Ray, prior to going on tape, I gave you a -- an arrest report, also your transcript from your prior interview, and the summary. Were you able to review this?

A Yes.

Q I'd like to show you some photographs of five individuals, who were the five people that were arrested in

this case. The first photo is Omar Partida. He has an aka of Demon. Do you recognize him?

A No.

Q Second photo is Enrique Mena, an aka of Tury, T-u-r-y.

A Yes.

Q Where do you recognize Mena from?

A Street contact. I've seen him out in the street before. I don't think I've ever arrested him, but I just have seen his photo before. I've seen -- I've seen him before.

Q The next photo is Ramsey, R-a-m-s-e-y, Guzman, aka of Lobo, L-o-b-o.

A Yes.

Q Was your response you recognized him?

A Yes.

Q From where?

A Street again.

Q Any prior arrests of --

A I never arrested him, I believe. No.

Q The next photo is Ernesto Arana, aka Toro.

A If I'm not mistaken, one of the cases that I had talked about ATF deporting guys, I believe I deported him through ATF, if I'm not mistaken.

MR. ROSENTHAL: This is -- could you give the booking

number of this individual?

THE WITNESS: The booking number is not on it. It's an arrest that occurred on July 9th, 1997. Booking number 5306554. The name -- that name is -- first name Ernesto. First name Arana. A-r-a-n-a. Also known as Toro -- his moniker. So, I've -- yes, I've had contact with him.

Q BY DET. BURDITT: The -- the other case you believe he's involved with, was -- well, let me finish. Was there misconduct involved in that?

A In the deporting of him?

Q Correct.

A If there is misconduct because the way the affidavit will -- well, probably read is not how it actually occurred. If this is some procedural misconduct, I guess. There was no thumping of him, or beating of him, or planting evidence on him. It was just a procedure to deporting someone, if that's what you're asking me.

MR. ROSENTHAL: Let me understand, because I think we discussed this earlier this morning. What you're saying is that the affidavit that was filed in Federal Court for Deportation, was -- did not contain the true facts as to how you came in contact with him?

A That's correct.

Q Do you recall specifically the specifics of this one?



Or is this just a in general type thing?

A How I know, I found a -- if -- and, again, this is if I'm -- if this is the exact same guy. It appears to be him. I found him coming out of an apartment building on -- it's the street just north of Pico. And it's a -- and I found him coming out of a building. It was late at night. And I detained him. I was running him for warrants or something. And then, I somehow found out that ATF and INS was working that night. And something -- he was involved in something.

There was a reason why I wanted him deported. There was something going on with him, or he knew something -- it was something. And, anyway, I got a hold of ATF and INS and they deported him. But I can't remember exactly what the incident was.

Q BY MR. ROSENTHAL: Do you remember what the false information was that would have been in the affidavit?

A As to how INS got a hold of this person.

Q Oh, okay.

A In other words, the affidavit would have probably read that I make a pet stop, while I'm making a pet stop, ATF happens to be driving by, or -- or whatever. They come out. As I release him, they pick him up. And subsequent to their investigation they realize that he's been a previously deported person.

Q All right.

A He's -- which is not actually how it occurred.

Q In actuality, you saw him, you picked him up, and you brought him to the station, and the INS guy was at the station?

A Yes, sir.

DET. BURDITT: Mr. Rosenthal, do you know if that case is one that's been investigated?

MR. ROSENTHAL: It is not.

Q BY DET. BURDITT: The last photo is of Alfredo Gomez, a moniker of Silent.

A Yes, I know him.

Q Where do you know him from?

A Again, from street contacts.

Q Just in summary, this arrest occurred on July 8th of 1997. The case that -- that involved Officers Cohan, Brehm, Tovar, and ATF Agent Fragosa. In this case, from what -- what you read, was there something that jumped out at you when you read that arrest report that didn't seem right?

A Yes. And, again, this is again my opinion. I have no direct knowledge as to what occurred on this day. I was not there. And, again, my opinion is based on how things worked in Rampart C.R.A.S.H. You know, just simple observations of how things, you know, go. And reading the report, it appeared to me that some of the things were fabricated.

Q You were not present at this arrest, is that correct?

A That's correct.

Q Do you have any knowledge relative to this arrest that may have been told to you by the other involved officers?

A Not that I can recall.

Q Okay. The ATF Agent Fragosa, that is mentioned in this report, do you know who that individual is?

A If that's the same person who I'm thinking, yes, I know who he is.

Q To use the term "in the loop" was Fragosa -- ATF Agent Fragosa aware of what was going on in Rampart C.R.A.S.H.?

A Fragosa was not in our loop. But he was aware of some of the things that were going on in Rampart C.R.A.S.H., yes.

Q Such as?

A He was probably aware of things being planted on suspects and evidence and probable cause being fabricated.

Q Do you have direct knowledge of that?

A I do not have direct knowledge. What I have is just conversation and just talk. So, I do not have direct knowledge.

Q In this case, there were five arrestees and two guns recovered, which were attributed to Gomez and Mena. Is that at all unusual to have five arrestees and two guns?

A That's not unusual. No, that is not unusual.

Q From what you read in that arrest report, is it possible that what was written is legitimate?

A Again, we're right back to that anything is possible.

Q And you have no independent knowledge regarding this arrest?

A That's correct.

MR. MCKESSON: Have you guys interviewed these guys?

DET. BURDITT: Some of them, yes.

MR. MCKESSON: Did you interview them before the L.A. Times article came out?

MR. ROSENTHAL: Well, now, let's not get -- we're not gonna go into that.

Q BY DET. BURDITT: Officer Tovar, he was in the loop?

A Yes.

Q Is he someone that would have been trusted by Brehm and Cohan?

A Yes.

Q In this case, the officers report that Gomez secreted a revolver in the hole in the dash of a van where the speaker would be. What they indicated in the report was that when the speaker cover was taken off, there was no speaker, it was just an open hole where a gun could be secreted. Had you ever, in your dealings with gang members in Rampart, ever come across that location for a gun to be secreted? Behind the fake

speaker?

A I have one occasion where that occurred.

Q So, to your knowledge, that would not be that uncommon?

A That's correct.

Q If you recall, you indicated you had prior contacts with Gomez?

A That's correct.

Q Do you know what kind of vehicle he drove?

A No, I don't.

Q Okay.

A Not at this time.

Q And did you know him to be 18th Street?

A Yes, sir.

Q Which of these individuals of these five were any of the others 18th Street, that you were aware of?

A I don't know. I don't recall knowing him. But the rest of these, I believe he's from Red Shield. I'm not a hundred percent sure.

Q And, for the record, you're indicating Ramsey Guzman.

A Okay. From what I remember, all of these were from 18th Street. I have a little problem remembering which clique. There's so many cliques. I don't remember which clique each one of them was from. I do not remember this particular person,

the last three of 544.

MR. ROSENTHAL: Which one is that?

DET. BURDITT: That is, for the record, Omar Partida.

I don't have any more questions. Diane?

DET. CAZARES: I have no questions.

MR. ROSENTHAL: Okay. No, that's it.

DET. BURDITT: Okay. We'll be off tape at 1520 hours.

(Off the record at 3:20 p.m.)

(Back on the record at 3:55 p.m.)

MR. ROSENTHAL: We're back on the record. It's 3:55. Mr. Perez is still under oath. And Detective Jesse Castillo is going to be asking a couple of questions about which case?

DET. CASTILLO: The Victor Perez case on D.R. No. 99-02-15287.

Q When I was rapping up the Victor Perez case, Rafael, you stated that you needed to be reminded about what the residence looked like. Back on the 9th of this month, I had 18 photographs taken. This is 1204 North Rose Avenue in the City of Compton. A nice side street off of -- and is this the house that you went to?

A (No audible response.)

Q And you're shaking your head yes?

A Yes. This is right there.

Q Right there.

MR. MCKESSON: Let's say Photograph No. 4.

DET. CASTILLO: No. 4.

Q And, Rafael, is that the house that you refer to as the wooden floors, very nice, and you went in there and took a look around?

A Searched.

Q And searched. And you didn't find anything, but allegedly Mr. Perez -- Mr. Victor Perez says that a gold chain was taken and \$500. And you don't know nothing about that?

A No, not --

Q You were with Officer Durden, at that time?

A That's correct.

Q And this is the morning hours of June -- June 5th, 1997 when you were working -- when you made that arrest?

A That's correct.

Q This is the house?

A That is the house there.

Q And you keep pointing to the front door. That's where you went through?

A Yes, sir.

Q Okay, sir, that's all I have. Thank you very much. I'm sorry for the interruption.

(Off the record at 3:58 p.m.)

(Back on the record at 3:58 p.m.)

MR. ROSENTHAL: Okay. We're back on the record. It is 3:58. Mr. Perez, you're still under oath. This case -- the next case we'll be discussing is a multi-four defendant arrest involving Miguel Yanez, Y-a-n-e-z. D.A. Case BA144748. We also have Israel Cid, C-i-d. His case was a probation violation only, Case No. BA100701. So, that would have an in lieu of filing.

We have Defendant Jeffrey Tse, T-s-e. That's a City Attorney Case No. 7CR04901. And Armando Sanchez, Superior Court Case No. FJ16241.

The detectives who will be conducting the questioning are -- could you introduce yourselves for the record?

SGT. CANCHOLA: I'm Sgt. I Rachel Canchola, Serial No. 23975, assigned to Internal Affairs Task Force.

MR. ROSENTHAL: And the reporter has the spelling on that?

THE REPORTER: Yes.

SGT. BUHRMESTER: Sgt. I Wes Buhrmester, B-u-h-r-m-e-s-t-e-r, Internal Affairs Group, 25214 Serial Number.

MR. ROSENTHAL: All right. For the record, I'll be stepping out now. But go ahead with the questioning.

SGT. CANCHOLA: Okay. Prior to going on tape, this is our LAPD Tape 226248, Side A. Rafael Perez was allowed to review the arrest report dated January 22nd, 1997 bearing the D.R. No. 97-02-00529. He also reviewed a transcribed statement made to



RHD Task Force Detective, I believe, Sgt. Cook, Sgt. Thompson, Detective Nalywaiko may have also been present.

He reviewed a copy of the Daily Work Sheet dated January 22nd, 1997, for Rampart Area C.R.A.S.H. He also reviewed a 8x10 booking photo of Miguel Yanez, Booking No. 5111238. He reviewed a rough sketch drawn by myself -- very rough sketch of Yanez' residence. And that's marked with my name and serial number.

He reviewed photographs marked 2A, B, C, D, 3A, B, C, D, 4A, B, C, D, 5A, B, C, and 8A, B, C, D, which depicts the intersection of Coronado and Kent Street and 805 Benton Way, and the intersection of Benton Way and Coronado Street. He also looked at Polaroid photographs taken by myself of Miguel Yanez' residence, and also what I know as a closet. But it doesn't have doors. And I understand, at the time of this arrest, there were doors on that closet.

He also -- he also looked at an 8x10 booking photo of Israel Cid, Booking No. 5111224; Jeffrey Tse, T-s-e, the spelling, Booking No. 5111207; Armando Sanchez, Booking No. 5111283.

Q Having reviewed the arrest report and your previous statement that you made to Robbery-Homicide detectives, do you feel that you refreshed your recollection to proceed, at this time?

A Yes.

Q And I understand you are under oath?

A Yes.

Q Okay. What I was going to do, was I was going to use your last, or most recent, final statement regarding this, which would be the transcribed statement.

SGT. BUHRMESTER: Did we say the date and time for the tape?

SGT. CANCHOLA: Today's date -- I believe he already gave the date the time.

SGT. BUHRMESTER: He gave the date and time? Okay.

SGT. CANCHOLA: Today is February 23rd, 2000. And the D.A., that before we began.

SGT. BUHRMESTER: Okay. Fine.

SGT. CANCHOLA: But I don't know if that is from earlier where he didn't --

SGT. BUHRMESTER: Okay.

SGT. CANCHOLA: All right. Thank you.

Q Rafael, on January 22nd, 1997, you were assigned as a police officer?

A (No audible response.)

Q Is that yes?

A Yes.

Q Okay. And were you assigned to C.R.A.S.H.?

A Yes.

Q And who was your partner on that date?

A Officer Diaz.

Q Okay. Is that Lucy Diaz?

A Yes.

Q Okay. And I'm going to show you a photograph with a serial number 31351. Is this your partner, at the time? Is that Lucy Diaz?

A Yes.

Q Okay. And on that date, do you recall where you were on the 22nd of January, 1997, when you -- well, let me back up. Around 1800 hours on January 22nd, 1997, unless you have a record. On the date of January 22nd, 1997, unless you believe that the time is different, at 1800 hours, were you in the area of Kent and Coronado Streets?

A That's correct.

Q And what, if anything, happened at that location, or subsequent location?

A Would you like for me to refer to some of the photos to explain my position?

Q If that's gonna help you, yes. In fact, why don't we back up a little bit. Before you go to that location, were you in a car -- a police car?

A Yes.

Q Marked black-and-white police vehicle?

A No, ma'am.

Q What kind of vehicle were you in?

A I believe I was driving a Ford Taurus, a blue Ford Taurus.

Q And how do you know that you were driving a blue Ford Taurus?

A Because my Shop No. is 80184.

MR. MCKESSON: First state what you're looking at to refresh your recollection.

THE WITNESS: I am looking at the dated work sheet for January 22nd, 1997. Under Perez and Diaz, 2 C.R.A.S.H. 17, it has Shop No. 80184.

Q BY SGT. CANCHOLA: And that vehicle you have personal knowledge as to a blue Ford Taurus?

A That's correct.

Q What year is that Ford?

A I'll be guessing. I don't know what year -- what year it is.

Q Okay. And is that a dual-purpose vehicle?

A Yes.

Q And you were driving, I believe you indicated? You were driving?

A Yes.

Q And, so, Diaz is keeping books?

A Yes.

Q Writing the log?

A I can -- I would have to look at the logs to see whether she wrote it or not. When I drive, normally, my partner keeps the logs, but I can't say for certain without looking at it.

Q Okay. And your recollection, based on the documents you've seen today, do you recall that you were driving and normally the passenger officer keeps the log; is that correct?

A Yes.

Q Okay. So, where were you at on January 22nd, 199?

A At around 1800? At around 1800 hours?

Q That's what the reports indicate. Was it a different time or --

A No, I just want to establish -- I just want to establish at what point we're talking about, because I couldn't tell you. This happened three years ago? Whether it was 1800 or 1830, I'm just gonna say --

Q Approximately?

A -- where we -- where were we at the time that we saw the Kent incident -- the vehicle?

Q Yes.

A Okay. I'm going to be referring to 4A, B, C, and D,

the photos. If you look, I believe this is Kent.

Q Yes. He's pointing at Photograph A.

A Photograph A.

Q Which depicts Kent Street westbound from Coronado.

A Correct. I was parked somewhere probably where that small vehicle is parked right about there.

Q Would you say directly across from Miguel Yanez' residence?

A No, ma'am. I'm talking about way back there. I'm talking about that vehicle way in the back.

Q The black vehicle?

A It looks maroon to me. But, let me -- I just want to make sure we're looking at the same vehicle. Do you see that -- that vehicle way back there?

Q Oh, okay.

A That one.

Q BY SGT. BUHRMESTER: Not this one then?

A No.

Q There's a vehicle there.

Q BY SGT. CANCHOLA: So, you're west of the location?

A Yes, ma'am.

SGT. BUHRMESTER: Oh, okay.

SGT. CANCHOLA: I see. Okay.

Q So, what would you say that is? About how far behind

-- far away are you from Yanez' house west of Yanez' location?

A I don't know. Again, I'll be guessing as to -- if you want me to put a number on it. Maybe a hundred and fifty yards.

Q A hundred and fifty yards?

A Yes.

Q Okay. So, you were parked?

A I was parked on the south side of the street facing eastbound. I was looking in a easterly direction.

Q What were you doing there?

A I had received some information from an informant, [\* CI # 6], that a Temple Street gang member that goes by the moniker of Clown was in possession of several weapons.

Q Did you know who the Temple Street gang member was?

A Yes.

Q How did you know?

A It was my responsibility to keep track of all the Temple Street gang members. I believe I had minimum contact with him. But I knew him by photos as well.

Q Okay. So, had you ever been to his residence prior to January 22nd?

A No, ma'am.

Q Had you ever stopped him and cited him for anything prior to January 22nd, 1997?

A No, ma'am.

Q Okay. So, you receive information from [CI # 6].

[\*\*\*\*\* CI # 6 Description Redacted \*\*\*\*\*]

A Yes, ma'am.

Q [\*\*\*\*\* CI # 6 Description Redacted \*\*\*\*\*]

A [\*\*\*\*\* CI # 6 Description Redacted \*\*\*\*\*]

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

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A I believe earlier that day.

Q Do you know?

A The exact time that I had contact?

Q No, date. You indi- -- you responded, "I believe sometime that day."

A It was earlier that day.

Q But, I'm asking -- my question would be, is whether or not you know if it was that day?

A Yes. I would have talked to him on several -- -- I talked pretty much daily to him. Regarding this arrest, or this person having guns, I had talked to him on prior occasions, and I'm pretty positive that I talked to him earlier because I wanted him to drive around that area to see if the guy was out there.

So, I'm pretty sure -- at what exact hour, I don't recall. But I know that I talked to him earlier to make sure



that Clown, this Yanez, was out there in that area.

Q He drove around with you?

A No, ma'am. He drove in that area and just called me and let me know that, yeah, he's out there.

Q Okay. So, you received a phone call from [CI # 6] on January 22nd, 1997 to tell you -- to state -- stating that he had driven by Yanez' residence?

A I probably didn't receive a phone call. I probably received a page and I called him back.

Q If you know, you said -- you responded "probably." But you have to be a little bit more definitive if you can.

A I can't.

Q So, you don't know how -- what --

A I communicated -- I normally communicated with him by him paging me and me calling him back.

Q Did he always page you with the same number?

A Not always. He paged me to his home number, his -- he had a cellular number, I guess, at one point.

Q But, on this particular --

A And on a couple of pay phones.

Q I'm sorry. On this particular date, do you know which number he paged you to?

A No.

Q Okay. But your recollection is that he paged you

sometime on January 22nd, 1997, and that you returned his page?

A I called him wherever he paged me to.

Q Right. You returned his page, or called him?

A Yes, ma'am.

Q And he told you -- what did he tell you when you spoke with him?

A That this particular person was out there.

Q When you said "out there" what do you mean? Out there in front of his house? Out there at home? Out there hanging with the gang members? What do you mean by "out there"?

A Out there hanging out in front of his residence.

Q Okay. So, when you were -- were you with Officer Diaz, at the time -- Lucy Diaz -- when you were parked west of Miguel Yanez' location?

A Yes, ma'am.

Q Was she aware that you spoke with [CI # 6]?

A Yes.

Q And how was she aware of that?

A I told her why we were there, that I had received some information from my informant that this particular person was in possession of some handguns.

Q Did you tell her who your informant was?

A I don't recall that.

Q Would you have told her?

A Would I? Probably. Every -- I had used this informant for -- at this point, I guess, [\*\*\* CI # 6 Info \*\*\*] [\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*] So, people were aware that I was using this informant.

Q Now, just for the record, was this informant on file as a registered informant for you, or confidential informant?

A I did a package on him. The entire package was turned into Captain Moraz by myself and Sgt. Peters. But I don't know if they ever got a informant number for him. But I did turn in the package.

Q Now, you actually handed -- well, when you talk about package, what do you -- what do you mean specifically? Are you talking about --

A An informant package.

Q Okay. And what did that informant package com- -- what was it comprised of?

A It comprises of a photo of the defendant --

Q No. What did [CI # 6]' package contain?

A That's what I --

Q Okay.

A That's what I'm saying. It contains a photo of the defendant. It contains a signature card. It contains his rap sheet. It contains, even if he doesn't have a warrant, a print-out of the warrant check, even if it shows negative for

warrants. It shows a motivation sheet. In other words, why this person is an informant and what's his motivation for giving up information.

It has a sheet to show what he was paid or not -- or what he was, basically, paid for whatever cases. It has a sheet that you keep a chronological order of cases that he gave you. You keep a -- you fill it in as you do a case. And he gave me a couple of guns, a couple of defendants were arrested. You fill out that information.

I think, as far as I can remember, at this point, that's about everything that goes into an informant package. And that was what was done in his package.

Q Did you check for undesirable informant file?

A The NCI- -- the NCIC, the narcotics one. The one you called --

Q Well, there's only --

MR. MCKESSON: NIN.

THE WITNESS: What is it?

SGT. CANCHOLA: Well, it's not NIN.

THE WITNESS: It's not NIN. It's the other one.

SGT. CANCHOLA: It's the undesirable informant package. And it's not maintained by NIN. But --

THE WITNESS: No, the number that you call to check. They -- they do the check for everything. They track -- they check

for undesirable list. And they also check for other things.

Q BY SGT. CANCHOLA: Is that your understanding?

A Yes. To see if he's being used anywhere else or he is on the undesirable list. They check several things. I know that's -- when we work Narcotics that's who -- it was who is being used.

Q Okay. And you made this informant package prior to January 22nd, 1997?

A I don't remember when the package was done. If you give me a moment, I can maybe try and -- I couldn't tell you the date that I actually did the package. I've nothing to kind of narrow it down for me on the date.

Q Okay. So, if there is an informant package and the date is after January 22nd, 1997, you would have been using [CI # 6] without having completed the package correctly; is that correct?

A That's correct.

Q All right. And likewise, if it was prior to January 22nd, Miguel Yanez' arrest should be on that chronological record?

A I never updated his package. His package was turned in by me and Sgt. Peters. We had a meeting with Capt. Moraz. Capt. Moraz said he was gonna handle it and keep it in a safe, or something like that. I never went back to update it, at any

time.

Q Why is that?

A I just never did.

Q Okay. So, who -- was anyone else with you and Lucy, or Officer Diaz, on the 22nd of January, when you were sitting west of the location?

A No, ma'am.

Q And let me make sure I understand. You believe you may have told her, or you did tell Officer Diaz that you received information from an informant?

A I did.

Q You did tell her that?

A Yes.

Q And your information from [\*CI # 6\*] was that Miguel Yanez was to be -- was supposed to be in possession of several handguns?

A Several weapons, yes.

Q Weapons or handguns? Because earlier you said handguns.

A Weapons.

Q Okay. And --

A He -- let me make a little clearer. He was supposedly in possession of a handgun and a rifle.

Q Did they -- did this [\* CI # 6\*] describe the handgun

or the rifle?

A [\*\*\*\*\* CI # 6 Information Redacted  
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Q [\*\*\*\*\* CI # 6 Information Redacted  
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A Right.

Q How does that equate that he's in possession of them?

A Just logical deduction that he has some guns that he  
wants to sell. He has to have them somewhere. I don't know.  
I'm just saying. I don't know exactly what you're getting at.

Q [\*\*\*\*\* CI # 6 Information Redacted  
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A [\*\*\*\*\* CI # 6 Information Redacted  
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Q And that's all he told you?

A No, he might have told me some other things. But, as far as that goes, that's what he told me.

Q Did he tell you where he thought Clown kept the handguns or rifle?

A He told me where Clown lives.

Q Okay. And where -- what did he tell you, as far as Clown's -- or Miguel Yanez' residence?

A He gave me the address for his residence.

Q He gave you the actual address?

A Yes.

Q Did you have him describe that for you?

A Yes. Yes, he did.

Q And what was that address?

A I could look at the report if you want me to. I can't remember off the top of my head.

Q If you need to refresh your recollection.

A I believe, according to the arrest report, it's 2506 Kent Street.

Q And how long had you been sitting there west of Kent



Street watching?

A I would say we probably sat there probably about twenty minutes.

Q Was -- were there any other officers -- or C.R.A.S.H. officers -- in the area?

A At the time while I'm sitting there looking?

Q Yes.

A No.

Q Did you see any other C.R.A.S.H. officers at the intersection of Coronado and Kent Street while you watching Miguel's house?

A No.

Q Was Miguel out in front of his residence?

A Yes, ma'am.

Q And where was he at when you saw him?

A He was standing next to -- it was a Ford Thunderbird that was parked pretty much the way this truck is parked on -- on the sidewalk itself.

Q And the truck is parked adjacent to the building south of the sidewalk, facing eastbound?

A He's on the sidewalk. Or part of the sidewalk. Well, this truck is facing eastbound, yes.

Q Okay.

A The vehicle that was parked there that night was also

facing eastbound.

Q Okay. And your recollection is it was parked in a similar -- at the similar spot?

A Yes, ma'am.

Q It wasn't parked further east or maybe just a few feet or inches west?

MR. MCKESSON: A few feet or inches?

THE WITNESS: It's possible.

SGT. CANCHOLA: Well, inches, feet. I don't know.

MR. MCKESSON: What I'm saying is he's gonna be approximating. And he can't approximate where some vehicle is to the inch.

Q BY SGT. CANCHOLA: Okay. Approximate any way you can. A Similar in that vicinity. I -- I --

MR. MCKESSON: No, I'm not trying to be rude.

SGT. CANCHOLA: I didn't think you were being rude.

MR. MCKESSON: Okay. Okay.

THE WITNESS: It's impossible for me to say exactly right there.

Q BY SGT. CANCHOLA: Okay. Well, looking at the windows that are depicted in that photograph, can you tell me which window he was parked closest to?

A No.

Q You're shaking your head no?

A No.

Q You can't tell me?

A No.

Q Okay. And how --

A The vehicle was parked pretty much the way that truck was parked.

Q Okay. And how long were you watching Miguel Yanez near -- in this vehicle or near this vehicle?

A About twenty minutes.

Q The whole time you were -- so, when you pulled up at that location --

A Oh, I see what you're -- I see what you're saying. How long did I actually see him?

Q Yes.

A When I pulled for a few minutes I -- I know I saw him for a few minutes. He was walking back and forth. He walked across the street. There was some other people across the street he was talking to. He walked back by the car.

So --

Q He was already there?

A Yes, ma'am.

Q And walking back and forth across the street. Now, when you're saying "across the street" are you referring to maybe the corner of Coronado and -- and Kent Street?

A Yes, ma'am.

Q Okay. And this is your recollection?

A Yes, ma'am.

Q Okay. What did you see Yanez to, at that point? Did you see him do anything that caused you to believe that you know had possible probable cause to -- to do something, or that maybe he wasn't going to do anything, and so you left, or what happened?

A No, at that point, we moved in and detained him.

Q Okay. At what point, or at any point, do other C.R.A.S.H. officers respond to this location?

A Yes, ma'am.

Q And when do they do that?

A Pretty much right when I showed up, I had had them responding. They detained the people that were across the street. The people that were -- there were some people sitting across the street, right at the corner. And I detained him over by the house -- in front of his house. They detained them. I sit there and I began talking to him.

Q How did you notify the other C.R.A.S.H. officers of your observations? Or how did you direct them in? Or what was the conversation?

A I just directed them to come in and detain.

Q How?

A Via radio.

Q Okay. Where you on Simplex or Duplex? Or --

A I probably told them to go to one of our frequencies that we use -- 181 or 182. Or we -- we use different frequencies in the radio to communicate.

Q And how would they know to go to those frequencies?

A I would just tell them to switch to Tach Red or something like that.

Q And what was Tach Red supposed to represent?

A It was a pre-designed frequency that we used. That way we didn't have to go on the air and say, "Go and switch to 181." And everybody else switches to 181.

Q Right.

A I would just tell them to switch to blue or red. And they'd know what frequency I'm talking about.

Q Okay. And were there any other colors, or any other objects that you used to identify a -- a frequency?

A I remember blue and red. And there may have been a couple other. But I don't remember.

Q So, all you needed to do was get on the air, on Simplex, and say -- well, can you give me an example of a transmission that you would have broadcasted?

A "2 C.R.A.S.H. 25, 2 C.R.A.S.H. 17, switch to Tach Red."

Q And do you know if Tach Red was 181 or 182?

A I don't remember.

Q Could it be another tach frequency?

A Another tach?

Q Right. Or another frequency?

A We -- we were working -- I remember we were working off of 181, 182. I know there was another one. But I don't remember what it is. We tried to stay off of, you know, Tach 7, and Tach 4, the regular frequencies.

Q Okay. So, you believe that you requested one of these C.R.A.S.H. units to switch to this tach frequency via this -- possibly this code. And when they switched, what did you tell them?

A Probably that I needed them at Kent and Coronado.

Q And do you know who you contacted on that date?

A I believe it was Richardson and his partner Montoya.

Q Okay. You know, -- and I recognize you're trying to recall.

A Mmnh-mmnh.

Q But I need you to say if it was Richardson and his partner.

MR. MCKESSON: Well, I mean, I'm trying to instruct --

SGT. CANCHOLA: I was wondering if he could --

MR. MCKESSON: See, the trouble is I'm instructing him not

to say something definite if he doesn't know definitely.

SGT. CANCHOLA: Well, then he needs to say that he doesn't know definitely.

MR. MCKESSON: That's what he's saying. He said he believes.

SGT. CANCHOLA: Well, believes could be correct or could be -- may not be correct.

MR. MCKESSON: Well -- okay. We're getting into semantics here. I don't want him to say he definitely can identify somebody if he can't. But, I mean, otherwise he's just gonna say he can't answer that question. And he's trying to be cooperative. He says he believes it was Richardson. But he can't tell you he's positive it's Richardson. Do you want him to say, "I don't recollect so I don't want to tell you?"

Q BY SGT. CANCHOLA: Well, this is my understanding, is that you were there and some pretty significant things happened on that day that resulted in some people going to jail.

And you have a pretty good independent recollection of what happened, because you brought it to the attention of Robbery-Homicide detectives. Is that correct? Or am I correct in my understanding? I mean, we didn't come to you with -- with this arrest saying, "Okay, we know that -- that you did this here. Tell us about it."

A Mmnh-mmnh.

Q Is that correct?

A You know what? I'm a little confused as to everything you're telling me. What I know about this case is Mr. Yanez was never observed by me and my partner removing a weapon from his car and putting it through his window. We observed that. Moved in and detained him. And then, recovered the shotgun, or the -- the -- the weapon by the weapon. That's not how it occurred.

Q Right.

A And that's what I know.

Q And I recognize that.

A Okay. But I don't know what you're saying about --

Q However --

A -- other significant things. I'm not sure what you're talking about.

Q However, if there were other people at the scene, if you can remember, I would like you to -- to reply that you can remember. And if you don't remember, identify that, as "I don't remember" as versus "I believe."

MR. MCKESSON: Well, see, Officer -- I mean, Sergeant, I'm sorry. You see, I disagree. I mean, he's responding as best he can. I mean, if somebody asked me five days from now, who were the detectives who conducted this interview, I may not know. Well, I mean, I'll -- I'll remember you now. But --



but, you know, I may have you confused with somebody else.

And, so, if I said, "I believe it was" -- and I forget your last name, Detective -- but he's answering the best he can. Otherwise, I'm gonna have to tell him, "Listen, just don't answer that question." I mean, because what he's doing, if he tells you, "I believe Richardson came first" and let's say it turns out Tovar came first, or somebody else came first. He's giving you the best recollection he has now. All right. But you tell you don't want him to say that he believes, then, I'm instructing him if you're not sure and absolutely positive, just say you don't have a complete recollection. And I'm sure -- I'm sure that's not what you want. You want to know what his best memory is today.

SGT. CANCHOLA: Right. And if -- and I'm -- and I'm in agreement with you that if he doesn't recall, he can preface it with, "I don't recall". And then, -- but, then, we can go on. But "I believe" is -- I'm not comfortable with "I believe."

THE WITNESS: You got to remember that this was over three years ago. I mean, I -- I remember Richardson being there. And I -- I appreciate everything that you've done. And I want you to do -- and you're doing a great job, believe me.

What I'm saying is, you cannot, from me, get definitive answers on everything that you want. Because, you've got to remember, I've been in custody for eighteen months. This

has occurred over three years ago. It is difficult for me to sit here and go, "Yes, this and that and that" as though it occurred yesterday. It is difficult.

So, what my attorney is saying is absolutely correct. If you want -- if you don't want "I believe" then, we're gonna have a major problem. Because I didn't --

Q BY SGT. CANCHOLA: Well, if you don't recall, and that's why you're using the word "I believe" --

A No, ma'am. It's not that I don't recall. Because if I didn't recall, I would say, "I don't recall." I have no problem saying that I don't recall. I believe Richardson was there. I -- I believe his partner was there. And I believe his partner --

Q And who was that?

A -- is Buchanan. I believe Montoya was there.

Q Well, let me ask you this. Did you get the opportunity to look at the Daily Work Sheet?

A Absolutely.

Q Does the Daily Work Sheet indicate who Richardson was working with?

A Buchanan.

Q And is there any -- and is there any reason why that sheet would be incorrect as you know?

A I'm not -- I'm not questioning the sheet. I'm

questioning my memory. I want to -- I'm saying that I believe it was his partner. I wasn't in the car with them. I know that I asked officers to respond to detain people. When they responded, they detained a bunch of groups of people out front. And I detained the person that I'm looking at.

These are four officers out there now. And I believe Richardson was working with Buchanon. That's what I believe.

Q And the work sheet indicates?

A That Richardson was working with Buchanon.

Q Okay.

A But I'm not -- again, I'm not questioning what the work sheet says. I'm questioning what I saw and remember, as to what I'm saying.

Q Okay. Do you recall who else responded to the location of Coronado and Kent Streets?

A I believe it was --

MR. MCKESSON: Why don't you say "as best as you can recall"?

THE WITNESS: Yeah. From what I recall, it was Officer Montoya and Officer Rios.

Q BY SGT. CANCHOLA: Were they assigned to work with each other on that date? And if you need to look at the sheet to refresh your recollection, go ahead.

A From -- from the sheet it says, yes, they were working

together. They were partners.

Q Okay. Who else responded?

A I believe -- I think those were the four that responded, at that point.

Q Okay.

A Up to that point, just to control this scene here at Kent and Coronado.

Q Okay. Now, when -- did you -- you indicated that you approached Yanez; is that correct?

A Yes, ma'am.

Q Was that prior to those officers responding to Kent and Coronado? Or was that at the same time? Or --

A At the same time. When they responded, they responded -- I responded here. Over here to --

Q And you're referring to Photograph -- or --

A A.

Q Photographs depicting 3 or 8?

MR. MCKESSON: 3.

SGT. CANCHOLA: 3?

MR. MCKESSON: 3B. 3B.

Q BY SGT. CANCHOLA: 3. Okay. And on 3B you believe they responded, or you had them responding from which direction?

A I said that I responded to this location here.

Q Yes. So, you --

A They respond- -- I responded to this location here and detained Mr. Yanez. They responded to this location over here where there was a bunch of other people here. The northwest corner.

Q And, when you detained Yanez, how did you do that? Did you walk up on him? Did you drive the vehicle up on him?

A I drove my vehicle up to his location.

Q Okay. And did you pull -- pull alongside the curb? Or --

A Yes. I -- from what I recall, I pulled my vehicle up along the curb there.

Q Okay. And how did you stop him, or attract his attention? Did you see that --

A I'm sorry. What was the last question? How -- how did I stop him?

Q How -- how did you make the contact with Yanez?

A I think I just asked him to stop where he was at. And I just detained him.

Q Do you know?

A From what I recall, I just detained him.

Q Okay. But you don't know if you called him by his name, or Clown, or "Hold it"?

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

Q Now, when you detained him, was your weapon drawn?

A I don't recall that.

Q Could your weapon have been drawn? Or would it have been plausible that your weapon would have been drawn seeing as how you're walking up on a gang member where you have information is in possession of weapons and is -- is offering to sell them?

A I certainly had no problem with drawing my weapon. The problem is I don't remember whether I did or didn't. But I certainly wouldn't have any problem drawing it.

Q Okay. And you exited the vehicle?

A Yes, ma'am.

Q And did you approach Yanez?

A Yes, ma'am.

Q Do you remember where your partner was, at this time -- Lucy Diaz?

A Somewhere near -- near where I was.

Q Okay. But --

A I -- I mean, you got to remember, if I'm looking at this person over here, and she's behind me, I don't know exactly what she's doing. I know she's somewhere nearby. But I'm over here paying attention to this.

Q Okay.

Q BY MR. MCKESSON: "This" being the suspect?

A Yes, ma'am -- uh, yes, sir.

Q BY SGT. CANCHOLA: Do you need a break?

A No. No, no. Go ahead. I'm just -- I'm fine.

Q Now, when you contacted Miguel Yanez, was he alone?

A I believe there was someone else in the little area there.

Q Little area? You're referring to the driveway in front of his residence? Or the sidewalk area in front of his residence?

A Yes, the sidewalk area.

Q Do you remember who that person was?

A I do not. You know, for some reason, I want to say that there was a guy named Yerena, uh, Mugsy, right there. His last name is Yerena. They call him Mugsy. I don't know why he just entered --

Q Do you know how to spell Yerena?

A Y-e-r-e-n-a. He has a moniker. They call him Mugsy. I believe his last name is Yerena. I don't know why, but he just jumped out at me. I believe he was one of the ones that I detained right there next to Clown.

Q Was there anyone else present?

A Right where Mr. --

Q Yanez.

A At this point, the only one I recall is -- again, I know there was multiple people across the street. But the

person I recall is Mr. Yerena.

Q Did you handcuff Yanez?

A I -- I believe I did. From my recollection, yes, I did. I did.

Q Okay. You recall Yanez was handcuffed?

A Yes.

Q And your recollection is that you probably were the person who handcuffed him?

A Yes, ma'am.

Q Could your partner have been the person to handcuff him?

A No, I think I handcuffed him.

Q And then what happened?

A After they had detained some of the people across the street, I walked in and spoke with, I believe, it's Mr. Yanez' father.

Q When you indicate you walked in, did you knock on the door? Or was the door open? Were you allowed to come in? Did they say, "Hey, how you doing? Come on in?" Or do you recall that?

A There was a -- there was a door. I believe it's this door right --

MR. MCKESSON: Focusing on Exhibit 4, looking at the Photograph --



THE WITNESS: C.

MR. MCKESSON: C.

THE WITNESS: There's a -- and I'll show it to the detective. This door here.

SGT. CANCHOLA: Yes, I know which one.

Q BY MR. MCKESSON: Behind the bushes?

A Right. I walked into that door. Knocked on it, and a gentleman, who represented to be the father of Mr. Yerena.

Q BY SGT. CANCHOLA: Yanez?

A I'm sorry. Yanez. And I spoke with him. I had spoken to him that we had observed certain things. There were some weapons. We believe that there's weapons inside. And --

Q So, when you told -- when you spoke with this person who represented himself as the resident of the -- of the house, did he also indicate he was related to Miguel Yanez?

A I believe he indicated he was the father.

Q And this conversation took place inside the residence?

A At the door.

Q At the door. Were you still outside?

A Yes, ma'am.

Q Okay. And you represented that Yanez had possessions of guns, and you indicated your observations. Would that be the observations that are consistent with the arrest report,

which is not correct? Or were -- or what did you tell him referring to observations?

A I --

MR. MCKESSON: What did he tell the gentleman at the door?

SGT. CANCHOLA: Yes.

MR. MCKESSON: Okay.

THE WITNESS: That I believed that there was weapons inside, and that his son was in possession of those weapons. I didn't give him the whole lowdown as to what the report's gonna say. 'Cause I -- at that point, I hadn't written the report. But I had indicated to him that I believed that there was weapons inside that were being possessed or owned by the person that I had detained out front.

Q BY SGT. CANCHOLA: Okay. And, so, as you previously indicated, that you told him about your observations, you misspoke?

A No, ma'am. I'll -- let me -- my observations that I indicated to him, were that I believed that his son, or the person I had detained out front, was in possession of some handguns, and that I believed that he was the owner of those weapons.

Q "He" meaning Miguel?

A Yeah, Yanez, yes.

Q Miguel Yanez?

A Yes. He, eventually, from what I recall, he gave me consent to search.

Q How did he give you consent?

A I believe there was a written consent to search.

Q On a -- one of the many forms, pre-printed forms that the department has?

A Yes, ma'am.

Q And was that on the English side or the Spanish side?

A The ones I used are the top portion was in Spanish and the bottom one was in English. So, whichever one they choose, that's what they -- you know, I'd let them fill it out. And I'd let them sign it. But I believe his was in Spanish. But I'm not a hundred percent sure. I haven't looked at the consent to search.

Q Did he show you identification that would enable you to identify him, at least by name?

A Other than what --

MR. MCKESSON: Why don't you take an opportunity to look at the report and see?

THE WITNESS: It would be up front here.

Q BY SGT. CANCHOLA: Well, if the name was listed or written on the consent form, would that be a name that you received from the person and documented somehow? I mean, where else would you get the name?

A Right. That's -- that's the name I would use in the consent. And that's the name he would fill out and sign, because that's the person I was talking to.

Q Okay. Now, do you speak Spanish?

A Yes, ma'am.

Q You're fluent?

A Yes, ma'am.

Q You receive Spanish pay for speaking Spanish and also writing and reading?

A Yes, ma'am.

Q So, that's what, a 7.5? Or --

A Well, actually, I received -- I went to the one where I went to LACC and had a -- you have to have that exam given by the professor or whatever. And I think it's actually 3-1/2 percent or --

Q Well, 2.75 is for speaking. And then, the 5 percent, or an additional 2.75 for reading and writing. But do you know what you got?

A I don't know what I get then.

Q Okay. But you do get --

A I got a little extra money for speaking Spanish. I am --

Q Okay.

A -- a fluent Spanish-speaker. I read it. I write it.

And I went to high school in Puerto Rico.

Q Okay. Did you -- would you have read the consent form to the -- to this person if he indicated that he did not read in his native language?

A If I used a -- one of my consent forms where it has in English and Spanish, I would have given it to him and told him, "I need you to sign here. Read this and sign it." If he says he didn't understand it, I would have probably read it to him. If I didn't have a consent form, I'd have taken a blank sheet, filled it out, saying, "I give permission -- either in English or in Spanish, whatever language they spoke -- to Officer Perez to search my residence." And I would have had that person sign it and date it.

Q Okay. That -- and that's what you normally do? Did -- do you remember, in this particular case, what you did?

A I remember getting a consent. But I don't remember exactly how I got it.

SGT. BUHRMESTER: Since there's a break in the action, I'm about to run out of tape. Can we stop here for one moment? And then, let me just run it. It's only got a couple of seconds left.

Okay. We're gonna off tape for a moment to switch sides. It is 2/23/00, 1645 hours.

(Off the record at 4:45 p.m.)

(Back on the record at 4:45 p.m.)

SGT. CANCHOLA: We're back on record. And it's a quarter -- 1645 hours. We're on Side B of Tape No. 226248, Side B.

THE WITNESS: Yeah, I just quickly wanted to mention that I -- I remember getting a consent to search. I don't see it in this report that I'm reviewing, though.

Q BY SGT. CANCHOLA: Okay. I -- I have a copy. And when you come back from your break, I'll show it to you. And then, we'll go back into it.

A Okay.

Q Okay. We're going back on break now. And it's 1645 hours.

(Off the record at 4:45 p.m.)

(Back on the record at 4:49 p.m.)

DET. KIRSCHENMANN: This is regarding a case involving two arrestees, uh, Candelerio and Zetino, which occurred on April 2nd of 1996. Now, we interviewed Mr. Perez last week, last Wednesday, and he had given me a moniker of a person that had given him some information concerning -- that led up to the arrest. And today I brought in a photograph of [\* CI # 8\*], [\*\*\*\*\* CI # 8 Description Redacted \*\*\*\*\*]

Q And I've shown it to Mr. Perez. Do you recognize that person, sir?

A Yes, I do.

Q And is that the person that you had received the information from that led to the arrest of Zetino and Candelero?

A Yes, it is.

Q Okay. Do you have any questions, sir?

MR. MCKESSON: No questions.

DET. KIRSCHENMANN: Thank you very much.

(Off the record at 4:49 p.m.)

(Back on the record at 4:50 p.m.)

SGT. CANCHOLA: Okay. We're back on. It's approximately 1650 hours. Present is Rafael Perez with his attorney Mr. McKesson.

Q Prior to the breaking, we were discussing the permission to search that you presented to a person -- I'm sorry. You're going to have to refresh my recollection from just fifteen minutes ago. Did you indicate that that person identified himself as the father -- or as Miguel Yanez' father?

A That's what I recall, yes.

Q Okay. And I'm going to show you a form. It indicates LAPD Field Officer's Notebook, Page 44. And it's entitled, "Los Angeles Police Department Permission to Search." And then, in parentheses, it's Spanish.

Having reviewed that form, does that look familiar?

A Yes, it does. The one side is filled out in Spanish, as far as for a Spanish-speaker. And the back side is filled

out in English.

Q It's printed in English, however, the English side is not printed in. It's a blank page, correct, as far as the written portion that you would write in?

A Right. I'm just saying what I indicated earlier, what I would have with me, which would be on one side in Spanish and on one side English.

Q Okay.

A On the Spanish side, the name Castenedo Yanez is filled out. And then, Perez and Richardson's name is placed on there as the officers that are allowed to search.

Q Okay. Before you go any further, do you recognize that printing?

A That's my printing.

Q And, so, you printed that information?

A Yes.

Q Okay. Go on.

Q BY MR. MCKESSON: And does that respond to everything on here, not just the two names, as far as your printing?

A No, it does not. The signature is the -- the signature, the date and time, is filled out by Mr. Castenedo Yanez.

Q BY SGT. CANCHOLA: Okay. And did you -- were you in a position to see Mr. Yanez, Castenedo is how you identified



him, complete the form or sign it?

A I had him sign it. And then, I signed it right after.

Q Okay. And do you notice his signature? Does that look like Castenedo to you? Or does that look like a different name?

A It looks like an attempt of a signature or something. I mean, it looks like a "C" something, something. What do you want? I mean --

Q Does that look like the word, or the name Castenedo to you?

A It looks like -- I don't know what it looks like. Casti- --

Q Concepcion maybe?

A I -- I don't know. But it looks to me -- if you told me his name was Castenedo Yanez, and he wrote that, that's good enough for me. And his last name is Yanez. He represented -- I'm sorry?

Q Go ahead.

A He tells me -- if -- whatever he says his name was. And I don't remember. If he said it was Castenedo, and I'll say it again, and you know -- this looks like Castenedo to me. You said it looks like Concepcion, then -- then, that's what he said. I don't -- or that's what he wrote. This is the person who said he was the father of Mr. Yanez who lived there and he

gave me consent to search.

Q And for purposes of the court reporter, and the tape recorder, you're pointing to the signed portion by the person that identified himself as the home owner. And you're not pointing to the top of the page where you printed. You're pointing to the signed name, is that correct?

A That's correct.

Q Do you recall where you were when you got that signature? Did you need to see it?

MR. MCKESSON: No, that's all right.

Q BY SGT. CANCHOLA: Do you know where you were when you got the signature?

A At the residence.

Q Inside?

A I believe so, yes.

Q Do you recall that you were inside the residence when he signed this form?

A That's my recollection.

Q At any time, when the person who signed this form, signed it, was he handcuffed?

A No.

Q Was he outside of the residence and seated in a police car?

A No.

Q Never?

MR. MCKESSON: Wait. I'm confused now, because I thought the question was, at the time he signed it, was he --

Q BY SGT. CANCHOLA: Handcuffed?

A He was not handcuffed, no.

Q Okay. At any time, was the person who signed this form placed inside a police vehicle?

A No.

Q Was he ever handcuffed?

A No.

Q Were there any other adult males in the residence?

A I don't recall any.

Q Had there been, would there be documentation in place that there were other people in the residence?

A Other than maybe me writing it in the report, or in front of the face sheet as a possible witness, but, I probably wouldn't have even done that.

Q Would you have completed a Field Interview Card?

A That's possible.

Q Would you have -- or would have had requested that one of the officers on scene run him, or anybody in the residence for wants and warrants?

A You're asking me would I have done that? I'm trying to -- the consent to search, I'm trying to recover some guns

and arrest people. Would I have been the one to say, "Hey, run these guys?" I'm sure one of the other officers would have done it.

Did I do it? I don't remember doing it. Was there somebody else in the apartment? I don't remember.

Q Now, when you -- do you search this residence?

A Yes.

Q 2506 Kent Way. And who were you -- were you with any other officers when you searched this location?

A I believe Officer Richardson was with me when we were searching the residence.

Q Okay. Do you know where Officer Diaz was located?

A I believe I left her outside with some of the detainees.

Q You left her outside with the detainees?

A Yes.

Q Yanez?

Q BY MR. MCKESSON: Is that your recollection?

A Yes.

Q BY SGT. CANCHOLA: Was Diaz with any other officer outside?

A There were several. There was another three or so officers outside.

Q Just for clarification, earlier you indicated that

the officers had initially responded to a group of men at Ken and Coronado. Now, that you're in the residence, are those officers still at the corner? Or have they moved up to the residence?

A No, there were still some that were detaining the group at the corner. Richardson was one of them. And Richardson walked over to where my location was.

Eventually, at some point, that group was dispersed. The group that was detained right at the corner, after we -- Richardson came over and we knew that we had to search the residence.

Q Okay. And let me back up just a bit. Did you search Yanez when you handcuffed him? Or when you first contacted him, did you search his physical person for weapons or any other contraband?

A I don't remember that.

Q Is that something you would normally have done, had you confronted a suspect gang member who you had information was in possession of some handguns and rifles? And you're referring to your arrest report?

A You're asking me that would have been standard if that's what I would have done?

Q Yeah. You're a C.R.A.S.H. officer. You're dealing with gang members.

A I'm not saying that didn't happen. If I didn't have information that you didn't have a gun, I would still check you for guns.

Q Now, did you search Yanez?

Q BY MR. MCKESSON: The only question, Ray, would it be normal for you to search someone, pat him down, and before handcuffing him?

A No, I don't think that was the question.

Q BY SGT. CANCHOLA: Was that the question? Yes.

A Was it normal to pat someone down before you handcuff him? I don't think that was the question. It was much more lengthier than that.

MR. MCKESSON: But that wasn't the question.

Q BY SGT. CANCHOLA: Let me rephrase it.

A Mmnh-mmnh.

Q Would you -- or do you recall searching Miguel Yanez for weapons having the information you had prior to approaching him?

A Do I remember -- you're asking me do I remember patting him down?

Q No. I'm asking, you would have?

A I would have, if I didn't have information that he had a gun.

Q Okay.

A He's a gang member. I would have searched him.

Q However, your recollection is that you don't recall searching him; is that correct?

A I don't have any recollection.

Q Right. Okay.

MR. MCKESSON: Well, let me just say, I think just so we're clear on the record, that's different for example than, I don't have an independent recollection of this morning of putting my socks on. Really, I don't. But I end up and see my socks on. I'm not trying to be flippant. He doesn't have an independent recollection of him searching this gentleman. But his normal practice is before he handcuffs anybody, he searches them.

SGT. CANCHOLA: Okay.

Q BY MR. MCKESSON: Is that correct?

A Yes.

SGT. CANCHOLA: That's what I wanted to get at.

MR. MCKESSON: Okay.

(Off the record to change tape.)

(Back on the record at 5:08 p.m.)

SGT. CANCHOLA: Okay. We're back. It's approximately 1708 hours.

Q We are -- we'll go back into the house. I think I covered the part about Miguel Yanez being searched.

A Okay.

Q And you believe he -- your recollection is that he was in the front of the residence while you were inside with Richardson?

A Yes.

Q Okay. You're in the house with Richardson?

A Yes.

Q Were you alone? Were you two alone? Nobody else in the house?

A When we were searching it?

Q Children? Infants? Yes.

A All I remember is the male, who I was talking to, who ended up giving me consent. And then, we searched the residence.

In fact, I believe that we asked him to like wait out by the front door, while we searched.

Q Okay. Did -- okay. Where -- where did you go? Did you search the entire residence?

A I searched certain areas. Richardson searched certain other areas.

Q Okay. What areas did you search? And go ahead and refer to my rough draft. Does that look familiar to you, what you recall the lay-out of the residence was?

A I couldn't tell you yah or nay. I remember going in. We located a rifle. And --



Q Okay. Do you recall where you -- where you -- well, let me back up. Who recovered the rifle?

A I believe I recovered the rifle.

Q BY MR. MCKESSON: Is that your recollection?

A Yes.

Q BY SGT. CANCHOLA: Okay. And where did you recover that rifle from?

A It was somewhere in a -- one of the bedrooms that were -- that leads to -- that the window leads into.

Q Well, they all have windows.

A You don't have pictures of the bedrooms?

Q No.

A I -- then, I can't tell you which bedroom it is. I know that I -- when you walk right in, there is a living room here. And I know I walked.

Q And you're referencing the -- a copy of the diagram I wrote, or drew?

A Right. I'm referencing to the diagram. And I'm pointing to the front entrance -- the front door. When you first walk in, there's a living room area. I know I walked into one of the bedrooms. And I don't know if it's the first, second, or third one, but that's where I recovered it.

Q Okay. And where -- where was that rifle when you recovered it?

MR. MCKESSON: Detective, just one second. And this is not for me. I noticed when Mr. Perez finishes the question, you start right on after him. And that's one of the things that gets her tired. You need to pause for a second before you get your next question, otherwise she's gonna start looking like she's tired.

Q BY SGT. CANCHOLA: Where did you recover the rifle from?

A I remember the rifle was propped up against a wall - - what looked like a cluttered area. I don't know if it was a closet or it was a -- something that's being used to prop things up. But it was propped up against a -- a wall.

Q Do you recall if it was secreted or hidden behind clothing or boxes?

A Yes, there was, like I said, a clutter of things, from what I vaguely remember. And it was propped up in a corner, right in the corner of the wall, up against the wall. But there was other things hanging and other -- other mess hanging around.

Q So, it was not near -- it was not near the window -- propped up against the window of Yanez' bedroom as indicated in the arrest report?

A No, it was not.

Q Okay. Was that weapon loaded?

A I do not believe it was loaded.

Q Did it appear that -- did it appear that that weapon was functionable (sic)?

A Yes, it did.

Q It had all the parts to it?

A Yes.

Q And when you recovered it, did you recover any other weapons?

A No, ma'am. You're talking about from the residence?

Q Yes. Did you recover any money?

A I do not recover -- I don't remember recovering any money. What kind of money? Are you talking about large sums of money? Or --

Q Well, I don't know what you consider large sums? \$200? \$300? \$100? In that area?

A \$300? No.

Q You did not recover that, secreted in possibly a shoe box or a baby's diaper bag?

A No, ma'am.

Q Did Richardson tell you he recovered any money?

A No, he did not.

Q Was Richardson at your side while you were searching the residence?

A No, ma'am.

Q Did you recover any narcotics from inside the residence?

A No, ma'am.

Q Did you take any photographs of the residence?

A I don't recall taking any photographs.

Q To your knowledge, did Richardson record any of the conversations you had with Casimiro Yanez, the person who represented himself as the owner of the property, and Miguel Yanez' father? Or did he record -- do you have knowledge of whether Richardson recorded any conversations -- conversations you may have had with Miguel Yanez? And that's two questions.

A No.

Q No?

A I do not know. And I'm not aware of any.

Q Did you -- did you record any statements that you made, or that were made to you, during this incident?

A I did not.

Q Did you carry a tape recorder?

A No.

Q To your knowledge, did any other C.R.A.S.H. officer maintain a tape recorder for purposes of recording conversations of defendants in the course of their duty?

MR. MCKESSON: When you say "the course of duty" you mean out in field working, correct?

SGT. CANCHOLA: Yes.

THE WITNESS: I think Officer Liddy, at some point, was carrying one. But that's the only one that I recall.

Q BY SGT. CANCHOLA: How long do you think -- how long were you in the residence? I know. How long were you in the residence?

A Maybe -- maybe fifteen minutes. After we recovered the weapon, we were pretty much out of there.

Q And when you exited the residence, where was Miguel Yanez?

A He was standing somewhere out in front of the location, or in front of the residence.

Q At 2506 Kent Way?

A Yes. You're talking about when I came back out from the residence?

Q With the rifle, yes. With the rifle.

A Yes.

Q And then, you put -- well, what did you do with Yanez -- Miguel Yanez, at that point?

A I took him over to my vehicle. I was gonna place him over to my vehicle. And I remember recovering a -- he had a little bit of PCP in a little bottle. I recovered that and placed him in the car. And we were taking him to the station.

Q And -- and where did you recover that PCP from?

A It was in his pocket.

Q Do you recall which pocket?

A It was in his pants' pocket. Which one, right off the top of my head, I can't remember.

Q And your recollection is that, at no time from the initial contact with Miguel Yanez, to where you actually place him in the vehicle and search him, and you locate the PCP, he was ever walked to the corner of Coronado and Kent Street and placed on his knees next to other people that were being detained by C.R.A.S.H. officers?

MR. MCKESSON: Excuse me. Could you read that back? Could you read that last question back for me?

(Reporter read back the last question.)

MR. MCKESSON: The only response I have to that, Sergeant, is --

SGT. CANCHOLA: I'll get there.

MR. MCKESSON: -- for some period of time, you know, if he was in the house, and he wouldn't know. If it's worded like he's saying that didn't happen, when there is a period of time that he's in the house and it could have happened and he wasn't there.

SGT. CANCHOLA: Okay.

MR. MCKESSON: I'm sorry.

Q BY SGT. CANCHOLA: Witnesses statements indicate that

you and several other C.R.A.S.H. officers were at the corner of Coronado and Kent Street, and you had detained several people in front of the house at 801 Coronado Street, which would be that corner house at Coronado and Kent.

How do you respond to that?

A That several witnesses say that?

Q You had detained several males in front of the corner residence --

A That's correct.

Q -- on Coronado and Kent Street. You had detained them prior to Yanez pulling up to his residence?

A I would have never pulled up if Yanez wasn't there.

Q BY MR. MCKESSON: She said how do you respond to that? Is that true or false?

A Well, it's more than a yes or no. You got to remember, you're talking about people saying that they saw me detain people in front of 801 Coronado. Well, that's correct. But simply because I am over here in front of 2506 doesn't mean that I didn't walk over to 801 and see who was detained there, because I wanted to see who else was there. And if someone is standing there and they see me, they're saying that I detained these people.

So, that's correct. But you got to remember, I didn't just stand right in front of 2506 and never walked over to see

who these other people were. Because I wanted to make sure I identified.

Q When did you do that?

A At one -- at some point when I'm there, I --

Q Well, I'm asking, at what point? Your previous statement today is that you are west of the location, you're watching Yanez, you pull up on him, you detain him.

At that point, Richardson walks up to you. You pull up to the residence.

A Okay. Well, you got -- you got gaps there, ma'am. I mean, you're asking me, you know, as though that, you know, I detained them, then, Richardson showed up and we went right in.

Q Well, that's how you responded.

A Well, --

Q So, let's --

A -- I can only -- I can only answer the question that's right in front of me. And what happened next, meaning what significant thing happened next. Are you asking me, did I happen to browse over and walk over here to the corner and see who else was detained? I'm not gonna throw that in there because that's not important to me. Unless you want to know that, that's not important to me.

Q Well, when I ask what happened next, you need to respond with what you did as you recall it. And it may not be



significant to you, but it may have bearing on my investigation.

So, therefore, you need to respond as truthfully as you can, as you recall the incident. So, if there is a break and something didn't happen, or that you did leave the location and walk down to see -- to this corner, prior to going into the house, you need to state that.

A       When -- when you say "prior to leaving the location"  
--

MR. MCKESSON:   Sergeant, the problem is he's testifying based on memory. And the only thing that, I guess, is getting me a little confused here, is like it's presumed that he's lying about something. I mean, if he doesn't remember everything word-for-word, I mean, you -- and you could think what you want. I mean, you may even think he's lying. That's fine. You have a prerogative to think whatever you want to think.

But the thing is, he's not gonna remember everything in order. And that's why he's reviewing all this stuff. This incident happened several -- how many years ago?

THE WITNESS:   Three years.

MR. MCKESSON:   Three years ago. I mean, he's -- he's telling you as he goes on to the best of his recollection. I mean, that's all he can do. I mean, if he forgets that, yeah, maybe somebody else was there and he recalls it, I mean, that doesn't mean that he's lying.

And it's gonna make the interview last a whole lot longer, if he's asked questions like, well, that contradicts what you said before. I mean, if he wanted to lie, he wouldn't have told anybody this. He -- I mean, he has no reason to lie about this. He has immunity for this. I mean, there's no reason for him -- he brought -- you guys didn't know anything about this. He brought this to your attention.

THE WITNESS: I think we're also getting caught up in little fine details. Like I've said before, I fabricated the probable cause as to why I was detaining Mr. Yanez, recovering the gun -- the entire story was fabricated. The entire thing. I have no reason to delete something or add something.

The fact that I walked to the corner to see who else was being detained there, that's not -- that's not important to me. If it's important to you, you need to tell me that, uh, did you go anywhere? Did you walk anywhere? And I would tell you. To me, it's not important. That's why I'm saying, I probably also might have said something to somebody else -- to another officer. I -- I know -- I'm -- I am simply going into what happened. What happened as far as planting this gun.

Do I remember every little detail as to who was there, who I talked to, what civilians might have been there? I don't. Because they were not important to me, at the time. They weren't important to me -- I mean, right now it's not really

that important to me. But what's important to me is that I know for a fact that my informant gave me some information that this guy had a -- had guns to sell.

We went there with the full intent of getting into that house, recovering that gun, and arresting him for it. That's what I can tell you. Did I go and talk to the other guys that were detained on the corner? I'm pretty sure I did. 'Cause I wanted to -- I wanted to go see who else was being detained from Temple Street. I'm in charge of the Temple Street Gang. Is that important to me? Like I said earlier, no.

And for this investigation, to me it isn't. And I know for you maybe it is. To me, it's -- it's not -- it's -- it's not. I mean, I -- I mean, I know you're doing your investigation. But, to me, I vaguely remember that. I mean, I do remember now walking over there. And when you tell me, "Well, we have some witnesses that saw you." That's true.

I'm not trying to hide that. Did I walk over there? Did I leave the location? You're talking about walking over 30, 40, 50 feet. I didn't leave the location at 2506 to go to 801 Coronado. It's -- you're talking about going from this side of the street to that side of the street.

I know when we detained who we had, I walked over to see who was there -- who else was detained. I walked back and Richardson came with me, 'cause he was the P-3 in the unit.

And we went and talked to the male that was inside the house. That's what I do remember.

Q BY SGT. CANCHOLA: So, your recollection now is that you walked to the location?

A Not "now", ma'am. Not "now". It's always been.

MR. MCKESSON: That's the only problem. Like I said, you can believe he's the biggest liar on earth. But what the problem is, you know, it's going to be all day if he doesn't remember something and, then, he's accused of lying. When you start off "your recollection is now" is this. I mean, his recollection hasn't -- hasn't changed. He's just doing the best he can.

I mean, this is not something that he's trying to hide. This is a case that he brought to you guys.

SGT. CANCHOLA: Okay.

MR. MCKESSON: And I'm not -- I'm really not trying to be rude.

SGT. CANCHOLA: As we all know, Rafael, here indicated that he wrote an arrest report that was false.

MR. MCKESSON: That's true.

SGT. CANCHOLA: He, subsequently, testified at a preliminary hearing based off of that arrest report. Swore-in to tell the truth, and he lied there at the preliminary hearing.

MR. MCKESSON: That's correct.

SGT. CANCHOLA: Now, he also spoke with RHD detectives to reveal this incident that was fabricated. People are making some very serious allegations against your client. I have the responsibility of asking him about it.

MR. MCKESSON: I agree.

SGT. CANCHOLA: So, therefore, --

MR. MCKESSON: I agree.

SGT. CANCHOLA: -- so, therefore, I'm asking, and it's very -- taking very -- as you can see, my question is very detailed. And I'm going, "What did you do next?" Okay. "You're in the car. You stop him. You go into the house. You search." And it's been almost two hours just to get to this point. And there is a reason. Because, if, in fact, he is -- these allegations against him are false, I need to determine that. So, I'm asking him about that.

MR. MCKESSON: And I'm not faulting you. I mean, first of all, Sergeant, you -- I mean, it's your prerogative to believe whatever you want to believe. And what I'm saying is the reason why it's taking all day -- and I'm not saying you aren't a good detective. What I'm saying, this -- your questions are the first ones that we're having any problems with, because he's getting nervous because -- I mean, every time he makes a mistake, it's like he's being accused about lying about something or leaving something out.

SGT. CANCHOLA: Well, just -- just for the record, what I believe or what I think is irrelevant. It's what this investigation reveals. And that is my goal and objective here. There is some very serious allegations made against other Los Angeles police officers.

And, so, I'm going to ask very specifically. If you have a problem with that, it's going to be a long time.

THE WITNESS: Well, I think -- I think the problem is when you -- when you say, "Well, so, earlier you didn't say you went to the car. So, now, you're recollection is" as though I'm lying about something or held something back. And now, you've revealed this new revelation that, you know, I omitted or something. That's the problem we're having here.

Because, like I said to you earlier, it's not important to me that I walked to the corner to see who was there and then walked right back to go inside the -- the building. To you, you just made it sound like, oh, my God, you didn't say that earlier. Or citizens or witnesses said that they saw you, you know, detaining these people at the corner. And I'm telling you that's probably true.

You know --

SGT. CANCHOLA: Okay.

THE WITNESS: -- unless you ask me something, "Did you leave that location to go anywhere else or do anything?" I'll

go, "Oh, yeah, I did walk over to the corner. I wanted to see who was detained there. And they went and Richardson came with me. And we walked into the," you know. But it's impossible for me to go, "Oh, yeah, yeah, I'm sure -- I'm pretty sure she wants me to -- she wants to know that I walked to the corner to see who was there."

SGT. CANCHOLA: Okay. Clearly, I misspoke. Because what I was trying to get at, was that prior to your detaining Yanez, witnesses are saying that you were not west of the location, as you had so testified to, that you were actually east of the location, at Coronado and Kent Street, prior to Yanez even being at home, that Yanez wasn't being at home. And that, when Yanez pulled into the driveway, you lifted up the flashlight.

Now, that's certainly different than your recollection of walking from Yanez' residence to the corner because these gang members are in your area and this is your responsibility. THE WITNESS: That's not what I remember then.

Q BY SGT. CANCHOLA: So -- so, my question to you is that prior to approaching Yanez, prior to -- witnesses are saying you weren't west of the location. Witnesses are saying you were stopping them -- these witnesses -- at the corner of Coronado and Kent Street, prior to Yanez even getting home.

Q BY MR. MCKESSON: Do you want to respond to that?

A My -- my sole purpose for being there is for -- is to find Mr. Yanez. I assure you that if Mr. Yanez sees four police cars detaining ten gang members at the corner of his house, he's not gonna stop and just mosey on out and come and out and go, "Hey, how you doing, officers?" Just going home. That ain't gonna happen. Believe me, it ain't gonna happen.

Q BY SGT. CANCHOLA: Well, how many times have you stopped Miguel Yanez prior to this?

A I -- like I said before, I think I had very minimal contact. I don't remember -- I know him from photos. I know him by name, by tagging. He tagged on the walls a lot. But, my sole purpose and -- and my only reason for being there, like I said, I didn't even know where he lived. My informant had to tell me where he lived -- was to recover those guns.

I would have not -- I wouldn't have pulled in, made a big 'ole commotion, had Mr. Yanez not been there.

Q Well, that's --

A My whole purpose of sitting and waiting was to see him show up. Or -- or to be there and then detain him.

Q Well, that's exactly what has been reported. Not by one witness, but by several witnesses. So, at this point, they're alleging that you had stopped them and that PCP was found at the location in the shrubbery, from in front of that location. And that --



A How would they know that PCP was found from a shrubbery?

MR. MCKESSON: Well, let her finish. Let her finish.

SGT. CANCHOLA: That it was presented to you by one of the officers. And, at that point, is when Yanez, who was now kneeling at the corner, next to these gentlemen, or these people, is when he subsequently was arrested for, I believe, Possession for Sales.

THE WITNESS: Possession of PCP.

SGT. CANCHOLA: For Sales.

(Off the record to change paper.)

(Back on the record.)

SGT. CANCHOLA: As I said prior to -- while you were putting the paper on -- my information is that that is, in fact, what happened. And my responsibility is to document the information. You have indicated, prior to the stenographer going back on her machine --

THE REPORTER: Stenograph.

Q BY SGT. CANCHOLA: Thank you. That that didn't happen, is that correct?

A That which part didn't happen?

Q That you were not at Coronado and Kent Street prior to Miguel Yanez pulling into his driveway.

A That's correct.

Q And that PCP was not given to you by another officer, at that location, before you -- or at some -- and the PCP was not given to you at that location by another officer?

A That's correct.

Q And --

A I have --

Q BY MR. MCKESSON: That's directly denying the allegation, correct?

A Right. Right. What I --

Q Well, let -- let her finish.

A Oh, okay.

Q BY SGT. CANCHOLA: And that your recollection is that you did book Yanez for Possession of PCP for Sales, is that correct?

A Right.

Q I think you had to refresh your recollection off your arrest report.

A Right. I know it was PCP. I didn't -- I didn't know if it was for Sales or not. But it was PCP, yes.

Q Okay. And that is how you recall it?

A The entire incident?

MR. MCKESSON: No, those two -- those two incidents. That's the questions she's talking about, is that correct?

SGT. CANCHOLA: That -- that didn't happen.

THE WITNESS: Right. That that didn't -- yeah, that's correct.

Q BY SGT. CANCHOLA: And do you recall if Miguel Yanez was actually taken -- physically taken -- to the corner and also put on his knees with the other people?

A I don't recall that, 'cause for a period of time I was inside the --

Q But, you know. Do you know if he was down there on his knees?

A Right. I don't know.

Q Okay. Now, one other thing. You mentioned that were other people there. And you went down there specifically to find out who they were.

A That's correct.

Q Who were they?

A I don't recall.

Q Would Dario Medina sound familiar?

A How about a moniker?

Q I don't have a moniker. He says he doesn't have one. But I have a photograph. He lives at that residence.

A Yeah, he looks familiar.

Q Does -- does he look familiar from being on his knees at that corner on that date?

A I've detained him several times right at that corner.

I know he lives right there at that corner.

Q Okay.

A Does he look -- you -- you want me to get absolutely specific, and I can't do that.

Q Do you recall that on January 22nd, 1997, Dario Medina whose picture you're looking at, it's a driver's license -- it's a copy of a DMV Photo B6573767. That this is the person that you remember, but your recollection is you don't know if he was there that day?

A He looks familiar. But I'm not certain if he was one of the ones detained. I have detained him at that same corner several times. So, it's kind of hard for me to remember.

Q Okay. Do you recall anyone there by the name of Daniel Fontaine?

A The name doesn't help me. Unless I had a photo, the names aren't gonna help me.

Q Do you know of a person there by the name of Webo, W-e-b-o?

A I know the -- I -- that name I know. And that's his moniker.

QQ That's his real name.

A I've arrested him. I don't remember -- off the top of my head, I think it's -- it might be Alvarez. But I'm not a hundred percent sure.

Q Okay. At this point, I think it's a good time to rest, unless you have anything that you would like to add regarding what we've gone over, up to this point?

A I do, but what I was gonna add was, I have absolutely no reason to admit or deny planting narcotics on someone. I've admitted to it dozens of times. If I planted narcotics on Mr. Yanez, that's exactly what I would say. That Mr. Richardson, or Mr. Buchanon, or whoever, handed me the narcotics and then, I decided, I'm gonna put and say it was in his pocket. That's just not how it happened.

I'm not gonna add or subtract anything. It is to my benefit to say exactly how things happened. So, for you to say, well, somebody said it was in the bushes, that sound interesting, it just didn't happen that way. And I understand you're getting their side of the story, or whatever they're saying.

But it doesn't hurt me, or it doesn't, you know, hinder me either way. Because if I had planted the narcotics on Mr. Yanez, I would say, "I planted the narcotics on him." I've admitted to it dozens of times already. It just didn't happen that way. So, I don't know what else to tell you. That's about it.

Q BY SGT. BUHRMESTER: Ray, [\* CI # 6 Info Redacted \*\*]  
[\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*]

A Yes, sir.

Q [\*\*\*\*\* CI # 6 \*\*\*\*\*]

A Yes, sir.

Q Do you know where he lives? Does he have an I-card?  
Would he be easy to find under [\*\*\* CI # 6 \*\*\*\*]?

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

-- do you know?

DET. BURDITT: I don't.

THE WITNESS: [\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*]  
[\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*]

SGT. BUHRMESTER: Okay.

THE WITNESS: I'm not a hundred percent sure, no.

SGT. BUHRMESTER: All right.

THE WITNESS: [\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*]  
[\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*]  
[\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*]

Q BY SGT. BUHRMESTER: Okay. But he's -- [\*\* CI # 6 ]  
[\*\*\*\* CI # 6 Description Redacted \*\*]?

A Right. He's certainly documented.

Q Okay.

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

Q All right.

SGT. CANCHOLA: No, nothing further.

Q BY DET. BURDITT: One last question. Why was [CI # 6]

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

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

Q Presently.

A [\*\*\*\*\* CI # 6 Information Redacted \*\*\*\*\*] [\*\*\*\*\* \*] name might be leaked by the -- the L.A. Times as --

MR. MCKESSON: Or the Daily News.

THE WITNESS: Or the Daily News, as was [\*\*\*] revealed. And [\*\*\*\*\*]

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MR. MCKESSON: [\*\*\*\*\* CI # 6 Information Redacted \*]

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Q BY SGT. CANCHOLA: And, you know, I have just one thing. And that's that you've indicated several times throughout this interview that this happened in 1997. And you don't have a clear recollection of all of the incidents, or all of the particulars regarding this incident, and that you have admitted that you have placed narcotics on several people, and that you have admitted that and brought that to the -- the Department's attention and to the D.A.'s attention.

Is it possible that you forgot that you put on this guy?

A No. I just -- the reason I remember is because very rarely do you find PCP, other than at Northeast Division, the Echo Park Gang. Number one, I hardly ever find rock cocaine on Temple Street. And never have found PCP on them.

Q Mmnh-mmnh.

A So, I thought it was pretty unusual that he had PCP.

Q Yeah, I thought it was unusual that you booked him for Sales, with no money, no paraphernalia.

A That was just a charge.

Q And it was just off of your expertise. Normally, there's money, like \$200 that was reported missing.



A Or observations.

Q Or personal experience or expertise.

A Yeah. Or -- or observations. I think that that was just to -- I think, because the weapon didn't have a felony section that we needed, I think we just booked him Possession for Sales.

Q And -- and when you we, you really mean you?

A What do you mean "you"?

Q You're saying "we" just booked him because there was really no felony. You mean, I just booked him because I really couldn't put a felony on him?

A Okay. If you want to say it was me.

Q I mean, I --

A It was me and my partner. You know, we were -- I mean --

Q Okay. We can go on -- we can go on that for the next one.

A Yeah, would be an argumentative thing. I -- when I say "we", I mean me and my partner. We decided to book him for the PCP first because that's the felony section. If we just booked him for the weapon, it would have been a misdemeanor section.

And, like I said, the reason I remember that I didn't just happen to forget to book this narcotics on him is because

PCP is very unusual. I don't even like dealing with PCP. In fact, I probably -- I probably even thought about just throwing this PCP away, because I don't want to have to book it, seal it, and all that other mess that comes with PCP.

But he happened to have it. And I don't know, you know.

Q So, when you got the rifle, you knew you only had a misdemeanor. So, you needed a felony for the arrest?

A If that's what you want to argue, that's fine.

Q No, I -- I need to know if that was what it was.

A No, I am -- I just told you what happened.

Q Okay.

A Now, you're trying to add something as though I, you know, -- as there's a conclusion to what you're saying. Or -- or equation. And, no, I'm trying to tell you. I remember that he had it, because it was so highly unusual for any Temple Street to have any type of drugs. You know, I -- I don't know what else to tell you. I mean, we can -- we can argue this all day.

If -- if I planted the narcotics on him, I would say --

Q If you remembered?

A -- I planted --

Q Okay. That -- I'm done. We're done. Unless you

needed to go further?

A No, I think I'm done, too.

SGT. BUHRMESTER: No.

SGT. CANCHOLA: This concludes the interview. And it's 1540 hours. Is that what you have?

SGT. BUHRMESTER: No, I have 1742.

SGT. CANCHOLA: Oh. Okay.

(Off the record at 5:42 p.m.)

(Back on the record at 5:45 p.m.)

SGT. PAILET: This is going to be a tape-recorded interview of RHD Task Force Investigation. Today's date is February 23rd, year 2000. Time is 1745 hours. Location of this interview is One Gateway Plaza. Present to be interviewed is Rafael Perez. His attorney Winston McKesson is also present in the room. The interview is being recorded on Tape No. 223834, Side A. And it's being conducted by Sgt. Jeff Paillet, Serial 23307, and Detective Stan Nalywaiko, Serial No. 21100 of the RHD Task Force.

Also present is Court Stenographer Sara Mahan from the Los Angeles County District Attorney's Office.

Q Okay. What we're gonna talk to you today about, Mr. Perez, is the situation that occurred at 401 South Hoover, where yourself and Nino Durden and Melissa New conducted a narcotics investigation, and where we discussed earlier on another

occasion where you advised us that during that investigation you had taken some jewelry.

And I'm trying to recall if you stated some money.

A Mmnh-mmnh.

Q And, basically, took that. And that -- on the premise that you were gonna utilize this as somewhat collateral or -- or to hold it until she cooperated with you and gave you another narcotics dealer -- or, basically, her supplier; correct?

A That's correct.

Q Okay. And you -- you do recall the -- the incident we're talking about?

A Yes, sir.

Q Okay. What I'm gonna do is gonna show you a couple of logs and just ask your -- your -- or -- your assistance. And what I'm gonna show you -- and was that -- was Officer Canister, at any time, with you, or assist you in that investigation?

A No, sir.

Q Okay. I'm gonna show you, on that date he completed his -- on his log book. And I know you're familiar with the log books that you document all your stops. He completed that on 1315 hours he was at 401 South Hoover, Apartment No. 114. That he did a door-knock. And, obviously -- and that would be about approximately the same time that you were present and

doing your narcotic investigation.

A You said Coronado or Canister?

Q Canister.

A Okay.

QQ Was he there?

A No, sir.

Q Okay. Did he assist with you, at any time, during that detention, or that stop?

A No, sir. What often happens is, let's say you fall back behind a couple days in your log, what you do is look at somebody else's log to see what they -- what they did that day. And you assume that's -- that must have been what I did. And you just write down the same address. 'Cause he definitely wasn't there.

Q Okay.

A I know that's not procedure. That's not standard, but sometimes that's -- that's what we did if we would fall behind in our logs.

Q Okay. And your assuming this is maybe what Canister did?

A Yes, because he definitely wasn't there.

Q Was he party at all to this -- to this, uh -- what occurred there? Or did he have any knowledge as to what occurred there?

A I don't know what knowledge he has. But he -- he definitely wasn't there. I've never talked to him about the -- well, he knew about the complaint coming down, I'm sure.

Q Right.

A But he definitely wasn't there --

Q Okay.

A -- I mean.

Q And -- okay. I'm gonna show you a -- was either McGee or Lusby present during that door-knock investigation?

A No, sir.

Q Did they ever arrive at the scene?

A Did they ever arrive at the scene?

Q At the scene.

A They were never there.

Q I'm gonna show you Billy McGee's log. And he documents that he was at 401 South Hoover, Apartment 114 and that Lusby was his partner. Did they ever -- either one of those people present?

A No, sir. I mean, I -- I think their representation has been that they weren't there. I mean, the most they had any knowledge to it was I called them from there and told them that I was at that location but didn't need anybody's assistance.

Q Okay. Right.

A I mean, I don't know why the logs would say that they were there, 'cause I think there was a personnel complaint done, and it's obvious that they were not there.

Q I'm gonna show you -- the date that you -- you did your -- that investigation -- that incident occurred was October 9th, based on your logs. On October 16th, you went, we believe -- you went back to the residence. Back to the 401 South Hoover. And this is probably the day that you discovered the complaint.

A That's a whole week later.

Q Right. About a week later. And the reason we ask is, this is your log for the 16th. Typically, we notice that when you make your entries, you put a blank space in between your entries. Right?

A Okay.

Q On this day, all of a sudden, you have an entry at 1500 hours, 401 South Hoover, which I have highlighted for you. And there is no blank space, as if it was added-in as an afterthought, or added-in later.

And I just wanted to get your -- your take on why you -- why you did that.

A Well, we did something to the log. I do remember that. By the way, this log is filled out by Durden.

Q Oh, is that -- okay, that's Nino Durden's log? Okay.

A We had to do something to the log. I don't remember what it was. So, there was some erasing done and filling in. But I don't remember what it was that was changed. It might have been that we did, you know, door knock, negative results, or something. And he changed it to -- I don't know. Whatever he wrote.

But I -- I know something was changed on the log.

Q On this log right here?

A Yeah, this -- me and him kept the log together. One book for both of us.

Q Right.

A He -- that was his primary responsibility. I wrote the reports and he would do the log. But, anyway, I know when the whole investigation thing came out, we -- we had to change some things on this log. But I can't remember what it was.

Obviously, the entry to 401 South Hoover. But I don't know what it was changed to.

Q Okay. I'll come back to that. Now, when you went to the location and you're doing your investigation, you say, at one time, Durden has to leave because he has to contact a District Attorney or something; right?

A That's what he told me.

Q And you contact Melissa New.

A We called down there. We called the office.



Q Telephoned the office?

A Right.

Q You said -- and was it you that spoke to Melissa New?  
Or was it Nino?

A I did.

Q Okay. And you asked Melissa New to come down,  
correct?

A Yes, sir.

Q And then, she eventually responds?

A Yes, sir.

Q Right? And, she -- according to your past statement,  
she -- she's present and Durden leaves; right?

A Yes, sir.

Q Now, does Melissa New speak Spanish?

A She's pretty good at it. I don't think she's paid or  
anything, but she is -- she's pretty good.

Q She's conversational?

A Yes, sir.

Q Does she understand what you're saying, you think, to  
the people?

A If I had a conversation, that she would -- I would  
say she probably could pick up 60 percent of what I was saying.  
Maybe 60 percent.

Q Okay. As far as on taking most of the jewelry, was

that yourself that took most of the jewelry, as far as recovering the jewelry?

A I didn't even touch -- I know that most of the jewelry that was recovered, from what I remember -- I never possessed the jewelry myself.

Q Okay.

A The jewelry that was taken off the females was taken off by her. I don't --

Q By New?

A I try not to touch the females. Yeah, 'cause they were wearing some cheap little rings. I don't even know what you call them. In Spanish, it's called aniyo (phonetic). But I couldn't even spell it for you right now. Aniyo is just another name for a little -- their small little rings. Little fake, little -- you know, little --

Q Okay. So, any jewelry that was on any of the females, you're saying Melissa New physically took that jewelry off of them?

A Right. But there was some jewelry on the dresser in the bedroom to the left as you walk in.

Q And who took that jewelry?

A Durden took that jewelry. I picked them up and I gave it to him. He kept it.

Q Okay. So, you picked up?

A He kept -- that he put the -- while we were right there at the location he took the jewelry and put it in some type of envelope or -- or something. He placed everything that was taken off of them. When I was walking back out of the bedroom, they were -- they were just finishing up taking the jewelry off the -- the two females, and that Durden placed it in a -- for some reason I want to say it was like an envelope. And placed it in the envelope and kind of rolled it up.

Q And this is the jewelry from the bedrooms?

A The bedrooms and the jewelry that was taken off the two females. Did you follow me? I had said that I was in the bedroom. And Durden was in there with me. And we were just picking up some of the jewelry from the dresser. And I was handing it to him. As we were walking back out of the bedroom, and into the living room, where the two females were seated, New was still taking rings off their fingers. And New was handing them to Durden.

Q Okay. So, this would be when Nino Durden returned back to the location, after making this telephone call to the District Attorney?

A Right. I'm not sure if it was a telephone call or he actually met with him. I know he told me he had to meet with him. But I don't know what he actually did. I don't recall if he met with him or just called him.

Q Okay.

A I wasn't present.

Q When -- approximately within a week you discovered there's a personnel complaint, correct?

A I thought it was a little bit --

Q Sooner than that?

A -- sooner than that. But if you say it's a week.

Q If there is -- well, the time-line, we can tell, was about four days later a crime report was made. And it took detectives a day or two to connect that yourself and -- that you were involved, or were at the scene. And that' when they contact narcotics group.

So, it would have been, yeah, probably the early -- the absolute earliest it could have been was five days later.

A I mean, if that's what -- what they said. Then, that's correct.

Q Okay. So, you -- you do -- you find out -- and I'm just gonna base it on your statement for brevity -- when you first learned is when you see the Robbery detectives walking into the Narcotics trailer; right?

A That's correct.

Q And you follow in behind them?

A Yeah, they're walking right in front of me.

Q Right.

A I thought they were gonna go in the station. But they go into the trailer.

Q Okay.

A And I go in behind them.

Q Okay. And, so, are you present when these detectives are telling Lusby about this situation?

A Yes, sir.

Q Okay. And was Durden present?

A No, sir.

Q Okay. Was New present?

A No, sir.

Q Okay. When you -- now, how did you -- what steps did you take to meet with Durden and New, 'cause you had a meeting later on to discuss your --

A We went to lunch.

Q You went to lunch. Where did you go to lunch at?

A I believe, my recollection --

MR. MCKESSON: You can say you believe.

THE WITNESS: Okay. My recollection is went on Alvarado to El Pollo Loco on Alvarado.

Q BY SGT. PAILET: And how soon after you found out about this complaint did you do that?

A That same day.

Q The same day. Okay. And who went to the meeting?

A Just the three of us.

Q Okay. And what did you discuss?

A What we were gonna say when we were interviewed.

Q Okay. Now, at this time, where was the jewelry still, at this time?

A Durden had it. Durden kept the jewelry and the money. He actually retained it on him, or wherever he placed it. I don't know where he placed it. But he had it.

Q Okay. So, at the time of that meeting, Durden still has the jewelry and money either in his -- at work, at home, or somewhere?

A Right.

Q Okay. What did Durden say? Or what did you tell Durden? Or what did New tell Durden, as far as what do we do with this jewelry and money?

A We discussed that.

Q Okay. What -- what did you say? What were you gonna do? What course of action?

A Well, first, Durden asked me, "Do you want this stuff back?" He asked me if I wanted it. And I said, "No." We -- we decided, well, we -- I told him, "Just get rid of that stuff." Or just get -- "Just throw it all away. Everything."

Q Where was Melissa New when -- when Durden asked that?

A She's right there.

Q Okay. So, she could clearly hear?

A Yes, sir.

Q Okay. Are you seated at a table?

A Yes.

Q Okay. So, is it similar -- is -- approximately everyone's at least about two feet apart then?

A Yeah, we're all seated on a 4-person bench-type thing. Q Okay. So, Durden asks you, "What do you want to do with the stuff?" And you tell him, --

A Well, actually -- go ahead. I don't mean to interrupt. Sorry. He asked me do I want it -- did I want it back. And I said, "No." I told him to just get rid of it. You know, throw it out. Do whatever you have to do.

Q Did New make any comments to you as to the statements?

A No, sir. Not that I can recall.

Q What about the money? What was discussed about the money?

A I told him to get rid of everything.

Q Okay. And what did Durden say when you said get rid of it?

A Okay. Let me -- let me just back up a little bit here.

Q Sure.

A Because I want to make everything clear. It was

actually our full intention on giving them that stuff back, \$300 or whatever it was and the little jewelry. I mean, that was -- our full intention was to give them that back. That's why Durden just hung on to it to hold for four or five days, whatever it was.

So, I mean, it wasn't like, you know, other cases where like narcotics money was found and just taken and not returned.

Q Right. And I understand. Because you -- yeah, you made that clear. Your intention was to return it later on. And once she provided her supplier.

A Yes, sir.

Q Okay. So, during the meeting, did you discuss, okay, what are we gonna say to the allegations, if they arise, that -- such as Melissa New took the jewelry off the females -- what are we gonna say?

A That never occurred.

Q That never occurred?

A Yes, sir.

Q Was that, specifically, discussed? Or --

A Well, we knew this was gonna be a pretty heavy investigation. So, we, basically, discussed the whole scenario how everything occurred. So, we covered pretty much everything that we thought was gonna be talked by about investigators as



well as someone else showing up at the location. But there was a young boy that showed up. And we told them, you know, he didn't show up.

Q Why did -- why did you want to leave the young boy out of it?

A I don't know. There must have been a reason, at the time. I can't think of it now. But I know we wanted to say that, you know, no one else showed up.

Q Did you discuss this with either Lusby or McGee?

A Discuss what?

Q That -- this complaint. Or did they assist you at all with any information to give you for the interview before you were interviewed by the Narcotics Special Investigation Team?

A No, sir.

Q Okay. On the day you were interviewed --

MR. MCKESSON: One second.

Q BY SGT. PAILET: You know, I'm just gonna have to ask you a couple of quick questions, because of the time. At one point, you actually went back to 401 South Hoover, after this stop, to look for Melba Orellana, the person you took the jewelry from; correct?

A Yes.

Q And that was -- that was after you found out there

was a personnel complaint? Or was that before?

A That was before.

Q Okay. Before?

A In fact, we were coming back from her place --

(Off the record to change tape to Side B.)

(Back on the record.)

THE WITNESS: We are coming back and detectives are walking into the trailer. That's where we were just coming back from.

And, for some reason, I remember it being the first day -- or work day back. Or maybe the second day. But you're saying it's a whole week later.

Q BY SGT PAILET: Well, she didn't make the crime report for four days, maybe even five.

MR. MCKESSON: Detective, it's getting kind of late. Because I need to talk to Detective Tyndall also.

DET. NALYWAIKO: I've got a couple quick questions.

Q Did you ever make any contact with Melba Orellana, or anybody from her family, after this incident?

A Yes.

Q Did any of those contacts involve any threats?

A Yes.

Q And who did you speak with?

A It wasn't me. Durden had -- during the investigation, Durden had told me, "We need to do something about, you know,

just in case she shows back up." And his suggestion was to have Veronica Quesada call this woman and make some threats about not talking to the police.

Veronica Quesada called -- I don't know on how many occasions. But she called and she told me she did it. She called on several occasions and said, "Hey, we heard you've been talking to the police."

And once she told me she changed her voice, or disguised her voice. And she made threats about, you know, "Are you talking to the police?" And, you know, basically, threatened -- I don't know if she talked to the lady directly or to whoever answered the phone. But someone answered and she threatened them on several times -- several occasions.

Q Do you recall exactly what the threats involved?

A I wasn't present when the threats were made. She just told me about them. I know it was to the -- to the effect that, "Don't talk to the police." You know, "Get out of town and don't talk to the police" type of thing.

Q Do you know if any threats were made against Melba Orellana's children?

MR. MCKESSON: Do you know?

THE WITNESS: Again, I wasn't present when the -- the threats were made. I mean, I'm not saying it didn't happen. But it's possible that threats were made to her or her family,

or -- or whoever.

Q BY DET. NALYWAIKO: Did you ever follow-up to any other location? Or any other relatives' location?

A To Orellana's?

Q Regarding Melba Orellana?

A You know, I believe she's related to several other arrestees. So, I think other people were arrested. Other people were arrested that might have been related to her. But I don't know if there was -- I wasn't -- and those people that I might have arrested, wasn't in conjunction with this investigation, or that particular incident. I wasn't looking to threaten somebody else. There was no connection there.

Q One last question. Did you ever go out to the Valley to a relative's house inquiring about Melba Orellana?

Q BY SGT. PAILET: Or have any other Rampart officers go out to the Valley?

A Definitely, no.

Q No?

A Definitely, no.

Q You know, let me just ask -- you know what? I've got one last question. When you said that it was Melissa New -- New's idea to take the jewelry, -- 'cause that seem somewhat out of character for her -- are you sure that was New's idea, as opposed to maybe your -- your own idea?

A No. If it was my idea, I promise you, I would say it's my idea. I think, like I said in the beginning, Melissa New had absolutely no criminal intent when this went down. It was merely a suggestion. And you're right. It's completely not like Melissa New.

Q BY MR. MCKESSON: Out of character?

A Out of character. But I can only say the truth. You know, I'm not trying to defend her or hinder her in any way. It was her idea.

Q Okay. And for the circumstances of this interview, and, obviously, time, we'll go ahead and conclude the interview. That's it. And the time will be 1810 hours.

(Off the record at 6:10 p.m.)

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