

STATEMENT OF

**RAFAEL ANTONIO PEREZ,**

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

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

APPEARANCES BY:

Richard Rosenthal  
Deputy District Attorney  
Los Angeles County District Attorney's Office  
Special Investigations Division  
210 West Temple Street  
17th Floor  
Los Angeles, California 90012

John Cook  
Detective Sergeant  
Los Angeles Police Department  
Robbery-Homicide Division Task Force  
1 Gateway Plaza  
Los Angeles, California 90012

Mark Thompson  
Detective Sergeant  
Los Angeles Police Department  
Robbery-Homicide Division Task Force  
1 Gateway Plaza  
Los Angeles, California 90012

Jeff Paillet  
Detective Sergeant  
Los Angeles Police Department  
Robbery-Homicide Division Task Force  
1 Gateway Plaza  
Los Angeles, California 90012

William Cox  
Detective  
Los Angeles Police Department  
Robbery-Homicide Division Task Force  
1 Gateway Plaza  
Los Angeles, California 90012

Emmanuel Hernandez  
Lieutenant  
Los Angeles Police Department  
Robbery-Homicide Division Task Force  
1 Gateway Plaza  
Los Angeles, California 90012

Sean Mahoney  
Detective  
Los Angeles Police Department  
Robbery-Homicide Division Task Force  
1 Gateway Plaza  
Los Angeles, California 90012

Winston Kevin McKesson  
Attorney at Law  
315 S. Beverly Drive  
Suite 305  
Beverly Hills, California 90212-4309

REPORTED BY:

Sara A. Mahan  
Stenographic Reporter  
Los Angeles County District Attorney's Office  
C.S.R. No. 10647

sam/99-033

LOS ANGELES, CALIFORNIA, FRIDAY OCTOBER 15, 1999: 10:40 A.M.

SGT. COOK: Okay. Today's date is October 15th, 1999.  
The time now is 1252 hours. We're on Tape No. 219492, Side A.

MR. ROSENTHAL: Why don't we, uh, state everyone's

appearance?

SGT. COOK: Okay. We have, uhm -- I'm Sgt. John Cook. And my partner is Sgt. Mark Thompson. We have Deputy District Attorney Richard Rosenthal. We have your attorney, which is Kevin McKesson. And Rafael Perez is the person who is being interviewed. And we have our court stenographer Sara Mahan.

MR. ROSENTHAL: All right. Let's first put Mr. Perez under oath. Again, these are the continuing interviews of Rafael Perez.

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. Why don't we proceed with the first area of questioning?

**RAFAEL ANTONIO PEREZ,**

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

EXAMINATION BY SGT. COOK:

Q Let's start with the, uh, Bobby Lott case. L-o-t-t. Yeah, it's a photo that you may want to -- to look at.

A I've had a, uh, chance to review the report. Uh, and, uh, I'm -- I'm able to answer any questions.

Q BY MR. ROSENTHAL: All right. Why don't you let us

know the, at least for the record, the D.R. number on this case? And when you look at the, uh, report, while I read this to make sure it's correct. I've got 93-14-24583.

Is that correct?

A Yes, sir.

Q All right. That relates to Case Number SA014580.

A Okay. The date of arrest was July 13th, 1993.

Q Were you involved in this arrest?

A I was in a sense, yes.

Q In what manner?

A I believe I was just working as a chase car. The arresting, uh, team to move in and arrest someone.

Q All right. Uh, were there any problems with this case? Or is there any false information contained in the reports?

A To my knowledge, there is no false information in this report.

Q Are you aware of any issues of misconduct that might have occurred as a result of, or during the course of this arrest?

A I've reviewed the report and I've read the entire report. And I don't see any.

Q BY SGT. COOK: Uh, just briefly, for the record, what was your participation in this particular arrest?

A My participation was to pull over a vehicle that was being driven by, uh, -- by Mr. -- his name is Rogers. Mr. Fletcher Rogers, I believe.

And I assisted with pulling his vehicle over.

Q And what did you do after that?

A Very little. Uh, there was some, uh, uniformed officers there. I was a plainclothes officer. And there were uniformed officers who handled, uh, everything after that. Uh, I believe they recovered some narcotics from inside the vehicle. But I wasn't present.

Q Okay. And you say you weren't present at the recovery of the narcotics?

A That's correct.

Q Okay. And, uh, do you have any other -- since you don't have direct knowledge, do you have any other knowledge of how the, uh, evidence was recovered?

A I have no direct knowledge.

Q So, as far as you can determine, from this particular arrest, everything was proper?

A Yes, sir.

Q BY MR. ROSENTHAL: Do we know what the allegations made by Mr. Lott are?

SGT. COOK: I don't have specific, uh, information about that.

MR. THOMPSON: I believe it's just evidence planted. Whether or not it was directly, uh, attributed to, uh, Ray or not. But, uh, evidence planted is the basic allegation.

Q BY MR. ROSENTHAL: And so you have no -- no information to confirm or deny as to whether narcotics were planted, in this case?

A That's correct. Uh, I never recovered any narcotics. I never even made any arrest. Uh, I was just there. But, I made some observations of someone coming up to a door. But, other than that, I was not involved in any evidence recovery.

Q Okay.

Q BY SGT. COOK: Okay. That concludes the interview. The time is now 1257 hours.

Are we going to need the introduction for each tape?

MR. ROSENTHAL: Uhm, it's up to you. We've got the introduction on the record that I need.

SGT. COOK: Well, you're saying it it's going to go to separate interviews, so.

MR. ROSENTHAL: Why don't we go off the record for a second?

(Off the record at 12:56 p.m.)

(Back on the record at 12:58 p.m.)

SGT. COOK: Today's date is October 15th, 1999. The time now is 13- -- correction, 1258 hours. Uh, I'm Sgt. John Cook.

My partner is Sgt. Mark Thompson. Deputy District Attorney Richard Rosenthal is here. Uh, Rafael Perez is -- is present. And he is being represented by, uh, his attorney Kevin McKesson. And the D.A. Stenographer is Sara Mahan.

Q Uh, Ray, there is a report that you're looking at. Can you tell us, uh -- can you --

MR. ROSENTHAL: Well, I can put on the record that.

SGT. COOK: Okay.

MR. ROSENTHAL: This is a report of Esaw Booker. First name E-s-a-w. Last name, B-o-o-k-e-r. D.R. Number is 92-07-17111.

Uh, Mr. Perez, this case involves a writ of Habeas Corpus that was filed by Mr. Esaw Booker. And you testified, actually, in Federal court on the writ, and shortly before the time you were arrested in August of '98?

A Sometime in early '98, I believe.

Q Uhm, at that time, -- you've had a chance to look at this report?

A Yes, sir.

Q Uh, does any of the testimony that you gave at the prior Habeas hearing, is any of it false?

A No, sir.

Q Okay. Uh, was there anything about this case that, uh, would substantiate allegations by Mr. Booker that he made



have been framed or narcotics or evidence planted on him?

A None whatsoever.

Q This was, uh, -- you wrote the report?

A Yes, sir.

Q Everything in the report is accurate?

A Yes, sir.

Q Uh, why don't you just tell us, generally, what happened?

A This was a -- a narcotics buy. I was working the West Bureau Narcotics Team. West Bureau Narcotics Buy Team. I was working undercover, driving a plain vehicle. I was driving, I believe, it was eastbound on 18th Street from Manhattan. Uh, I observed a male standing on the sidewalk. I nodded to him. He, uh, came over to -- I stopped my vehicle. He came over to me. He asked me what I needed. I told him in street vernacular that I needed a "Twenty" which is \$20 worth of, uh, rock cocaine.

He, then, walked to maybe another twenty, thirty feet in front of me. And he met with another, uh, gentleman, uh, Mr. Esaw Booker. Uh, they held a short conversation. Mr. Booker, uh, produced a white item, handed it to, uh, -- this other, uh, male, Mr. -- Mr. Milton.

Mr. Milton, then, immediately walked right back, uh, to me. And with that same left hand, handed me that off-white

object. I, then, handed Mr., uh, Milton, the, uh, U.S. Currency.

Q And you testified, at trial, against Mr. Booker?

A Yes, sir.

Q And was everything that you said during the trial true?

A Yes.

Q Uhm, the date of arrest here was April 14th, 1992. Had you committed any on-duty, uh, misconduct or crimes prior to that date?

MR. MCKESSON: Well, the only thing, when you say "misconduct" that is very broad.

Q BY MR. ROSENTHAL: That's true. I will say any criminal activity --

A No, sir.

Q -- by you prior to this date?

A No, sir.

Q All right.

A No, sir.

Q All right. Any other questions?

SGT. COOK: Okay. That discontinues the interview. The time is 1301 hours.

Okay. Today's date is October 15th, 1999. The time now is 1302 hours. We're on Tape No. 221161, Side A.

Q Ray, before you, you have an arrest report.

A That's correct.

Q The D.R. number is 96-02-10437. The date of the arrest was, uh, March 3rd, 1996. And the arrestee is -- or was Sonia Castro.

A Yes, I have that report.

Q Have you had the opportunity to review the report?

A I have.

Q Can you tell us, uh, -- uh, --

Q BY MR. ROSENTHAL: Hold on second. There's another arrestee, in this case; isn't there?

A Yes, there is. There is a Mr. Williams. Mr. Michael Williams. DOB of 3/17/56, who was the first defendant in this case.

Q Okay. I'm sorry. Go ahead.

SGT. COOK: Do you need a DOB on the first, uh --

MR. ROSENTHAL: I think we've got Michael Williams DOB is 3/17/56.

THE WITNESS: That's correct.

SGT. COOK: And Sonia Castro is, uh, 11/27/64.

THE WITNESS: Okay.

Q BY SGT. COOK: Okay. Tell us what you know about this.

A After reviewing the report, and if you refer to the

second page of the arrest report, the third paragraph down under observations, it states that on March 3rd, 1996, myself and Officer O'Grady conducted an observation in MacArthur Park on Wilshire and Parkview. It also states that we observed three individuals standing next to a park bench. And that -- that we observed Defendant No. 1 Williams, and Defendant No. 2 Castro, uh, were talking to a -- another person, a witness by the name of Sanders.

It states that we observed the female, Defendant No. 2 Castro, uh, make a hand-to-hand exchange with -- with Wit. 1 Sanders. Uhm, and that in our, uh, opinion -- our expert narcotics opinion -- that they were conducting a narcotics, uh, transaction. All of that, the entire paragraph is fabricated by Officer O'Grady. Uhm, later in the report, -- well, let me get back to this paragraph. In actuality, what happened was there was [ \*\*\*\*\* CI #13 description redacted \*\*\*\*\*

\*\*\*\*\*  
 ]. Uh, we had been driving through the park. And [CI#13] had told us -- well, [CI#13] had -- Officer O'Grady had used [CI#13] on several occasions, uh, to get some information, using [CI#13] as an informant.

[CI#13] had told us that a male and a female were working the park, at this time. And that they were selling

narcotics. And that the male had a gun on him. And they had just walked by, uh, through the park a little bit earlier before we got there.

So, we already had information. Uh, so the fact that he wrote that we made an observation and we saw her dealing to someone, that was all fabricated. That didn't happen.

Later in the report, uh, it states that when we pulled up to detain the, uh, the defendant Williams and Castro, it also -- uh, that, uhm, -- that Officer O'Grady, uh, observed, uh, Defendant No. 1 Williams, uh, with his left hand, drop a -- a weapon to the ground.

Uhm, that is also incorrect. We had knowledge that Defendant had a gun. However, when we detained them, we didn't find nothing -- we did find the narcotics on Miss Castro. I did find that. That was legitimate. That was not planted. The gun, however, uh, after Mr. Williams was patted, there was no gun recovered. However, uh, O'Grady began looking around in the vicinity where we were. And he, eventually, found a gun.

Uhm, and, of course, what happened was he wrote that he actually saw him discarding the gun. When, in actuality, we didn't. They probably saw us coming through the park, got rid of the gun, or Mr. Williams got rid of the gun. And we just happened to find it where he dropped it.

Uhm, --

Q BY MR. ROSENTHAL: So, the report was fabricated as to the observations of seeing the sale?

A That's correct.

MR. MCKESSON: And the throw.

Q BY MR. ROSENTHAL: And the throw of the gun?

A Yes.

Q Why?

A This was -- this area is, uh, Officer O'Grady's area. This is his informant. I just happened to be working with him this day. So, he was in charge of the park. That was his area. I was just -- in fact, the informant was also his informant. Uhm, it was one of his arrests. And it was his call. Uh, he wrote the report. And I just backed him on it.

Q So, Officer O'Grady had information which, uh, would have led him to believe that this -- these people were involved in narcotics, and didn't see the observations, but made the arrest anyway?

A Right. [ \*\* CI #13 info redacted \*\* ], we had just gotten the information from a -- like I said, [ \* CI#13 info redacted \*]. We drove through the park. Saw them. They probably saw us before we saw them. And, you know, he had already discarded the -- the weapon. The female was walking the opposite way. I detained her. Officer O'Grady detains, uh, the male. After they're detained, and we're talking to

them, and we find the narcotics, we start looking around for the gun. 'Cause he didn't have it -- he didn't have a gun on him. And, eventually, we did find the gun.

Q The narcotics found on Defendant Castro, were those -- that amount of narcotics, were they sufficient for purposes of sales?

A Yes. If I remember correctly, they were. I believe it was in a canister. And there was 32 pieces. A little over 13 grams, which is, for my purposes, my expertise, I believe that's sufficient to call it possession for sales.

Q Okay.

A Thirty-two rocks.

Q Now, I was looking through the sort of a list of officers that I prepared, who you've mentioned were involved in criminal conduct.

A Mmnh-mmnh.

Q And I do not see Officer O'Grady's name anywhere on those lists. Were there any other instances of misconduct that you're aware of, on the part of O'Grady?

MR. MCKESSON: Let me just say this. Uh, when we went over that list -- I just want to say this for the record -- one of the things that Officer Perez was talking about, he was talking about planting. He was talking about planting guns and planting dope and beating up people. And that was the list.

Basically, the question was, who was in the loop. And the questions related to planting guns, planting dope, and thumping people. And I don't think that allegation was made upon, uh, Officer O'Grady.

MR. ROSENTHAL: That's fine. But we need to hear the answer from Mr. Perez.

MR. MCKESSON: Oh, but I'm just stating that when you said that he went through the bad guys.

MR. ROSENTHAL: Right. I mean, the -- and we all know -- and when we initially talk about officers in the loop, and we also discussed officers with knowledge of criminal conduct, but were not necessarily in the loop.

Uhm, I think Officer O'Grady's name may have been mentioned. I do not have it down on a list as being either in the loop or involved.

MR. MCKESSON: He -- he said he was out. In fact, he said he was out of the loop.

MR. ROSENTHAL: Okay.

THE WITNESS: He is not -- he is not one, uh, that we trusted in the loop, per se.

MR. ROSENTHAL: Okay.

THE WITNESS: In other words, if we were gonna go do something, he's not one that we'd, uh, ask to come and help us. However, on very few occasions -- I mean, very, very few -- I'd



say less than five did I work with Officer O'Grady. This happens to be one of them. And I remember this vividly. I mean, this is very clear in my mind.

Q BY SGT. COOK: Okay. For clarification, on the record, of being in the loop, if I'm understanding you correctly, being in the loop is being involved in the criteria that we've already established -- uh, that you've established, in prior interviews. That criteria being planting evidence, fabricating reports, fabricating, uh, probable cause, and lying or committing perjury in court?

A Mmnh-mmnh. Yes.

Q Now, correct me if I'm wrong, my understanding that if you were not in the loop, you didn't trust a person.

A That's correct.

Q That doesn't mean that that person did not commit misconduct or have knowledge of misconduct?

A That's correct. Uh, if you remember describing saying that some people were not in the loop, but some people were trying to establish themselves. Like, let's say, uh, -- I talked about several officers that I said they were not in our loop. But they were trying to prove themselves. They were trying to do their own thing.

Which, what I'm trying to say is, although, they may not be trusted by us, it doesn't that they're trying to bring

themselves up to us and say, look, this is what I'm doing, and you can trust me. It doesn't, necessarily, mean that. Officer O'Grady wasn't in the unit for a long time. Uh, but he wasn't trusted. Uhm, but it doesn't mean that wasn't doing anything that, uh, can be construed as criminal, uh, as far as fabricating evidence, uh, fabricating P.C. Uh, I remember this incident vividly. And we did not do an O.P. We did not conduct an observation, uh, at MacArthur park.

Q So, again, for the purposes of the record, being in the loop means that you trust the person?

A Well, that person, in your mind, uh, has been involved in enough stuff within the unit to be trusted not to, uhm, turn you in. Uh, you can trust them enough to be involved in just about anything and you know that they're gonna back you up.

Q Okay. And, also, for the purposes of the record, even though a person is not in the loop, that does not necessarily mean that that person did not commit criminal acts or misconduct?

A Absolutely. There's people who are trying to get in the loop who may do something, but they're still not in the loop. Or at least, not, uh, regarded as being in the loop.

Q Okay.

Q BY MR. ROSENTHAL: Other than this particular instances, did you ever make any other observations of O'Grady

wherein he would have prepared a false police report or put evidence on a suspect or anything like that?

A No, I would have to see a report. Right off the top of my head, no. The one thing I do remember is him hitting a defendant on the ground, uh, in the head. And then, the defendant thought it was me. And the complaint was made. And I took the complaint. Of course, I didn't say it was Officer O'Grady.

But I remember that.

Q Well, we -- we talked about that one before.

A Right.

Q Uh, but other than those two -- that one and this particular incident we're talking about today, unless, I saw a report, I can't remember any right off the top of my head.

MR. MCKESSON: Can we go off the record for a second?

MR. ROSENTHAL: Okay.

SGT. COOK: Okay. We're going to take a break. The time is now 1303 hours.

(Off the record at 1:03 p.m.)

(Back on the record at 1:14 p.m.)

SGT. COOK: Okay. The time is 1314 hours. We're back on the record.

Q BY SGT. THOMPSON: Ray, just for clarification, whose idea was it to write the report the way it was written? I know

O'Grady wrote the report. Was there a discussion between yourself and Officer O'Grady as to how this report was going to be written? The fabrication that was involved in here, whose decision was that?

A From start to finish, [ \*\* CI #13 information redacted \*\*\*\*\* ], to how the report was written, to who was being booked, and how everything was recovered, was Officer O'Grady's idea. I wasn't in charge of the park. It was really -- it meant very little to me. It was his arrest. So, I just went along with it.

Q So, it was his decision to write the report the way it was written?

A Yes, sir.

Q The way things were recovered as it pertained to the report?

A Yes, sir.

Q Okay. And you said you had worked with O'Grady about five times?

A Total.

Q Total five times?

A Total. I mean, this might have been our very first time working together. Uh, but I think maybe total, maybe five times.

Q And just, real quickly, did that surprise that -- the

way he did it, because you indicated that he wasn't really in the loop type of thing?

A Did it surprise me back in 1996?

Q Right.

A In 1996, this was probably -- he had probably been in the unit a month or two. So, to me, this was probably just him trying to prove himself in the unit. You know, him, you know, trying to become, uh, trusted within the unit. So, it really didn't surprise me.

Knowing him, now, how -- you know, how he is, and, you know, uh, what we think of him in the unit, uhm, it's, uh -- it's a little strange for him. Because we just don't work around him. He does his own thing. He has his own little gang. And we don't -- I really don't, uh, work with him. I wouldn't use him to, you know, make arrests or assist me in other things. So, very rarely do I work with him.

Q Okay. I want to thank you. The time now is 1315 hours. Okay. We're ready for Jeff.

MR. ROSENTHAL: We're off the record.

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

(Back on the record at 1:30 p.m.)

SGT. PAILET: Okay. This is going to be a tape-recorded interview of RHD Task Force investigation. Today's date is October 15th, 1999. The time is 1330 hours. Location of this

interview is 1 Gateway Plaza. Present to be interviewed is Rafael Perez. The interview is being recorded on Tape No. 218886, Side A. Being conducted by, uh, Jeff Paillet. Serial 23307. Uh, Sgt., uh -- uh, John Cook. Serial -- John?

SGT. COOK: 25353.

SGT. PAILET: 25353. Detective, uh, William Cox, Serial No. 21605. Uh, also present during this interview is, uh, Deputy District Attorney Richard Rosenthal. Representing, uh, Rafael Perez is his attorney Winston Kevin McKesson. And the cert- -- certified stenographer, uh, Sara Mahan is also present, uh, transcribing this interview.

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

THE WITNESS: Yes, sir.

Q BY SGT. PAILET: Okay. Uhm, Mr. Perez, just prior this interview, I gave you an opportunity to review the paraphrased statement that was prepared, uh, from your October 1st, 1999 interview, regarding this, uh, -- this matter. Uh, have you had an opportunity to review that statement?

A I have reviewed it.

Q Okay. And is that an accurate statement, uh, as best as you recall?

A Yes.

Q Okay. If you could, -- uh, if could just, uh, sign the last, uh, page. It's a three-page statement. Just, uh,

sign -- sign the last page. Go ahead and put today's date, October 15th.

A (Witness complied.)

Q And if you'd write, uh, "The above is correct." And, if you could do me a favor and just initial the top upper, uh, left-hand corner of -- on, uh, the second page also.

A (Witness complied.)

Q No, you sign -- no, -- yeah, you signed that one. So, that's fine. Okay. Thank you very much.

A Mmh-mmnh.

Q Uhm, what I want to do is just go over a couple things regarding that. Uhm, there's just a couple inconsis- -- uh, I should say, uh, inconsistencies between what Mr. Hassan says occurred, and what you say occurred. So, I'd like to go over it with you and see if, uh, maybe we could clarify some of those issues.

Uh, in the initial arrest report, he says that, uh, you had stopped him. And he was double parked. You said he was driving eastbound and you -- when you stopped him, cutting him off. That he was never double-parked at any time. Do you recall if that's, uh, --

A I remember stopping the vehicle in front of his. Uh, mid- -- about two-thirds of the way of the block. Uhm, I -- I don't recall the -- the vehicle moving. Uh, so, I definitely

just didn't pull in front of him and --

Q He says his vehicle was moving very slow.

A -- block him.

Q And that you, basically, stopped in front of him, cutting off his -- his, uh, access, or his --

A His vehicle moving very slow like one mile and hour maybe? Or --

Q Uh, --

A If -- if he says maybe one mile an hour, something, I mean, maybe that's possible.

Q Uh-huh.

A Because I'm driving towards him, and I see the car almost at a stop. So --

Q Okay.

A -- and I pull in front of him. So, if he says he was just barely moving, that's possible.

Q Okay.

A If he says he was just driving normal speed, that's impossible.

Q Okay.

A 'Cause, I mean, I would have -- I would have had to turn around and come back and follow him. I mean, --

Q Right. Okay. So, if he was moving slow, it might have happened that way? If not, if he was driving, as you said



normal, it didn't?

A Right.

Q Okay. Uhm, initially, you -- you stopped, and as you say, all said -- which he corroborates -- that, basically, you stop him. You order him out of the car. You have them all five, basically, standing either against the fence or a wall facing that fence or wall. Uhm, he says you let -- you advised him to leave the vehicle keys in the ignition. Do you call that?

A I don't recall it, but it's possible.

Q Okay. Uhm, at no time did he -- he says, at no time did he give you consent to search the car, or you didn't, uh, ask him for consent.

A I did ask him for consent. In fact, he's the one that told me that, yeah, there's a gun in the trunk.

Q Okay.

A I mean, obviously, I had to ask him about it. And I, obviously, asked him if I could get it out, you know. I definitely asked him about it. Uh, and I asked if I could -- if I could get it out. I did.

Q BY MR. ROSENTHAL: Well, how did it come out that he had a gun in the trunk?

A We -- well, one of my standard questions is always, you know, "Are there any weapons in the vehicle?" I mean,

that's something we always ask. And he said, "Yeah." And he says -- you know, he started telling me about he's a -- he works at a tow yard. And he's been robbed several times.

And I asked him where the gun was. And, uh, he told me it was in the trunk. Uhm, and I'm sure I asked him something like, uh, you don't mind if I look around in the car? And he said, "No." But I don't know if you're asking him, uh, did I say, "May I have consent to search your car." I probably stated something like, "You don't mind if I look in your car?" And he said, "No."

QQ Okay.

A And -- and maybe he's hung up a little bit on the wording, or something like that. But I -- I asked him. I definitely asked him.

Q Okay. So, basically, you're -- like you say, you asked him -- you didn't -- for specifics sake, say "Can I search your car?" But you asked him, hey, do you mind if I look in your car?

A That's correct.

Q And he said, "Okay."

A Right.

MR. ROSENTHAL: Let's make sure we've got pauses.

Q BY SGT. PAILET: Okay. Uhm, when you -- when you go in, uh, do you -- do you recall if you searched the interior of

the car first? Let -- let me show you a picture of the car, just to help you out. This is a photograph of Mr. Hassan's car. And, just for the record, uh, it's one, uh, -- one page. It has three individual photographs, depicting a 1990 -- 1963 Cadillac Coupe.

A Convertible.

Q Convertible, yeah. Do you recall if, uh, you searched, uh, the interior of the car first? Or did you go directly to the trunk of the car?

A I went directly to the trunk of the car. I, myself, never searched the interior of the car.

Q Okay. So, you --

A I went straight to the trunk.

Q Okay. Do you recall before -- before you -- before going to the trunk, did you, uh, the vehicle keys out of the ignition? Or --

A I needed the keys to, obviously, to get in the trunk. So, I must have gotten the keys from somewhere. I don't really recall where exactly I got the keys from, whether they were in the ignition, or I got them from Mr. Hassan.

Q Okay. Uhm, when you opened the vehicle trunk, and you begin searching the trunk of the car, uhm, tell me how you located the gun.

A Uh, I recovered a black bag. I believe it was black.

I -- and I saw the gun inside there. I did a chamber check. It wasn't loaded. There was no magazine in it. There was a, uh -- a magazine in the bag. Uh, it was not in -- the magazine wasn't in the handgun. Uh, but I brought it over and put it in our -- in our vehicle -- my police vehicle.

Q When you say "brought the -- brought it over and put it in our police vehicle" are we talking about the bag, or are we talking about the gun?

A The -- the actual gun and the, uh, and the ammunition.

Q The ammunition. Okay. I'm just going to show you another photograph of this trunk. There are -- these photographs are, obviously, were -- were just recently taken. Uhm, and this is, according to Mr. Hassan, this is the -- he states, uh, in the bottom photograph, there's a black bag that has "Kenwood" inscribed upon it. It's a Kenwood stereo, pull-out stereo bag.

And, apparently, in this bag, there's two compartments. And there's a larger compartment that he says the gun was in. And then, a smaller compartment that he says the loaded magazine was in. And he says this is the approximate picture -- how the picture is taken, was approximately where the bag would have been in the trunk.

MR. MCKESSON: If you don't mind, Detective, can we --

SGT. PAILET: Sure.

MR. MCKESSON: -- mark these as exhibits. So, if you look back at the, uh, attached photocopies and call the first one maybe like Exhibit 1.

SGT. PAILET: Okay.

MR. MCKESSON: The pictures of the Cadillac.

MR. ROSENTHAL: All right. Uh, we're gonna do this according to exhibits that were previously marked. We've already done Exhibits 1 and 2.

Because of the way we're referring to these, we will need to attach these exhibits.

SGT. PAILET: Okay.

MR. ROSENTHAL: So, we'll need to attach the photo. And the Cadillac itself, will be Exhibit 3.

MR. MCKESSON: All of them are of the Cadillac.

MR. ROSENTHAL: Well, I mean, of just the car without any, uh, trunk opened, will be Exhibit 3. And Exhibit 4 will be the photographs of the trunk.

We'll have to make, uh, copies of these to give the, uh, court reporter, for her to attach to the transcript.

THE WITNESS: I'm looking at what would be Exhibit No. 4, uh, the picture of the trunk. And I do see a bag in the trunk on the left-hand side of the trunk. Uh, a bag -- a black bag.

Q BY MR. MCKESSON: On which side of the trunk?

A The left-hand side.

Q Oh, the black bag?

A The black bag. Uhm, with a "Kenwood" written on it.

SGT. PAILET: Right.

THE WITNESS: If you're asking me if that's where the bag was, I don't recall. Uhm, if you ask me if that is the same bag, I don't recall.

Q BY SGT. PAILET: Okay. You just recall that there was a black bag that you obtained the gun from?

A Yes, sir.

Q Okay. Uh, okay. Yeah. And I'm just giving you these just to see if it doesn't refresh your memory at all.

Q BY MR. ROSENTHAL: Just to make, uh, sure I understand, the gun itself, without the magazine in it, was in the large compartment, or in a large compartment in the bag?

SGT. PAILET: It was in a compartment.

THE WITNESS: All I remember it was a -- it could be that -- that same bag. But I remember it was like a -- I thought it was like a camera bag. But it could be a stereo bag. Uh, and the gun and the magazine were in the bag. So, I -- you know, that I remember.

Q BY MR. ROSENTHAL: They were right next to each other?

A Yeah.

Q Okay.

Q BY SGT. PAILET: Were they -- okay. That's a

distinction, actually, that I want to try to clarify. Were they right next to each other, in other words, in the same compartment? Or were there separate compartments in this bag where the gun have been in one compartment and the loaded magazine in another compartment?

A I don't --

Q Or if you recall.

A I don't remember compartments. And that's why, in my mind, I remember reaching in the bag, pulling a gun and a magazine out of the -- out of the, uh, the bag. But, in my mind, I don't remember any compartment to the bag itself.

Q Okay. So, you're saying it could have been in a compartment, but you don't have a recollection of that?

A My recollection is that it was in a bag, uh, with the magazine and the gun in one section of the bag. I don't recall compartments to that particular bag.

Q Okay. When you recovered the gun, uh, you stated that you then, walked back to your police car. And where did you put the gun?

A In the trunk.

Q In the trunk. Now, Mr. Hassan says he recalls seeing you walking around, or let's say he says, initially, after you recover the gun, you then, approach the group of, basically, Mr. Hassan, and the other four individuals that are being

detained. And you approach two of these people, who are the La Mirada gang members, and ask them, hey, is this your gun? Or you ask them questions, did you know this gun is in the car? Which they say, "No."

And, at that point, you, then, go to Mr. Hassan and ask him. And he tells you that's his gun. Did that take place? Or --

A No, that definitely didn't take place.

Q Okay. That did not take place?

A I would have no reason to carry a gun around to the gang members and say, hey, who -- which one of you is -- you know, whose gun is this? You know, that -- that definitely didn't take place.

Q Okay.

Q BY MR. ROSENTHAL: Mr. Hassan had already told you it was his gun?

SGT. PAILET: We're gonna just go on pause, uh, take a little break. The time is gonna be 1340 hours.

(Off the record at 1:40 p.m.)

(Back on the record at 1:42 p.m.)

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

SGT. PAILET: Okay. Back on tape. The time is 1342 hours.

MR. ROSENTHAL: Let me just -- I had asked a question. We didn't get an answer.



Q Uh, Mr. Hassan had already told you it was his gun?

A Mr. Hassan -- that's why I went directly to the trunk. Mr. Hassan already told me that the gun -- that he had a gun there.

Q All right.

A He had already told me.

Q Okay. Now, by this time, you had put guns on other gang members.

A Okay. Yes.

Q So, is there any reason why you didn't just put this gun on one of the La Mirada, uh, gang members who was there?

A Mr. Hassan had already told me that the gun was his. In fact, I don't know why I remember this, but was the gun registered to him? I think I remember the gun even being registered to him.

SGT. PAILET: Yes, it was.

THE WITNESS: It was? There was no need. I mean, it -- he -- when I first talked to him, when I -- I pulled him to the side and I talked to him, he had already told me, "Yes, I have one in the trunk. I use it 'cause I have a tow trucking business. And I've been robbed a couple of times."

And, so --

MR. ROSENTHAL: Okay.

Q BY SGT. PAILET: Are you real clear, as far as not

approaching the other -- uh, the other gang members that were present with Mr. Hassan and asking them, hey, is this your gun? Or who owns this gun? 'Cause he seems real adamant that that occurred.

A That's impo- -- I -- I'm -- I'm very certain that -- as to that. That I took the gun out of the trunk, took it out of the bag, and then approached these four gang members and Mr. Hassan against the wall and say, who -- who does this gun belong to?

Q Right.

A And I'm just trying to be as blunt as I possibly can. Number one, I don't need to do that. Because if I wanted to put it on somebody, I'd have just planted it on somebody. What's the big deal? I'd have picked out, uh, whoever the worst gang member was and just planted it on him. I don't need to start asking. I'm just --

Q Right.

A -- being honest. Uh, Number two, Mr. Hassan already told me the gun was his. He told me that it was in the car -- or in the trunk. I never even searched the, uh, interior of the car. Somebody else did. I went straight -- I was the only one -- I was the first one to go search the vehicle, which was the trunk. I went straight to the gun. And somebody searched the interior, for whatever else. But, by that point, I had

already recovered the gun. Because I went straight to the trunk.

Q When you -- when you were searching the trunk, and as you stated earlier -- you stated earlier there were no officers present; correct?

A That's correct.

Q Okay. When do you recall the very first back-up officers arriving?

A I know they -- they -- uh, several officers arrived. And they just went straight to where the defendants were against the wall. Uh, at what point exactly, uh, I'm not a hundred percent sure. And it was, obviously, during, uh, the time that I had recovered the gun, put the gun in the trunk, and was talking to Mr. Hassan.

Q And when you say the trunk, do you mean the trunk of your police car?

A The trunk of my police vehicle, yes.

Q Okay. Can you recall which officers -- which back-up officers you recall actually being at the scene while you were there?

A I remember, uh, Officer Buchanon.

Q And how do you recall -- remember Officer Buchanon?

A I remember seeing him there. I remember talking to him about the case later. 'Cause I remember him, uh, being

there and me talking to him about the case.

Q Now, what do you recall Buchanon doing at the scene?

A Just there. You know, back and forth. Looking at the, uh, talking to the defendants. Uh, I believe, uh, F.I.'s were being filled out. Uh, things like that.

Q You know -- you know what, let's go, uh, -- let's jump ahead a little bit. Let's go -- when did you first approach Officer Buchanon and ask him to testify?

A Uh, when a city attorney, uh, downtown, caught me in the hallway and -- and I believe it was an Asian city attorney, and told me that he was gonna need somebody else to testify on the Hassan case, 'cause they were gonna re-try it.

Uhm, I remember telling him that I would call him back, and that, uhm, I would look at the report and try to remember who else was there, and have that officer call him.

Q Now, did you know who you were going to ask, at that time?

A Not really.

Q Okay. And that's because there was no officer there, right?

A Uhm, I needed to find out -- see -- you know, I needed to look at the report and see who had, uh, -- who had responded to the call, and who I was gonna ask.

Q Okay. When you look at the arrest report, you don't

mention anyone else responding. And I'll give you a copy of the arrest report to look. But there's no mention of any other officers being at the scene.

A Right.

Q BY MR. ROSENTHAL: And let me ask you. On the face sheet, who wrote the report?

A I did.

Q And do you have a second officer on that?

A Officer Durden.

Q Okay. So, Durden was with you at the time?

A Yes.

Q All right.

A Right.

Q BY SGT. PAILET: Now, why didn't you have Durden testify?

A Well, Durden did also testify. They needed someone else that can testify that they saw me getting the gun out of the car loaded. That's what they wanted. We had already, -- you know, Durden had already testified to a certain portion. Or, uh, something different. The City Attorney had told me that needed someone to testify that they saw me getting the gun out of the trunk.

Which is why, when I went and got the report, and I sat down. Yeah, let me see, who can I ask to go testify on

this. Okay. And I talked to Officer Durden. Who was there? Buchanan was there. Oh, that's fine. Uh, Buchanan, do me a favor. Call the city attorney, uhm, we need you to testify that you saw me getting the gun out of the trunk loaded. He was, "All right. Yeah. Let me just see the report. And give me the number. I'll give him a call."

Q BY MR. ROSENTHAL: Okay. When you testified at the first trial, you testified that you took the gun out and that the magazine was in the weapon, at the time?

A Yes.

Q BY SGT. PAILET: Okay. Where did you approach Buchanan at?

A Rampart Detectives.

Q In the C.R.A.S.H. office?

A Yes, sir.

Q And if you could, as best as you recall, how the conversation went down, you ask him, hey, Buchanan, can you -- do you recall this stop?

A I think I tried to remind him of the stop. Or of the -- the actual events. Uh, he wanted to, uh, see the report. And he needed the number to call. And I explained to him what I needed him to testify to, that he had seen me, uh, removing the gun and that the gun was loaded.

Q Did Buchanan say, while you were talking to him, oh,

yeah, I remember that stop?

A Yeah, he remember the -- the stop. He remember the -- the Cadillac. He remember the incident.

Q And you remember Buchanon being there?

A At this scene?

Q Right.

A Yes.

Q What if I was to tell you he wasn't there?

A I think I remember him being there.

Q What if, uh, -- do you recall who Buchanon was working with?

A No. Uhm, I thought I remember reading somewhere that it was Richardson.

Q Right. That was in the transcript.

A But I'm not a hundred percent sure. It was in a transcript?

Q It's in the court transcript.

A Did you show me the transcripts?

Q You know what? I don't think I did.

A I don't know why I want to say Richardson. But that's the name that pops into my head. But I really don't --

Q BY MR. ROSENTHAL: I'm sorry. What -- what is it about Richardson? I missed that part.

SGT. PAILET: Oh, no. I just asked him who did he think

Buchanon was working with.

MR. ROSENTHAL: Oh, okay.

SGT. PAILET: And he says he seems to recall something about Buchanon working with Richardson.

THE WITNESS: Right. But I'm not even a hundred percent sure of that. But I tend to -- I -- I remember Buchanon being there. I -- I, uh -- I do remember him being there.

Q BY SGT. PAILET: Can you remember exactly what he was doing when he was there --

A There, came, --

Q -- specifically?

A -- good-bye, and then left. What he did specifically?

Q Right.

A There was really nothing to be done. I mean, stand-by. Make sure the defendants don't start running or something. Uh, I don't remember him doing anything specific.

Q What other officers, besides Buchanon, do you remember being there?

A I don't. I know -- oh, you know what? I remember Patel being there. Uh, Officer Patel being there.

Q Okay.

A But I don't remember who his partner was. I can't remember. I remember being -- I remember several units arriving and then leaving shortly thereafter, after everything was under



control. One person was going into custody, and everybody -- the rest of the gang members were being kicked loose.

Q Okay. Do you recall, when you left, you -- you later had Hassan's vehicle impounded; right?

A I believe so.

MR. ROSENTHAL: Can we take a break for just a moment? Let's go off the record.

SGT. PAILET: Sure. Let me, uh, -- we're gonna take a break. The time's, uh, 1350 hours.

(Off the record at 1:50 p.m.)

(Back on the record at 1:55 p.m.)

SGT. PAILET: Okay. Back on tape. The time's gonna be, uh, 1355 hours.

Q Okay. Mr. Perez, I'll tell you right now, okay. We'll just go straight to the record. Buchanon was not at that arrest.

A Okay.

Q All right. We've got the Daily Work Sheet, which I'm gonna show you a copy of. Buchanon shows off on a vacation day. The unofficial time book shows him off on vacation. The official time book shows him off on vacation. Payroll shows him off on vacation. Buchanon was not at that arrest.

A Okay.

Q All right. And my question going to you, is what

made you go to Buchanon -- or why did you get Buchanon to testify?

A He was just, uh, -- I don't -- well, I know he was at the station that day when we got back to work that day, after I talked to the City Attorney. I don't know. For some reason, I still to this day -- you know, I have no reason to say yeah or nay. I mean, if he was vacation, and I asked him to testify, then that's what I would tell you.

But, for some reason, I still remember him at the scene. Not doing anything specific, but I remember him at the scene. I don't know why. I know when we got to Detectives, I asked him about the -- the arrest. And he seems to remember. But he remembered being there. And that's why I definitely wouldn't have picked someone, you know, who was off that day.

Uhm, but I -- I remember talking to him. Me and Durden talked to him about the incident. And he remembered. And, uhm --

Q What did he remember? What did he say he remembered?

A He remember the stop. Well, I mean, I didn't go into full detail of the arrest. I remember -- I remember asking him, "Do you remember about the stop? The -- the guy in the Cadillac? The Hassan guy?" You know, I -- I really remember. I don't know if he shows on vacation or not. Or you're saying he does. But I don't -- now, I really remember almost talking

to him about it. And he said, "Oh, yeah, yeah. I remember." I really do. I don't know if he came in and worked a couple of hours and decided to take off, or what. But I really remember him being there. I really do.

I have no -- I really have no reason to say, no, he -- he was there and he really wasn't. I remember him being there. I remember him talking about -- I remember talking to him about the incident, and him going, "Yeah, yeah. I remember. Just let me see the report just so I can review it. And I'll call the city attorney." You know, I really don't know why he shows on vacation, or he's on -- on the log.

Q I'll tell you. Hey, he says he's working with Richardson. And he's not working with Richardson.

A Okay.

Q Okay. He's working with Cohan.

MR. ROSENTHAL: Richardson's working with Cohan.

SGT. PAILET: Richardson's working with Cohan.

THE WITNESS: Okay.

SGT. PAILET: They never even respond to the scene. Okay. On any line-ups, he also says he's working with Patel -- or with Stepp. Stepp's working with Patel, because it was Patel and Stepp who you have impound the vehicle.

THE WITNESS: Okay.

Q BY SGT. PAILET: Okay. Is that -- looking at that,

does it --

A I remember Patel. I don't remember Stepp.

Q Okay. Uh, do you recall Patel had -- impounding the vehicle for you, or --

A Do I recall that, specifically, no. But I remember he was there. We probably left with the -- with the defendant and they just stayed to impound the vehicle. That's probably what happened.

Q Right. Uhm, do you recall reading Buchanon's testimony at all?

A No.

Q Let me ask you, did any officers leave the location prior to you leaving?

A Yes.

Q Okay. Who were those officers?

A I really don't remember. I remember we were there. I remember there as being several officers arriving.

Q Okay.

A Once we started kicking people loose, some of the officers left. Uh, what I'm saying, kicking people loose, I mean, the other -- the four --

Q Releasing the other four individuals?

A Right. 'Cause we released them one-by-one. I didn't want to release all four at one time.

Q Right.

A I remember releasing one at-a-time and telling them to go ahead and go on home, or whatever. And there was already officers that had left. Who were they? I really don't remember.

Q Back on tape, Side B. Did any officers leave -- prior to releasing any of the gang members, did any officers leave?

A You know, at one point, the officers left. You know, whether it was right when we were releasing people or right before or right after, I really don't remember.

Q Did any officer, when the first back-up unit arrived, and assisted you in the search, did they leave prior to any other officers coming on scene? In other words, did they leave you with just you and the five suspects?

A I don't think so. Did -- did the responding unit show-up then leave before another unit showed up?

Q Right. And leave you with -- you and Durden with the five detainees?

A I don't think so. I'm not a hundred percent sure. But what I remember is -- I mean, I'm trying to control -- I'm handling this scene. I'm -- you know, I'm recovering the gun. I'm putting it in my trunk. I'm talking to my partner. And I'm talking to Mr. Hassan. And maybe even talking to some of the -- to some of the gang members that are there.

Uhm, but I really don't remember a unit showing up, saying, well, you got it under control, see you later. I'm gone. I remember officers getting out, controlling the four defendants, and Mr. Hassan there up against the wall.

Q When you approached -- okay. When -- you're saying when you approached Buchanon, Buchanon remembered this?

A When I talked to him at Rampart Detectives, I -- he -- I remember talking to him about it. I mean, I remember saying, "Do you remember that, uh, -- the guy we guy we stopped at, uhm, that Arabian guy in the -- in that Cadillac?" I mean, I -- I kind of just briefed him very briefly on the incident.

And he remembered. I mean, yeah.

Q Was Buchanon a P-1 at that time?

A I really don't know, 'cause he was a reserve P-1. And they made him a P-2, at some point.

Q BY MR. ROSENTHAL: After -- after the arrest of Hassan, you would have briefed C.R.A.S.H. the next day about what happened, right, in roll call?

A Probably, yes.

Q So, Buchanon would probably have been there for that roll call and would have heard your briefing?

A I'm only guessing. I mean, I -- I'm assuming he would be there.

Q Is there any other way that Buchanon would have known

about this arrest, assuming he was not there and he was not on duty, other than your briefing in roll call?

A Unless he had read a report or something. Other than that, --

Q Is -- is this the kind of case you'd have spoken to other officers about who were in the loop, you know, that, hey, yeah, I -- I -- you know, I put the gun -- or the magazine in the gun kind of thing?

A This is very uneventful. I mean, it was a -- a misdemeanor arrest, number one. So, it wasn't really that -- and it was not a gang member, number two. And it really wasn't that big of a -- a deal. It really wasn't. Uh, it wasn't something we had talked about and talked to each other about. You know, it wasn't -- I mean, it's -- it was a nothing case, you know. In my eyes, at the time, it was a nothing case.

Q Why did -- why did you hook him up at all, instead of just warning him and sending him on his way?

A Uh, you know why I think I did? 'Cause he started telling me that, uh, another officer had stopped him before. And they told him that it was okay. And if I remember correctly, he -- he was telling me that he was stopped by some other officers. And that he had the gun. And they told him it was okay to have it there. Or something like that.

And I said, well, you know what? You've been stopped

before with gang members before, and -- and I think I wasn't gonna give him a break this time.

Q BY SGT. PAILET: Okay. Now, as far as, uh -- I know you stated earlier that once you recovered the gun, you had taken it back to the trunk and left it there.

A Mmnh-mmnh.

Q Again, Mr. Hassan --

A Yes.

Q -- is very adamant that he observed you load the gun in his presence at the front of his car. You had the gun, you had the magazine. Or you were holding -- let's step back. Or you had -- you actually had the gun in your right front pant's pocket. And you had it and it was -- it was empty. The magazine was in another, uh, location.

And some officer asked you, "Hey, are you gonna let it go like that?" And you respond by saying, "Hell, no." This, again -- this is a scenario Hassan gives.

You remove the gun from your pocket. You come up with a loaded magazine. Insert it into the gun. Chamber it. And then, make the comment, "It's done."

A Okay. Well, to that, I can answer that I am a hundred percent positive that that did not occur. I am absolutely sure of that. That I'm very positive. That never happened.

Q Okay. Did you any -- at any time, at the scene, load



that gun?

A Never.

Q Okay. Did you --

MR. MCKESSON: When you say "load" what do you mean?

SGT. PAILET: Load the gun, as far as either insert the magazine into the weapon, or actually all -- load it up all the way, where you chamber around a live round of ammo into the mag- -- into the gun.

THE WITNESS: That -- that weapon was never loaded. Uh, I never loaded it. And it was loaded. I have no reason to put, you know -- I put it in my trunk and -- and my word is enough. I don't need to go show him, oh, look. I'm gonna rack a round in a -- in a .45 or .9 millimeter, or whatever it was. I have no need to do that.

I definitely -- I am a hundred percent sure that I did not do that.

Q BY SGT. PAILET: Other than saying that Buchanon was there at the scene, can you specifically remember any particular thing that he did?

MR. MCKESSON: Not to be rude, Detective. And I know you have a lot of leeway in this. But --

SGT. PAILET: Right.

MR. MCKESSON: -- you've asked that question about three different ways, three different times.

SGT. PAILET: Okay.

THE WITNESS: You know, again, I --

Q BY SGT. PAILET: You just -- uh, you just remember him being there?

A I remember him being there. I remember Durden being there. I can't even tell you what specifically Durden was doing. I -- you know, I remember seeing the faces. That's about -- you know.

Q How about other than Durden, yourself, Patel, Buchanon, who else?

A I can't -- I really can't -- I can't remember who Patel was working with. I know you showed me this report and said Stepp. But I don't remember Stepp's face being there. I really don't. Uhm, and whoever Buchanon was working with, I really don't remember.

Q If I were to show you some photographs of the supposed gang members -- the La Mirada gang members that were present there, do you think you'd recognize them?

A Probably.

Q Okay. I'm going to show you a picture of this guy, uh, Oswaldo Candelerero, I believe his name is. La Mirada Locos. Do you recall if he was, uh, one of the individuals that was there?

Q BY MR. ROSENTHAL: Well, let me ask this first. Did

you prepare F.I. cards on the gang members who were with Hassan that day?

A I don't recall. Did I prepare? There was probably I-cards already prepared on them. I might have updated the I-cards.

Q Okay.

A Uhm, I would have to look to see.

Q Let me just ask. How do we -- why are we picking these particular photos out?

SGT. PAILET: 'Cause these are people that Hassan seems to recall maybe were there.

MR. ROSENTHAL: All right.

THE WITNESS: I believe that Mr. Oswaldo Candelerero --

Q BY MR. ROSENTHAL: Why don't you spell the last name?

A C-a-n-d-e-l-e-r-o. I believe he was there. He was there.

Q Now, what's the booking number on that photograph?

A There's no -- he wasn't arrested. This is just a I-card.

Q All right. This is a subject identification card. Do we have a particular identifying number that we can refer to here?

SGT. PAILET: You can by his L.A. number.

MR. ROSENTHAL: Or maybe -- the only subject identification card -- all right. Yes, this one has a booking number of 5296394. Uh, dated 6/30/97. Completed by Williams, 25684. Okay.

Q BY SGT. PAILET: I'm going to show you another, uh, picture. This individual's name is, uh, Victor Saucedo. S-a-u-c-e-d-o.

A Him I don't remember. But it's possible. But I don't remember him.

Q Okay.

Q BY MR. ROSENTHAL: And that's --

SGT. PAILET: Let me give you, uh, for identification purposes an L.A. number of --

MR. ROSENTHAL: Well, actually, why don't we go just like we did with the last one? Well, let's see. We've got subject identification card dated what date?

SGT. PAILET: Don't have a date.

MR. ROSENTHAL: Okay.

SGT. PAILET: Oh, there we go.

MR. ROSENTHAL: Oh.

SGT. PAILET: Uh, I know that we're -- let's just go with an L.A. number. Okay. 2572465S. I guess. And let me show you, uh --

MR. ROSENTHAL: Is it S-a-m, or is it just "S"?

SGT. PAILET: "S".

MR. ROSENTHAL: "S"?

SGT. PAILET: "S".

MR. MCKESSON: That's my fault.

Q BY SGT. PAILET: Uh, let me show you another, uh, photo. This name is Mark Munoz, M-u-n-o-z.

MR. MCKESSON: Just for the record, that -- that -- that's a very bad picture.

SGT. PAILET: Oh, it's a terrible picture.

MR. MCKESSON: He appears to be an African-American. And I'm assuming he's Latin.

THE WITNESS: Yeah, I -- I know this person. Uh, he goes by the moniker of Clever. And, uhm, I believe he was there. I believe he was there.

MR. ROSENTHAL: Do we have an L.A. number on this?

SGT. PAILET: No, there's no L.A. number. Mark Munoz. Was completed by Gomez. Date of 2/21/97.

MR. ROSENTHAL: All right.

Q BY SGT. PAILET: This is gonna be another, uh -- as a matter of fact, the picture is really non-existent. I don't know if you know him or not. Carlos Cardona, C-a-r-d-o-n-a. Looks like a nickname of Cartoon. Cartoon, I think it was.

MR. MCKESSON: Just for the record, let me say, I can't make out anything on this photograph.

THE WITNESS: I know who this person is. This person wasn't there.

Q BY SGT. PAILET: Was not there?

A No.

Q I think it's Richard. But I'm not sure.

(Laughing heard.)

MR. ROSENTHAL: All right. The, uh -- this is a subject identification card prepared by --

SGT. PAILET: It's Greenfield.

MR. ROSENTHAL: Oh, Greenfield, on 6/15/92 of Carlos Cardona.

Q BY SGT. PAILET: And, again, here's another picture. Again, the picture is absolutely terrible. But just to see if you know him. His name is Julio. And I'll spell the last name. A-v-e-n-d-a-n-o.

A This person was not there. Uh, this F.I. was filled out by me, Officer Perez, 26905, on January 3rd, 1996.

MR. ROSENTHAL: Let's try and keep our voices up.

THE WITNESS: Yeah. And I don't believe this person was there. It was a total of four persons. And I believe the other person that I remember was a gentleman that goes by the moniker of Whisper.

Q BY SGT. PAILET: Whisper?

A Yes. And -- and I believe another one his last name

is Atino. They call him Moreno.

Q Moreno?

A And those are the four that were there.

Q BY MR. ROSENTHAL: In your report, wouldn't you have put the identities of the people -- the other people in the car?

A Not necessarily. I -- I didn't. I can tell you I didn't. But it doesn't necessarily need to be there.

Q BY SGT. PAILET: Did you, uhm, -- when you went and spoke to Buchanon, and that was in the Rampart Detectives; right?

A Yes, sir.

Q Was Durden with you when you spoke to him?

A Yes.

Q Okay. Did you tell Buchanon what he was supposed to, uh, testify to, or what he was to do?

A Yes, sir.

Q Okay. Did Buchanon ever make a statement? Like did he ever say, "I wasn't there?" Or he just said, "I remember it?"

A He said he remembered it.

Q Okay. Did he ask you any questions for clarification, hey, in case, well, what if they ask me this, what do you want to say? Or did he, uh, --

A All I remember talking to him about was that he saw me recovering the gun from the trunk, and that it was loaded. And he saw me unloading it. Uhm, and that was about it. He did want to see the report. And I gave him a copy of the report.

MR. MCKESSON: Are we talking about Buchanan?

SGT. PAILET: Right.

MR. MCKESSON: We talking about the conversation he had with Buchanan prior to Buchanan's testimony?

SGT. PAILET: That's correct.

Q And, you know, for a fact, Buchanan was not there when you recovered the gun?

A I know for a fact that there was no one around me when I recovered the gun. I can't be exactly one hundred percent sure to their whereabouts, where they were. I know when I recovered the gun, I recovered it and just took it to my trunk. I wasn't --

Q BY MR. ROSENTHAL: So, there's no one else who was in a position to observe you taking the gun from the trunk?

A That's correct.

Q BY SGT. PAILET: And the reason you chose Buchanan was, if I remember correctly, you asked Durden, "Hey, who was there?" Is that right?

A That's correct.



Q And Durden said, "Buchanon was there."

A That's correct. And when we brought it up to Buchanon, he goes, "Yeah, yeah. Yeah, I remember." I mean, I definitely wouldn't pick somebody who wasn't even working that day. And when we brought it up to him, of course, I didn't check the logs. But when I brought up the incident to him, he goes, "Oh, yeah, yeah. I remember."

And, for some reason, I -- I really -- I remember him being there. I -- I -- I remember seeing his face. And I know you're telling me that he was on vacation, or -- but I remember his face there. I really do.

Q Okay. Ray, as far -- uh, we're just gonna pause. The time is gonna be 1415.

(Off the record at 2:15 p.m.)

(Back on the record at 2:16 p.m.)

SGT. PAILET: Okay. Back on tape. Time is, uh, 1416 hours. Okay.

Q As far as the chronology, and the best way you remember telling Buchanon about this incident and approaching him about testifying in this incident, did you first approach Buchanon and give him the scenario as far as, hey, do you remember, uh, we stopped this, uh, -- as you earlier said -- the Arabic guy in the Cadillac?

A Mmnh-mmnh.

Q And I need you to testify about the gun. Or did you first tell him, hey, you know what, we got this case going, about the -- and I need somebody to testify about seeing me load a gun -- or recovering a loaded gun. And -- and then, he started asking specifics about the case?

A The way it went was we, or I -- we both did -- reminded him of the incident. Yeah, the Arab guy. The Cadillac. The La Mirada neighborhood. And he was, "Oh, yeah, yeah, yeah. I remember that one."

Q BY MR. ROSENTHAL: When you say "both" of us, do you mean Durden and yourself?

A Durden and myself, yes. And then, I went into specifics about what I needed him to testify to. And then, he had told me he wanted to see the report. And I also gave him the number to the City Attorney who wanted to talk to him. And he did so.

Q BY SGT. PAILET: Now, you recall -- you stated earlier that the reason you didn't have Durden testify was 'cause Durden had testified earlier on the case.

A Uh, I believe so, yes.

Q Okay. But --

A There was something that the City Attorney had said that it wasn't something that Durden could testify to. Durden was doing something else.

Q Guarding the other suspects?

A Right. Durden was doing something with the other suspects. He had already testified to that. He needed someone who can testify directly that they saw me taking the gun out of the car and it being loaded. And then, watching me unload it. That was -- that's what we needed.

Q BY LT. HERNANDEZ: Rafael, do you remember, you told specifically Buchanon --

MR. ROSENTHAL: Just one second. This is Lieutenant Manny Hernandez.

LT. HERNANDEZ: Emmanuel Hernandez. E-m-m-a-n-u-e-l. H-e-r-n-a-n-d-e-z.

THE WITNESS: Uhm, I remember telling him that I had talked to a city attorney regarding this case. And that they needed someone to testify that they saw me, uh, recovering the gun. And I asked him, "Can you, uhm, -- can you go to court on this for me? Can you testify to this for me?" He goes, "Yeah, sure. No problem." Uh, he knew what I meant by testify to this for me. Knowing -- knowing that he didn't see me. I mean, 'cause I know he didn't see me recovering it. But he knew what I meant was perjury yourself, go testify in this case for me. And he said, "Yeah, no problem."

Q BY LT. HERNANDEZ: Did you tell him what type caliber that weapon was?

A I believe I gave him the report and he just looked -  
- looked at the report. He wanted to see the report, uh, the  
arrest report to this incident before he talked to the City  
Attorney. And I had given him a copy of the report.

Q Did you tell him that there was a magazine in the  
magazine well, and that there was a round in the chamber?

A I had told him that -- that the gun was loaded. And  
that he saw me rec- -- uh, recovering the gun, and that it was  
loaded and I unloaded it.

Q Did you tell him how you checked the weapon to make  
sure it was loaded?

A I don't -- I don't think I went into specifics about  
-- specifics about that I took, uh, one -- one round out of the  
chamber and all that. I think he was gonna read that in the  
report. Uh, I had just told him that -- what I needed him to  
testify to, the fact that he saw me recovering the gun, that it  
was loaded, uh, and he saw me unloading it.

Q Thank you.

Q BY SGT. PAILET: Is there anything else you'd like to  
add that you think might be important for us to know about this  
-- on this case?

A Other than, I really believe I remember seeing him at  
the scene.

Q Okay.

A I don't know.

Q All right. That's it. We'll conclude the interview.  
The time is gonna be 1420 hours.

MR. ROSENTHAL: And we'll go off the record for a moment.

(Off the record at 2:20 p.m.)

(Back on the record at 2:35 p.m.)

SGT. PAILET: Okay. The time now is 1435 hours. And still interviewing Rafael Perez.

Q BY MR. ROSENTHAL: I have some questions based upon some statements that you made right when we went off the record about, uh, Rampart time records and such.

A Yes, sir.

Q Uhm, first of all, you mentioned something about white days?

A Yes, sir.

Q What does that mean?

A What it is, is, uh, once you get to a certain limit in your overtime, uh, 136 hours, your supervisors don't want you to be above that. So, what would routinely happen was you'd work overtime that night, uh, let's say four or five hours, which would translate to, basically, an entire day off.

So, what you'd do is either take that next day, or the following Friday, let's say -- say, okay, show me working on the books, on everything. Show me working, but actually,

I'm off. I won't -- I'm not coming to work. And that was routinely done. Q Now, the 136 hours, that meant, uh, what, a 136 hours on a particular pay period?

A No, that -- that meant that you couldn't have 136 hours accumulated, uh, total in your bank. Uhm, -- uh, in other words, 136 hours of available, uh, time off in the books, total.

Q That's also referred to as -- as comp time?

A Your comp time, yes.

Q And you get paid overtime, also; right?

A Certainly. There's some instances where you have to put in certain overtimes as cash. During this time, when I was there, on some things had to be cash. You had to take cash for it. Other things, like "on-call" court, you could take time for, comp time.

Q Okay.

A So, once that comp time accumulated to over 136 hours, they didn't want you working. They didn't want you to come to work. You know, just they wanted you to keep your time below 136.

So, let's say, I'm at 136 today, I work tonight. And I work four hours of overtime instead of putting in, you know, uh, four hours, which translates to six hours of comp time, I'll just tell my boss, hey, I got four hours of overtime last night. What I'll do is I'll take, uh, Saturday off. That way

I have a three-day weekend, and just not come to work.

But they'll show you on the books as working.

Q Now, what about the opposite, though. Uhm, in this case, what we've got is there's no record of Buchanon working.

A Right.

Q Is there any reason, you can think of, why Buchanon would have worked, but there would be no record of him working?

A The only thing that I can think of, like I was saying earlier, is that he came to work early that day, uh, for some reason needed to leave, and just said, just show me not working.

Or I -- I really don't know why. I mean, it sounds like it would be the opposite way around. Show me working the full day, or something like that, but the only thing I can think of is that he came to work that day, uh, and ended up leaving.

Or, uh, I -- I really don't know. I -- I'm thinking that he showed up to work, and, then, needed to leave and just said, show me not working and I'll work, uh, tomorrow, or something like that.

Q All right. Well, let's -- I'm looking at your Daily Field Activity Report, uh, for Wednesday, September 18th, 1996. And that's the day of this arrest. And the fourth entry shows, uh, 1945 hours. Burns and Hoover traffic stop. And that would be this arrest of Mr. Hassan; right?

A Yes, sir.

Q Uh, and, in fact, there is, it says, "Disposition." It says, uh, "Investigating." Why don't you tell me what this says here, under No. 8, Disposition.

A Officer Durden, uh, filled this, uh, DFAR out. It says, under "Disposition" would be "Investigated, uh," it says, "DRL PKG Violation."

Q Is that parking violation? Some kind of parking violation?

A "I arrested one for 12025(a)P.C., Carrying a Concealed Weapon in the Vehicle." It also says, "Impounded Vehicle." Under the D.R. Section, it says, "Hassan plus four" meaning there was four people there, for additional people. And it gives a booking number 4973737, as the booking number.

Q And you remembered three people in addition to Mr. Hassan?

A No, four.

Q Oh, you did remember four?

A There's four gang members and Mr. Hassan.

Q All right. I'll just grab this back. Now, this shows, uh, that this incident took place between 1945 hours and 2030 hours. So, 7:45 p.m., uh, to 8:30 p.m..

A 'Til 8:30. Yes.

Q So, about 45 minutes.

A Forty-five minutes for that segment of the



investigation.

Q Okay.

A Investigated. And then, you move on to your next segment.

Q And the next one is from, uh, 2030 hours, or 8:30 p.m. to 2130 hours. It says "Rampart Station, obtained booking approval."

A That's correct.

Q Excuse me. And that would be --

(Sneezing heard.)

MR. MCKESSON: Bless you.

Q BY MR. ROSENTHAL: -- with respect to Mr. Hassan?

A Yes, sir.

Q All right. Uhm, then, we have "From 2130 hours 'til 2220 hours, Jail Division booking one into jail."

A Yes, sir.

Q And that would also be with respect to Mr. Hassan?

A Yes.

Q And then, "From 2220 hours to 2300 hours, in the Property Division, book gun into evidence."

A Yes.

Q Uh, so, basically, what it seems to show is the 2300 and then, it has you at Pico and Magnolia with respect to gang suppression. So, it appears that the job with Mr. Hassan went

from 7:45 p.m. until about, uh, eleven o'clock p.m.?

A Yes.

Q Okay. Now, let's assume Officer Buchanon did come in to work. You -- you would have started at 1700 hours -- 5:00 p.m.?

A Is -- is that what the logs says, 1700 hours?

Q Yeah.

A Started watch?

Q Yeah.

A Yeah, if it says 1700 hours that would have been our roll call time, yes. That's the time we would have started that day.

Q Okay. So, you're thinking that it's possible that maybe Buchanon came in at 5:00 p.m., he worked until 8:00 p.m., 8:30 or something, and then took off?

A Yeah. I'm -- I'm thinking that's -- the reason I say I think that's possible is because I remember seeing him at the scene. Uh --

Q Now, -- now, the problem -- the problem with that --

Q BY MR. MCKESSON: Did you finish with your answer?

MR. ROSENTHAL: Oh, I'm sorry.

THE WITNESS: Yeah. Well, just that I remember him -- seeing him -- seeing him at the scene. And it's possible that he could have, uh, come to work and -- and then, needed to leave

after, you know, 7:30 or, uh, 7:45, after the incident occurred. And he left. He maybe -- he might have went back to the station and left, and just said, "Don't show me working today." I don't know.

Q But, at that point, it seems like he would have been on for three hours or so. I mean, what possible purpose could there be in working for three or four hours, and then saying, don't put me on for today?

A I really don't know, other than, uhm, if he had worked the day before and had worked overtime. When he came in to work -- went to work. And, then, maybe later that evening, the supervisor said, hey, you're over 136, get out of here. That's the only thing.

That's what we were talking about, the overtime. Being at a certain limit, and just -- and if he might have come to work, and they said, hey, you shouldn't be working today. You worked overtime last night.

Q BY SGT. PAILET: Yeah, but, that wouldn't make sense. Because he's already -- you know, he's working for free. By even coming in, he's working for free. Unless he just deduct out, as opposed to --

A Right. And the only reason I'm bringing that up is because there have been many times when we come to work --

Q Right.

A -- and you're supervisor, "Take the day off today. Don't show up." But, you're right, that would be -- that --

Q So, they send you home?

A Yeah, you -- they'd send you home. But you're right. That's already two or three hours into the shift. I mean, which is --

Q BY MR. ROSENTHAL: And -- and if you're into the shift two or three hours, it would seem you -- you would have been assigned with somebody by that point -- assigned to a car?

A Oh, that's -- that's -- that's easy, too. You could be assigned three deep sometimes. Uhm, but, that could be easily changed, you know, in the middle of the day. That's no problem.

Q What do you mean, "assigned three deep"?

A In other words, three men to a car.

Q Okay.

A Uh, let's say, uh, me and Durden were working together. And Buchanon's partner took the day off. He'd just jump in the back seat and go with us. And I just put him on the bottom of my log. I just add his name to the bottom of the log.

Q But you would add his name to the bottom of the log?

A Yeah.

Q At that point?

A Right.

Q All right. Any other issues with respect to the time cards or time record-keeping that we would want to know about, as far as inaccuracies?

MR. MCKESSON: With respect to -- to this particular tape or just in general?

MR. ROSENTHAL: I'm -- I'm talking in -- in general as it perhaps could relate to the accuracy of time records establishing whether or not Buchanon worked that day.

THE WITNESS: Uhm, there are a lot of issues as far as overtime and work days. Uhm -- uh, we had talked a little bit about white time and how you take the proceeding day off, uh, if you had worked overtime.

But there are also days -- like I remember, for some reason, we were having a lot of training days in 1998. Uh, if you looked at the month of -- uh, March, April, uh, of '98, you'll see a lot of logs that were three-liners, uh, when Sgt. Byrnes was there.

We were doing a lot of training days. And a lot of days we just didn't come in. And he would call us at home. Just go right down the list. And say, "When you come in the following day, do a three-line log saying 'Administrative Duties'."

Uh, and even though we show working, we were off that

day. We never came to work. But we showed working. And if you looked, especially, in the month of late March, and, uh, - middle of March and April, you'll see a lot of days, a lot of logs where there are, you know, three-line logs.

Or, in fact, you'll find some where there was no log -- logs done at all. Because I remember there was a -- an incident that occurred in Hollywood where they said a C.R.A.S.H. unit was there. And they thought it might have been one of our C.R.A.S.H. units. So, we were looking for a log during that time. And there was no logs for us at all.

Q BY SGT. PAILET: That was in March of '98?

A March and April of '98.

Q BY MR. ROSENTHAL: Okay. Any other --

Q BY SGT. COOK: Ray, okay. We can talk about it at another time.

Q BY SGT. PAILET: Real quick. When you were assigned to C.R.A.S.H., at that time, and just reviewing the -- the D. -- uh, the Daily Work Sheet, you're rover numbers are all, uh, you know, put in on the work sheet. Were -- those rover numbers were assigned to you?

A Right. See, these -- this -- this, uh, -- this recap sheet here --

Q Or the line-up sheet.

A -- the line-up sheet. All of that information would

be filled out by the officers themselves.

Q Right.

A Uhm, they put their own, you know, shop number, they're -- they're booking number. On this particular one, the names are -- were already filled out by Sgt. -- by a sergeant -- Sgt. Ortiz.

Q Right.

A Because you can tell it's all his handwriting.

Q BY MR. ROSENTHAL: Let me -- let me grab this for one moment, so I can identify it for the record. Uh, this is a Los Angeles Police Department Daily Work Sheet, uhm, for Rampart C.R.A.S.H. It shows Watch Commander Sgt. Ortiz. It's for September 18th, of 1986.

A I think '96.

Q '96. Okay.

A Uhm, as I was saying, the name of -- of the officers are already filled out. However, all of the rover numbers, shop numbers, and serial numbers are filled out -- are actually filled out by the officers themselves. Was that your question?

Q Sort of -- yeah. Uh, so, the question would be, A, you would fill that -- your rover numbers. And, B, the question is those rover numbers, those were permanently assigned to you, or assigned to you while you were in C.R.A.S.H. as opposed to if -- typically in patrol, where you'll check out a rover from

the kit room.

A That's correct.

Q So, just an example, you're assigned 8334.

A That was my rover.

Q You had that rover for how long?

A A couple of years.

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

A Yes, sir.

Q Okay.

Q BY SGT. COOK: Question. Do you recognize Ortiz' handwriting?

A Uhm, I -- I -- yeah.

Q Okay. The, uh, -- where -- where -- where you see "V.C. Day" is that a vacation day?

A V.C. would be a vacation day, yeah.

Q Okay. Is that the handwriting of Sgt. Ortiz?

A Yes, it is.

Q So, the scenario you're talking about, white time, which would use comp time or T.O. time --

A Mmnh-mmnh. Yes.

Q -- does that apply in this instance?

MR. MCKESSON: When you say "apply" could you explain? 'Cause I don't understand.

Q BY SGT. COOK: Well, Sgt. Ortiz puts down a V.C. day



or vacation day, and if we were talking about the scenario that you were talking about, using white time, or T.O. time, or comp time, --

A This just -- this doesn't fit that --

Q That wouldn't fit the scenario that you gave?

A Right.

Q BY MR. ROSENTHAL: Well, let me just point out that on this document it says, "V.C." which, uh, stands for vacation, as Tovar and Buchanon on vacation days for this date.

Q BY SGT. COOK: Is that correct?

A That's correct.

Q So, in this instance, then, from the appearance of this Daily Work Sheet, on that particular date, it appears that Ortiz had Buchanon off for a vacation day, and not for comp time or a T.O. day.

A No, this is right. The exact opposite of it -- of a comp time, uh, white day off.

Q Oh.

A He actually shows him on a vacation day, which is time taken away from him, and not time compensated to him. Uh, so, yeah, I understand your question. And, yeah, this is the opposite of that -- that scenario.

Q BY MR. ROSENTHAL: Okay. All right. Okay. I think that's it.

SGT. PAILET: That's it for the interview. Uh, 1450 hours.

MR. ROSENTHAL: All right. Off the record.

(Off the record at 2:50 p.m.)

(Back on the record at 3:00 p.m.)

MR. ROSENTHAL: All right.

SGT. PAILET: Oh, wait a minute.

THE WITNESS: Are we gonna do these cases now?

SGT. PAILET: Yes.

MR. ROSENTHAL: All right. We're back on the record. It's 3:00 p.m.

SGT. COOK: Yeah. It's October 15th, 1999. The time now is 1500 hours. This is Tape No. 221162, Side A.

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

THE WITNESS: Yes, sir.

Q BY MR. ROSENTHAL: Uh, we're now going to go over nine additional packets, or case envelopes containing arrest reports that you've picked out, uh, within the past few days, as you've been reviewing, uh, arrest reports.

We've already gone over, uh, an additional one, which is Sonia Castro, that we did earlier, uh, today. Now, what we want to do is go over these and find out why you picked them out, and what the issues are with -- relating to each one. We're going to start off with a case envelope containing arrest

reports pertaining to defendant Toby Semick, S-e-m-i-c-k.  
First name, T-o-b-y.

Uh, we have a booking number of 4767996. Looks like the original charge was 11359. And, uh, the report shows the defendant with a birth date of 11/12/70. Report by Perez -- Rafael Perez, first line. Second line is Tovar. And this was actually a D.A. Reject because of insufficient evidence of Possession for Sale of Marijuana.

SGT. COOK: What's -- what was the D.R. number?

MR. ROSENTHAL: Oh, I'm sorry. D.R. number is 96-02-12666.

Q And I'm going to give you the, uh, copy of the arrest report. And if you could tell us why you picked this particular file out?

A The reason I picked this report out, in which the file was -- there was, uh, evidence that was planted on Mr. Toby Semick. The report is pretty much accurate all the way -- no, the part about there being a --

Q BY MR. MCKESSON: What page? Tell me what page you're on.

A The second page of the report. Third paragraph down under "Observations." It talks about us doing an observation point, and using a pair of binoculars. That was fabricated.

Q Did you get that, Sara?

THE REPORTER: Yeah.

THE WITNESS: I'm turning to the third page of the report. And we talk about a foot pursuit occurring maybe about fifteen lines down, it talks about how I began running after, uh, Defendant Semick. Uhm, and about twenty lines down, it talks about how he tossed several aluminum bindles, uh, to the floor.

And then, we take -- we took him into custody. And we recovered the narcotics. That's also fabricated.

Q BY MR. MCKESSON: Is the foot chase -- the foot pursuit, is that fabricated?

A No, the foot pursuit was accurate. The -- the fact that he discarded some aluminum bindles, uh, was inaccurate. What he actually tossed was a gun. And he tossed it into the, uh, -- the, uh, gutter of the sewer system. The sewer gutter storm drain. Uh, he tossed the gun. But we were too late. He already threw it under there.

So, we couldn't get it out. So, we decided, you know, you're gonna go for something. We knew he was on parole. Was he on parole? I believe, at this time, we put a parole hold on him.

But what he actually had tossed was a gun. But we couldn't get the gun out, 'cause it was down the drain. So, uh, we planted marijuana on him. And the rest of the report is pretty --

Q BY MR. ROSENTHAL: Where would you have got the marijuana?

A I believe I had that in my possession already.

MR. MCKESSON: Off the record.

Q BY MR. ROSENTHAL: With respect to the gun, couldn't you guys have just gone to the nearest sewer man cover -- manhole cover, opened up, and gone down and gotten the gun?

A No, I don't think so. I mean, I wish I could have. But, no, I mean, you -- it was one of those, you know, big city ones where, you know, it's in the side of the -- the sidewalk.

You know, one of those big ones that go down and, you know, it -- who knows where it's gonna wash up at, you know. But, no, I mean. But, we -- you know, I told him, you know, "Okay. You got away with the gun. But you're still going." You know, it was one of those things.

He -- we -- we had arrested in the past, uh, myself and Martin had arrested for a Battery on a P.O. He had hit a senior lead. So, I had prior contact. He had -- yeah, he had a slapped a senior lead, while the senior lead was trying to write him a ticket. He slapped him and ran off and got away.

But, uhm, that's what happened on this incident.

Q Okay.

Q BY SGT. COOK: Just you and Durden?

A Me and Tovar, sir.

Q Tovar?

A Yes, sir.

Q Any other officers at the scene?

A No, sir.

Q Did, uh, you write the report? Or did Tovar?

A I wrote the report, sir.

Q Did Tovar know that these circumstances, these facts were fabricated?

A Yes.

Q I don't have the report. Who recovered the evidence?

A I believe I recovered the evidence. Looking at Page 3, about twenty lines down --

Q Excuse me. Uh, when you say Tovar had knowledge, did he read the report? Or did you tell him?

A No, I -- I made it, uh, very obvious to him that, you know, we're gonna do him for something. We just couldn't figure what. Then, later on, after we had gotten back to our car, and/or taken him that car I told him what we were gonna do him for. That we were gonna plant marijuana on him.

And, on the report, about twenty lines down, it says that, "I, Officer Perez, recovered those bindles, that I observed him drop to the ground." But, yes, Officer Tovar knew that we were, uh, planting this marijuana on him.

MR. ROSENTHAL: Okay. Any other questions on this one, at

this point?

SGT. COOK: No, that's it. Time now is, uh, -- that concludes -- discontinues this interview. The time now is, uh, 1508 hours.

All right. Now, it's 1508 hours. Uh, we're back on tape.

Q You had some additional information?

A Uhm, only that I believe, uh, that the case was rejected. However, I believe he might have done some time, uh, as far as a parole violation. He was on parole. And I believe they might have given him some -- a few months, uh, as a violation.

Q BY MR. ROSENTHAL: And I'll point out this was referred to the City Attorney. But it sounds like it would have been returned as a straight Possession of Marijuana. So, uh, the likelihood of -- I'm not even sure this -- that would be a misdemeanor or just an infraction.

A It's a misdemeanor. Uhm, but because he's on parole, they may just say six months parole violation at half time. So, he has to do three months in -- at County.

Q So, in lieu of a criminal filing, they just go ahead with the parole violation?

A Yes, sir.

Q Okay. All right. Then, we're off the record, as far

as, uh, that particular case against Toby Semick.

SGT. COOK: That concludes this interview. The time now is 1509 hours.

(Off the record at 3:09 p.m.)

(Back on the record at 3:09 p.m.)

SGT. COOK: Today's date is October 15th, 1999. The time now is 1509 hours. Uhm, Tape No. 221163, Side A.

MR. ROSENTHAL: Okay. We have another report. This one actually relates -- there are actually two reports with two different D.R. numbers. Just one -- I'm sorry, actually the same D.R. number. Yes. All right. It's D.R. No. 96-11-11992. First defendant Nestor, N-e-s-t-o-r, Zetino, Z-e-t-i-n-o.

The second one is Oswaldo Candeler. C-a-n-d-e-l-e-r-o. Oswaldo is O-s-w-a-l-d-o. Date of arrest is 4/02/96. Report is by Perez at the top. And then, the partner officer is Tovar. It appears as though, uh -- well, let me just let you take a look at the reports. And let us know what it is about this report that, uh, drew your attention.

A Uh, I had occasion to review this report prior. And starting with Page 2 of the arrest report, uh, about the 12th line down it talks about conducting an observation point to this location, using binoculars. That is fabricated.

Uhm, the second, or actually the third paragraph, under "Observations" it talks about us conducting this, uh,



observation point and noticing four males standing in front of 1148 North Westmoreland. That is fabricated.

It talks about, further on that paragraph, how we observed defendant Mr. Zetino, uh, reach into his front waistband, or his front pants pocket producing a blue steel semi-auto handgun. That is fabricated.

Further, in this third page of the report, it talks about how he, then, handed that gun to another male, Defendant No. 2, Mr. Candelerero, Oswaldo. That is also fabricated.

This gun was actually recovered inside the apartment at 1148 Westmoreland inside of a heater unit by Officer Tovar. And, you know, now that I think about it, there was, uh, some other officers there when he recovered that gun.

I don't think it -- I'm gonna review the report to see if it talks about -- it does. Here it is. Officer Martinez, Officer Hewitt. They were also there when they recovered, uh, -- uh, that gun.

They recovered it, as I was saying, in a heater duct unit, uh -- you know, those wall heaters that -- I don't. I can't find the name for them. But the actual vent. You remove that vent. And inside there, the gun was recovered.

Uh, Hewitt and Martinez and Tovar brought it to my attention. And then, we -- we developed this -- this, uh, scenario. And, now, that I think about it, I believe a

personnel complaint came from this. Because Hewitt and Martinez kicked down their side door and broke a window on the door.

(Tape was changed.)

Q BY MR. ROSENTHAL: Okay. Go ahead.

A It states on the report that we knocked on the side door of the north-facing laundry room door. That door was actually kicked down by, uh, Hewitt and Martinez. The entire story about seeing these two defendants, uh, passing the gun off was fabricated.

Again, the gun was recovered by Tovar, Hewitt, and Martinez inside the location from the heating duct. Uh, and then, we -- we all got together and came up with this story as to how everything happened. How the -- how to explain how that door was broken, uh, and all that.

And, I believe, a personnel complaint came out of this. I believe, uh, the gangster that lived there, and his mother, and made a complaint about that door.

I don't remember exactly. But I know there was, uh, some type of complaint came out of it.

Q Was there any probable cause for entering the residence?

A The only probable cause I had was another gang member telling me that they had a gun there, and that they were in there. That's the only -- I had -- what had happened was, we

had gotten some information that these gangsters were hanging out over there. They were at that apartment, and that they had a gun. So, we had to get in there to get that gun.

Q And -- and then, you conducted a search of the apartment and found the gun in the heating duct?

A Yes, sir.

Q Okay. Who found the gun?

A Tovar, Hewitt, and Martinez. They were all searching. They were -- there's a little door, if I remember correctly, that had -- has the actual water heater, and the -- uh, the heating system. Well, above that is the actual duct. And they were all looking through there. And, I believe, it was either Tovar or Hewitt that actually found the gun. But they were all standing there.

And then, they brought it to my attention that they, uh -- that they had found a gun.

Q BY SGT. COOK: And just to clarify, the four of you got together to discuss what the report was going to be?

A Yes, we did.

Q Okay.

Q BY MR. ROSENTHAL: All right. I'll just point out that on the, uh, case envelope it appears that Defendant Zetino was charged by the City Attorney with, uh, Violation of Penal Code Section 12031(a). And Defendant Candelerero was charged by

the City Attorney for Violation of Penal Code Section 12025(a)(2).

A Just to add something to the record, this sort of became a -- when we debriefed this and we talked to the detectives about it, it became a little bit of a joke. Because in this report, uh, two people were arrested for one gun. So, it sort of became a -- a standing joke by Detective Weslow and some of the other -- some of the other, uh, people, uh, detectives that I had booked two people with one gun.

Uhm, and the reason I bring that up is because I want to talk about another case that's, uh -- that we'll talk about later.

Q Okay.

Q BY SGT. COOK: Uh, since you brought up Detective Weslow, did -- did Detective Weslow have knowledge that the gun was planted?

A The gun wasn't planted. The gun was recovered and then described differently as to how it was recovered. The gun was theirs.

Q Okay.

A I know it was at the location. We didn't plant the gun. Did he know that we planted, uh, -- or that we recovered this gun, uhm, not as how it was written, but differently? I don't know. I think it was sort of one of those, yeah, yeah,

yeah. Uh, it was a joke, basically. It was -- or, it was a standing joke in the office how I booked two people for one gun. And then, something occurred after this -- on top of this.

Q BY LT. HERNANDEZ: How did you report that the gun was recovered?

A On the report, it talks about how when Officer Hewitt and Martinez responded to the location, some of the defendants started running. And it states that "As we approached the suspects in front of the location, I observed Defendant No. 1, Zetino, uh, reach into his front right pants pocket, produced a gun, and dropped it to the ground, approximately five feet in front of him.

At that time, Defendant No. 1 and 2 were quickly detained in front of the location by Martinez and Hewitt." That's how I show it being recovered.

Q Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: Anybody else? Okay. That concludes the interview. The time now is, uh, 1517 hours.

MR. ROSENTHAL: Stop the tape for now.

(Off the record at 3:17 p.m.)

(Back on the record at 3:19 p.m.)

SGT. COOK: Okay. It's, uh, October 15th, 1999. The time now is 1519 hours. We are on Tape No. 221164, Side A.

Q BY MR. ROSENTHAL: All right. Uh, we're now looking at another packet. And you actually stated that the, uh, prior arrest of Zetino and, uh, Candelerero, uh, gave you recollection of this one. Uh, this is -- the arrestee is Eden, E-d-e-n. Benitez, B-e-n-i-t-e-z. D.R. number is 96-02-25235. Date arrested is 7/12 of '96. The arrest -- the case envelope does not indicate, uh, what the result of this arrest was.

But the officers making the arrest, uh, were Lujan, as the report-writer, and Veloz as the partner officer. So, why don't you take a look at this arrest report, and tell us why you chose this one to discuss?

A I pulled this report out. I had occasion to review it. Uhm, and as I was reading the report, it brought back a memory that I had, that I had made an arrest of two defendants for one gun. And we had talked about it in the office, joked about it. And when I read this report, and in this report three people are arrested for one gun. And reading through the narrative, it reminded me that we had discussed this at the office. Uh, and it was sort of a joking discussion about how I was able to book more people than you for -- for, uh, possession of a gun, when only gun was recovered.

Uh, the exact details of the conversation, I don't recall. But, uh, it was something to that effect that, yeah, we were able to put three people on one gun. And reading the

report, uhm, it is my belief that there was some type of, uhm, creative writing, uh, in order to arrest all three defendants for one gun.

Uh, and that is the only reason I wanted to discuss this particular case.

Q BY SGT. COOK: The person who said, "We were able to arrest three people with one gun", who was that?

A It was -- I was talking to Veloz about it. And, actually, we were right at Rampart Detectives when we were starting roll call. And what happens on those particular days is the detectives from C.R.A.S.H. come in and talk to us, uh, regarding any arrests that we made, and things like that.

And I remember all of us, after a little while, we're actually joking about this case, and referring back to my case, the two defendants that were filed on for one gun.

Q BY MR. ROSENTHAL: But there was no specific comment by either Lujan or Veloz that they had done anything illegal or improper with respect to this arrest?

A None that I can remember.

Q Uhm, so, your -- your thought that this may have involved creative writing comes from where?

A Comes from the fact that it was brought up how, you know, I was -- managed -- I managed to book two people for one gun, and they were able to arrest three for this one gun.

And reading the report, uh, it reminded me of the incident, uh, when we had our roll call with the detectives and we all laughed about it and talked about that incident. But nothing specific was said to me to make me think or refer to as guns were planted or anything was written differently than it actually occurred.

Q Okay.

SGT. COOK: Okay. That concludes the interview. The time now is 1523 hours.

MR. ROSENTHAL: All right.

SGT. COOK: Today's date is October 15th, 1999. The time now is 1523 hours. Tape No. 221165, Side A.

Q BY MR. ROSENTHAL: All right. This is another report that has been, uh, chosen for discussion, uh, by Mr. Perez. This relates to arrestee Christopher Sanchez. Uh, D.R. No. 96-02-11166. The arrest date is March 10th, of 1996. This is a Rafael Perez arrest report. Partner, Officer Tovar.

The original -- the original charge here appears to be a violation of 11350 of the Health and Safety Code, Possession of Cocaine. Uh, let me -- why don't you take a look at that report and tell us why you chose this for discussion?

A Okay. Reading the report, and I'd have occasion to review it earlier, I remembered this report. Uh, referring to Page No. 2 of the arrest report, about 25 lines down, it talks



about "As Defendant No. 1 turned back towards me, I, Officer Perez, observed the defendant drop a small yellow bindle to the ground." That is fabricated.

Page No. 3 of the report, it talks about how I recovered that bindle and noticed it to contain off-white, uh, substance resembling cocaine. That is, obviously, fabricated. What actually occurred in this, uh, incident --

Q Why don't you try to keep your voice up again.

A Sorry. What actually occurred in this incident was Officer Tovar had -- there was two, uh, male Hispanics standing at the corner. Officer Tovar went in foot pursuit of one. And he ran probably, uh, a good city block, running -- chasing after the one defendant on the sidewalk.

When the defendant went off the sidewalk, into the middle of the street, Officer Tovar followed behind him, tripped over the bumper of a vehicle, and fell to the ground. And kind of, uh, tore his trousers a little bit. And he was upset. So, when he got back, this gentleman was gonna have to pay the price. Mr., uhm, Sanchez, for his buddy running.

So, that's what occurred on this incident. He was, uh -- that narcotics was planted on him. I believe he was also on parole. I don't know if this case was filed or not, or just a violation was, uh, done.

Q And this was a, uh, -- this was a reject for no

probable cause to detain. Uh, but you believe that there is a possibility there have been a -- a parole violation. This is a parolee?

A Yes, sir.

Q BY SGT. COOK: Where did you get the narcotics from?

A That narcotics -- and if it's the same one I'm thinking about, because it -- I wrote on here there was a yellow bindle. That narcotics came from another suspect sometime earlier who had it in his wallet. It was a small -- it was a piece of paper that came out of like maybe a magazine. And you know how they fold it into a nice little pocket. Uh, it came off of another suspect somewhere. And we had given him a break.

And I still had that narcotics on me. Uh, and that's where that came from. I wouldn't know who the person was, obviously, who was given a break. But, uhm, that's where that came from.

Q Now, did, uh, Officer Tovar know -- did you write the report?

A I wrote the report, yes.

Q Did Officer Tovar know that you planted the narcotics on him?

A Yes.

Q Did you have a discussion with Officer Tovar --

A Yes, sir.

Q -- as to how it would be planted?

A Because we discussed, you know, do you want to take him or not? Do you want to, you know, do you want to book him on it? We discussed it. And, so, Tovar was a little bit upset that he tore his pants. And -- and that his -- his -- his buddy -- this defendant's buddy had ran. Uhm, so, we agreed that, yeah, we're gonna book him. We booked in some dope. And I told him I had that -- that little bindle. And so that's what we did.

Q BY LT. HERNANDEZ: You told him you had that bindle on you and was going to put it on him?

A No, that -- that's not really necessary. What we do is just say, yeah, we saw him drop it. I mean, for the report purposes, of course, we write that we saw him drop it and we recovered it. That never has to be done. Just put him in the car. Take him to the station. I gave it to Tovar. He books it. And, you know, we go from there.

But we don't actually like throw it on the ground, then pick it back up. No, that wasn't done.

Q And this person that you got the dope off of, you said you stopped him earlier that day, or --

A No. Actually, I think it was probably a couple of days prior. Because that's -- uh, I don't know why I remember this. I remember having it in my breast, uh, shirt, uh, pocket

that narcotics, that little bindle.

Q Okay.

Q BY SGT. COOK: Just for clarification, when you say that you don't have to show the suspect, the suspect may not know that he's booked for narcotics until he goes to the booking cage. And it's not important to you to show the suspect out in the field that you recovered narcotics?

A That's correct. Quite often, they don't even know what they're going for until they get, uh, to, uh, Central, uh, or B.A.P. and they're being booked in.

Q And that would be either for narcotics or a gun?

A For any charge.

Q Okay. That concludes this interview. The time now is 1529 hours.

(Off the record at 4:29 p.m.)

(Back on the record at 4:35 p.m.)

SGT. COOK: Okay. Today's date is October 15th, 1999. The time now is 1531 hours. We're on Tape No. 211166, Side A.

MR. ROSENTHAL: All right. We have another arrest report we're looking at. This is, uh, with respect to Allan, A-l-l-a-n, Manrique, M-a-n-r-i-q-u-e, Lobos, L-o-b-o-s. D.R. number is 96-02-16586. Date arrested is April 26th, 1996. Arrested for Ex-Con with a Gun. And the reporting officers are B. Liddy, L-i-d-d-y, and P. Harper.

Q Uhm, why don't we take a look at this report and explain to us why this was pulled?

A Reviewing the report, and I've had occasion to already review this report, and referring to the second page of the arrest report, the sixth para- -- the sixth paragraph down, "I directed Officer Perez, 26905, to the left front tire area of the blue Honda. Officer Perez recovered a .45 caliber pistol from the top of the left front tire. The pistol was loaded with a round in the chamber, the hammer back, and the safety off.

That is incorrect.

Q Okay.

A Uh, Officer Liddy did not direct me to that gun.

Q I'm sorry. From the report, it indicates that Officer Liddy did direct you to a gun?

A Yes, "I directed Officer Perez." I being the person who wrote this report. That person being Officer Brian Liddy.

Q All right. What really happened?

A Okay. Uhm, when we arrived at this party, this was just a party. When we arrived there, people were moving around and trying to get away, and -- and all this stuff. And everybody was in custody -- being detained. We had nothing, at the time. But we were looking around, looking around, looking around.

And, finally, somebody told me -- not Officer Liddy

-- another officer. I think it was just a patrol officer that might have shown up. And I don't see -- I don't see any -- any other officers that are written on here. But I believe some other patrol officers responded to this. Uh, he said, "Hey, uh, there's a gun under one of the tires."

Uh, so, obviously, Officer Liddy did not tell me that there was a gun under the tire, or on top of the tire. So, I went over there and recovered it. And then, I told Liddy, "Hey, you know, I recovered a gun from over here." And then, of course, he writes that, uhm, -- that he observed somebody placing that gun there.

On this report, he writes that, uhm, -- that as he approached these people, that we observed suspect run westbound in the parking lot holding his right hand in his front waistband. The suspect was the only person in the group wearing a black shirt with a number "13" on it. That he illuminated that suspect with his flashlight as he ran.

That he observed that suspect draw a black semi-auto pistol and run between the cars in the parking lot. And that the suspect crouched down in front of a blue '81 Honda Civic, 2-door, and placed that gun in the left front tire.

So, that's inaccurate because we had detained these people for -- already for some time. Uh, we were looking around. We didn't find anything. And right towards the end of

the incident, uh, I'm pretty sure it was a patrol officer, or at least someone that wasn't working C.R.A.S.H. told me, hey, there's something under that tire over there.

I went and recovered it and I took it to Officer Liddy.

Q All right. So, the report, basically, shows that Liddy observed the defendant in possession of the gun, saw the defendant put the gun where it was found and directed you to recover it, when, in reality, there's no way Liddy could have seen that?

A Right.

Q The patrol officer said the gun was there, you recovered it, and then the gun was put on this defendant?

A Yes.

Q BY SGT. COOK: Now, when the report reflects that "we" saw this guy in the black shirt with "13" on it, running, take out a gun and put it on the tire, "we" means who?

A I'm assuming he's writing, uh, me, or we -- Harper and Liddy.

Q Did you see that happen?

A No.

Q Could -- devil's advocate here -- could Liddy have seen that happen without your knowledge?

A Well, when we all approached, if this was true, I

mean, the first thing Officer Liddy would have done, is to go check that tire. Or, like he says in this report, tell me to go check that tire.

Well, that didn't happen because, you know, we've had these guys in custody for some time. And we were looking around. And we were taking speakers apart. 'Cause they were having like a little party in the back. There was like a deejay back there. And this was like a little parking lot area backyard of the -- of this place.

So, some time had already elapsed. And he -- I can tell you that he never told me to go and check a tire. A patrol officer who had been there, said, "Hey, there's something under that tire." And I went and checked it and recovered that weapon.

Q Okay. And the other officer was Harper?

A The person that was working with Officer Liddy was Officer Harper.

Q Who was your partner?

A I believe --

Q If it's indicated.

A It -- it doesn't indicate. But I believe it was Officer Tovar. But it doesn't say, uh, here on the report.

Q Now, was it your practice, in this -- in this particular arrest to get together as a group to discuss what



was going to go into the report? Or did Liddy just write the report?

A I gave him the gun and whatever he wrote later was fine. You know, I -- we really -- it was his call. It was his -- his caper. And he just did whatever -- what he wanted.

Q Do you have anything, Richard?

MR. ROSENTHAL: No. That's it.

SGT. COOK: Okay. That concludes this interview. The time now is, uh, 1537 hours.

(Off the record to change paper.)

(Back on the record at 3:37 p.m.)

SGT. COOK: Okay. Today's date is October 15th, 1999. The time now is 1539 hours. We are on Tape No. 2116- -- correction 221167, Side A.

MR. ROSENTHAL: Okay. We have another, uh, report. This one relates to two arrestees. The first one being Christian Alfredo Garcia. D.R. number is 96-02-25361. And I'll point out that, uh, that's what it is on the face sheet. That, uh, the D.R. number on the arrest report appears to be wrong as 96-02-25631. So, 631 instead of the 361. But the 361 appears to be correct.

Uh, this is a report by Officers Stepp and Hewitt. And an arrest date of July 13th, 1996. This is another gun arrest. There is a second arrestee, a juvenile, Edwin Alvarez.

Date of birth, 6/27/81.

Q Now, I'm going to show you this report and tell us why you pointed this one out as one that needed to be discussed.

A Okay. Again, I've had occasion to review this report. And I have no direct knowledge, uhm, to this case. I will review, or I'll read a couple of the lines of the report, and I can tell you while I was there what actually had occurred.

Uhm, wait. Let me have a second. It talks about, on Page 2 of the arrest report, under "Observation" fourth line down, "While we were approaching the group, we observed Defendant Garcia hand a black object, which looked to be a large blue steel handgun to subject Alvarez.

Subject Alvarez tossed that same black object onto the grass bush area." I responded to this. Uh, this was a radio call of a ADW suspect. Uh, we all approached at the same time. While I was there, and these people were detained, and in this report, it talks about as soon as we show -- we show up, they observe two males, one handing the other guy a gun and the other one tossing it in the bush area.

And, then, Officer Hewitt immediately recovered it. But, while I was there, for ten minutes of the call, there was no gun recovered. There was no -- no mention of a gun. There was no gun recovered. I mean, I approached with the rest of them. We all approached at the same time.

Uhm, and there was no gun. But I saw -- or no gun that they had recovered, and they relayed to me, we recovered a gun. Uh, I have no direct knowledge of the gun being planted or -- or anything like that.

All I know is that when I responded to this call, with them, uhm, there was no gun while I was there. Later, obviously, a report was written that a gun was recovered. But while I was there, there was no gun recovered.

Q And by -- by reading this, it sounds as though the gun was recovered immediately upon him getting there, so when you responded, there should have been a gun.

A Yes, sir.

Q BY SGT. COOK: Now, let's -- let's talk about your arrival there. Now, when you arrived at the scene, is there any discussion from Hewitt and, uh, Stepp about what they had? You know, you're the first officer at the scene, you see a couple of -- uhm, suspects detained. And you would think that you would go up and say, "What do you guys got?"

A Right. Firstly, we all responded together.

Q You saw we?

A Uh, the other units and myself. And I don't remember who my partner was. But, when we respond, I think Officer Durden was my partner at this. I'm not -- I'm not -- I believe it was Durden. I'm not a hundred percent sure. Uhm, what I'm

saying is, when we respond to these calls, especially, a ADW in progresses we communicate on Simplex or 181 Boy. Or something. Which way are you responding? Which way are you responding? And we communicate. What's your ETA? We let each other know so that, you know, we can at least have both directions covered. And that's what we did on this occasion. We responded together.

So, when these people were detained in the front of the, uh, location, I mean, we all got there at the same time. And, at no time, you know, while these people were being taken into custody, was I told, or any conversation being had that, hey, we recovered a gun, we got this, or partner, a gun. Anything like that. That never occurred while I was there.

And I was there maybe, you know, at least ten minutes, uh, of the call.

Q Okay. So --

A I'm sorry?

Q I'm sorry. You said it was a radio call. Was there, in fact, a radio call? What was the nature of the radio call?

A Let me read here.

Q My question would be, in the radio call, was there any mention of a gun?

A "We received a radio call via police radio. ADW in progress at 333 North Borendo. Incident No. 5039. Suspects are male Hispanics, gang members, dressed in white shirts."

There is no talk of a gun. Or, at least, in his part of the report, there is no talk of a gun. But that was the type of radio call that came out.

Q Okay. So, for the -- for the ten minutes you were there, no discussion of what the suspects were being detained for?

A That's correct. But we knew they were being detained for an ADW. Uhm, but there was no talk of any gun or any evidence of anything being recovered.

Q We'll get into that in more detail at a later date. Okay. That concludes this interview. The time now is, uh, 1545 hours.

(Off the record at 3:45 p.m.)

(Back on the record at 3:46 p.m.)

SGT. COOK: Okay. Uhm, today is October 15th, 1999. The time now is 1546 hours. We are on Tape No. 221168, Side A.

MR. ROSENTHAL: All right. We have a, uh, -- another report which has been identified as needing discussion. This is D.R. Number 96-02-04011. This is a multi-defendant arrest. Three defendants. Defendant 1 being Demetrio Delgado. D-e-m-e-t-r-i-o.

Defendant No. 2 is Sebastian Delgado. Defendant 3 is Vicente Roman. V-i-c-e-n-t-e. Roman, R-o-m-a-n. Uh, this appears to be a, uh, discharging a firearm in the city. And it

indicates Officers Hewitt, Lujan, and Collard as victims. The report is by Officer S. Smith and J. Freund, F-r-e-u-n-d.

Q Why don't you take a look at this report and tell us why this was chosen for discussion?

A I had occasion already to review this report. And I pulled this report because I have some direct knowledge. And the rest was, uh, statements that were made at the scene to me.

Uhm, --

Q Actually, let me point out that there actually appear to be in the reports, there are three different D.R.'s on this one actually.

A Each, uh, victim gets a different D.R. number. Each officer who is a victim, each one has his own D.R. number. That's why there's three different D.R. numbers.

Q All right. And I'll just point out the D.R.'s are 04011, 04012, and 04013. Okay.

A That's correct. If you could refer to Page 3 of the arrest report, --

Q I'll also point out it looks like the, uh, detectives who wrote the report are Smith and Freund are from Rampart Homicide.

A That's correct.

Q This incident was an officer-involved shooting. There were hits. On the third page of the arrest report, it

states that "Defendant No. 1 and No. 2 were standing on the second floor landing of an outdoor stairwell at 1312 and 1/2 West Lynwood Avenue.

One suspect was -- was shooting a rifle in the direction of the officers who were standing within five feet of each other. The other suspect was firing a handgun in the direction of the officers. An officer-involved shooting occurred, at that time. Two suspects entered 13 and -- 1312 and 1/2 Lynwood."

What I was -- when the shooting occurred, and I believe there was three officers that fired their weapon. Uh, the three officers that are listed as victims. Uh, Collard, Hewitt, and Lujan. I believe Officer Lujan fired a shotgun.

When I arrived at the location, this was a New Years Eve Gun Suppression Detail. This occurred on January 1st, ten minutes after midnight.

Uhm, when I arrived at the location, Officer Hewitt and Officer Collard, everyone was still standing right at the position at -- where they had fired. The two males, I believe they're a father and a son team, or it was a father and a -- a son had went back into the apartment.

When I arrived there, Officer Lujan, uh, began explaining to what had occurred, what had actually occurred. That they were -- they had heard some shots fired. They had

set up on the location where they were hearing the shots. And when the guys came back out shooting up in the air, they stepped out from where they were hidden and began firing at them.

Uh, I believe --

Q They stepped out from where they were hidden? Who is they?

A The officers. I remember Collard telling me that he reloaded. He had fired so many rounds that he had reloaded. Uh, when I had arrived, uh, Officer Lujan, uh, told me to start picking up the casings. I started picking up the shotgun casings and some of the casings. 'Cause they didn't think there were any hits.

Uhm, we then decided to go up there and check. And on the porch there was blood. On the, uh, standing -- or the, uh, how do I describe it? The -- the landing. The second floor landing to the porch, there was blood up there.

So, we decided leave the casings where they are. Uh, at that point, we decided to go in and get the suspects, uh, into custody -- the two, uh, defendants. And we did that.

Uhm, it was my understanding from several discussions that we had was that these guys, uh, were on again and off again from firing their weapons, coming in and out of their apartment. That they were shooting them up in the air.

The officers had heard some of the shots. And they



went out on foot, to try and locate where the shots were coming from. Once they were nearby the location where they had heard the shots, they spotted where the shots were coming from.

When the guys came out again to fire, the officers stepped out and just began firing at them. Or just became firing.

Q So -- and this is according to Lujan?

A Right.

Q So, basically, --

A Lujan. And I remember Collard talking about it up at the, uh, benches after, uh, we went out drinking after the, uh -- uh, -- actually, I'm not sure if it was that same, uh, evening. Or if we went a different day. But sometime after this had occurred, we were up at the benches having beers. And I remember Collard talking about it, how he -- he was telling me how he had just started unloading on this guy. He fired a lot of rounds. I don't know. It doesn't say in the report how many rounds, who fired what. But I remember Collard telling me that he had just -- was firing away. And I remember -- I do remember, uh, Lujan, uh, shooting the shotgun. Uh, 'cause he was holding the shotgun. And I remember he was picking up some of the shotgun casings.

Q And -- all right. And according to this report, at least, Demetrio Delgado suffered a gunshot wound to the left

leg. And Sebastian Delgado suffered a gunshot graze to the right arm.

A Okay.

Q Uhm, so, in essence, what you're saying here is that although the report indicates that these defendants pointed the guns at the officers, they were instead firing into the air. And then, the officers, basically, uh, started shooting.

A Yeah. And -- and another way of -- I mean, if these people were firing at officers, we definitely would have went into the apartment and just took them into custody. Uhm, I mean, this would have been a barricaded officer-involved shooting, officer needs help type thing. I mean, we had time to sit there, start to pick up casings. Then, we decide, well, we better go up there and see if there's any cas- -- or any -- anybody hit.

When we saw blood, we said, let's take them into custody. We went into the apartment and took these people into custody. It wasn't one of those things where, oh, my God, they're shooting at us, take cover. We shot back. And now we need S.W.A.T. to come out and get them out, call them out or whatever. We went right in and just took these people into custody.

Q BY SGT. COOK: I have a question. Do you recall anyone putting out, uh -- uh, a help -- a help call or that, uh

-- that there was a shooting involved?

A I remember a, uh, not a radio call, but the officers put out a --

Q Think back at the time of the shooting. See, my question is this. My question is, why did the officers pick up the -- the casings? Why were they gonna pick up the casings?

A Because -- and -- and this is maybe a little bit off of this. There -- there is occasion where there have been -- and -- and don't ask me now -- right now, because I can't think of one -- where a couple of rounds have been fired and nobody hit. Suspect got away. Those casings were picked up and everybody just left the scene. That has happened. I've heard about it. Uh, you know, I -- I've never done it. I've never experienced it. But it -- it happens. It does.

And I think that's what Lujan was thinking. If nobody's hit let's just pick it up and go. Uh, but it was too much of a commotion. He said, "Ah, forget it."

Q And, you know, we'll -- we'll go into this in more detail at a later time. But just off the top of your head, when the shooting went down, did someone go on the radio and say, "Officer involved in shooting?"

A I was not there when the, uh, actual shooting started.

Q Okay.

A I was there -- when I responded, the shooting had

already taken place.

Q No "Shots fired" call? I mean, no shots fired, officer involved in shots fired?

A I'm trying to remember if the officers actually put out a -- a C.R.A.S.H. 20, 30, and 40. Or whether they said, you know -- 'cause we were working a -- uh, Gun Suppression Task Force. So, we were actually working Queen units.

Uhm, and what happened was these group of officers instead of staying with us -- 'cause we were all supposed to be riding around together. They kind of separated from us and went and did their own thing.

I know that later on, they got chewed out for that. 'Cause they didn't stick with the group. They went out and did their own thing. Uhm, so, I really don't remember how the call came out. In other words, we have this, uh, call signs where we say we need C.R.A.S.H., uh, two C.R.A.S.H., uh, 10, 20, 30, and 40, which let's us know that there's an officer-involved shooting. And we all respond.

I don't know if he put it out that way, or he put out officer needs help, shots fired. Uh, that type of thing. I know that we, obviously, got the location and we responded to the location.

Q Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: All right. That concludes this interview. The time now is, uh, 1556 hours.

And we definitely want to go into that into a little more detail.

MR. ROSENTHAL: We'll go off the record for a minute.

(Off the record at 3:56 p.m.)

(Back on the record at 4:20 p.m.)

DET. MAHONEY: Today's date is October 15th, 1999. The time is 4:20 p.m. Uhm, I am Detective II Sean Mahoney, Number 24138. And we're here to interview Rafael Perez regarding the arrest of Miguel Hernandez on October 25th, 1996.

Do you remember --

MR. ROSENTHAL: Uh, let me just point out, uh, that Mr. Perez has actually already discussed Miguel Hernandez. This is, uh, with respect to an arrest on D.R. Number 96-02-36558. Case number was BA140249. Uh, defendant was charged with, uh, -- with Ex-Con with a Gun and convicted by plea.

Uh, has, uh, Mr. Perez been given an opportunity to look at the report?

DET. MAHONEY: Uh, not just yet. I just want to ask him a couple of questions first.

MR. ROSENTHAL: Okay.

Q BY DET. MAHONEY: Okay. Do you remember we discussed this -- or you discussed it with the other investigators a few

weeks ago. Do you remember exactly --

A Is this the one on 3rd and Alvarado?

Q Right.

A With the Beretta?

Q The police officer's Beretta.

A Okay. Yes.

Q Okay. Uhm, had you ever had any contact with Mr. Hernandez prior to that?

A Earlier that day. Earlier that evening we had made contact with him for the very first time.

Q Okay. Do you remember where that was?

A I believe it was in the area of Berendo and 6th. Uh, it was either Westlake or Berendo. I'm sorry. Not Berendo. Uh, Westlake and, uh, 6th. North of 6th on Westlake.

Q Okay. And what was he doing at that time when you talked to him?

A He was just loitering.

Q Okay. And then, later on, at 3rd and Alvarado you saw him --

A Yes.

Q -- again?

A Yeah.

Q Okay. Uh, do you remember what he was wearing?

A No.

Q No idea? Okay. And when you saw him the second time, was he on foot or was he in a car?

A On foot.

Q On foot. And he was just standing there?

A He was standing at the mouth of the alley.

Q Okay. The first time you saw him, what was he doing there?

A He was on foot just --

Q On foot also?

A -- hanging out. Yeah.

Q All right. Any idea where he -- any idea where he was living at the time?

A My partner, I believe, filled out an F.I. I don't know what the information was that he received from him. But he -- my partner had actually talked to him the first encounter.

Q Right.

A My partner, uh, was the one that -- uh, Officer Durden was the one who filled out an F.I. on him and all that. But I -- I never -- I don't recall what the information was.

Q Do you know if that F.I. was turned in?

A I don't know.

Q Okay. At the time that you stopped him at 3rd and Alvarado, did you go Code 6 over the radio?

A I don't believe so.

Q At any time after that, did you ever advise the RTO that you had one in custody, or anything of that nature?

A I don't remember doing it.

Q Okay.

A Myself, I don't remember doing it.

Q Okay. Prior to that, had you had any other contact with Mr. Hernandez?

A Never.

Q Okay. Let me have you look at his I-card real fast. Does that refresh your -- is that the man we're talking about?

A Yes, sir. That appears to be him, yes.

Q Okay. And on the back there's only one entry, one arrest.

A Yes. This, uh, I-card was filled out by me. It's in my handwriting.

Q And that was for the night that he was arrested?

A This is the night that he was arrested, yes.

Q BY MR. ROSENTHAL: You said that you thought that Officer Durden had filled out an F.I. card. Uhm, looking at this F.I. card, is that still your recollection?

A That -- an F.I. is different from an I-card. This is an I-card. This is an identification card that we use in C.R.A.S.H. to identify gang members, uh, and keep track of them. Uh, we put their activities on the back.



An F.I. would be a smaller card. Uh, just with the same type of information, but it's something that you turn in on a daily basis. But this is retained at the C.R.A.S.H. office. Q All right. Okay. At the time that you stopped him, do you remember exactly where he was in the alley?

A At the mouth of the alley.

Q Was he closer to the Alvarado side? Closer to the Lake Street side?

A If you are -- if -- if you are standing on the street, west -- I'm sorry, east of Alvarado, and you're looking down the alley southbound, he would have been standing on the left side. On the east side of the mouth of the alley. Right at the opening there. Right at the mouth of the alley. On the left side.

Q Okay. Now, at the time that you actually -- who was driving that night?

A I was.

Q Okay. And Durden was the passenger?

A Yes, sir.

Q So, who made contact with him first, Mr. Hernandez?

A Officer Durden.

Q Okay. Where was the gun, at that time?

A It was in the trunk of our vehicle.

Q And where -- do you know exactly where in the trunk?

A Officer Durden had it in his, uh, bag.

Q Okay. Now, can you tell me where did that gun come from? How did you or Durden come to possess that firearm?

A That gun was recovered from another male who we had arrested a couple of days prior, uh, in a narcotics, uh, arrest. Uh, we re- -- I recovered it. Uh, while Officer Durden was there, recovered it from the, uh, rear seat of my vehicle.

Q Do you remember how long ago it was before?

A Uh, maybe four -- uh, a few days before his arrest. Mr. Hernandez' arrest.

Q Do you remember where?

A Where?

Q Where the other arrest was that the gun was recovered?

A I believe it was under the -- uh, somewhere in the area of Sunset and Bonnie Brae. Uhm, --

Q Do you remember the person?

A -- 1100 block. I believe it was the 1100 block of North Bonnie Brae. Somewhere around there.

Q Do you remember the person?

MR. ROSENTHAL: Wait, wait, wait. Off the record for a second.

(Off the record at 4:26 p.m.)

(Back on the record at 4:26 p.m.)

MR. ROSENTHAL: Everyone's got to slow down. You've got

to let each person finish the question, and the answer, and pause in between. Otherwise, we're not gonna get the transcript clear. Okay. Let's go back.

SGT. COOK: We're back on tape. The time now is 1626 hours.

Q BY DET. MAHONEY: Okay. So you were near Bonnie Brae and Sunset?

A Yes, sir. Between Sunset and I believe it's Montrose. And I believe it's on Bonnie Brae.

Q Do you remember the person that you got the gun from?

A He was a male Hispanic, uhm, maybe 40, 45. He had just delivered some narcotics, uh, at that location. And, uh, after he was placed into our vehicle, and we were transporting him to Rampart Detectives.

Q Would you recognize him if you saw a picture of him?

A I wasn't finished with my answer yet. When we were dropping off -- when we transported him from Bonnie Brae to Rampart Detectives, at Detectives, as we were bringing him out of the vehicle, uhm, that's when I recovered the gun, inside my vehicle, in the back seat.

Q Had you checked your back seat prior to transporting him?

A I don't have a specific recollection of checking it, but I usually do. And I don't have a specific recollection,

uh, --

Q Well, prior to your start of your shift, when you first started.

A When I started my shift, I'm pretty sure. I always do. We always, you know, check the vehicle and make sure that Detectives or somebody that used the car didn't leave anything behind.

Q Right.

A But do I have any specific remembrance? Not really. But I would have at the start of watch.

Q When you first saw the gun, where was it?

A It was on the left side of the -- the left side of the rear passenger seat, uh, inside the cushion area. Inside. Between the cushion and the back panel.

Q Could you see it without pulling the seat out?

A You could see the butt of it, yes.

Q Sticking out?

A Yes.

Q Okay. Would you recognize the person you had got it from if I showed you a picture of him?

A If I saw his photo I can tell you if he sparks a memory, or if that's him or not.

(Picture was shown.)

THE WITNESS: That's him. Yeah.

Q BY DET. MAHONEY: That's the photograph of Daniel Carrillo. Booking number 5012829.

A He had that gun. That was him.

Q Okay. And you said that Officer Durden was there when you took the gun out of the car?

A Yes.

Q Did you discuss it with him?

A We discussed it at length, yes.

Q And was the substance of your discussion?

A We couldn't believe it was there. We were, uh, upset that we had just transported a body. What happened was two other officers had actually detained this person, recovered narcotics. According to them, searched him for any weapons. And then, he was placed into our vehicle.

Uh, when we get back to Detectives and we take him out of our vehicle, and we recovered the gun, uh, obviously, we were -- I was especially upset that we just transported this person and he was able to take a gun out of his butt area and -- a large weapon -- and stick it between the cushion. And I was upset. And we had a discussion with the other officers that had actually patted him down and -- and put him in our vehicle.

Q Okay. Who were those other two officers?

A If I remember correctly, it was Buchanon. And the

other officer, I believe it was either Brehm or -- or, uh, -- Brehm and Rug- -- or Ruggiero. One of the two.

Q What was their reaction when you --

A At first, they didn't believe us. They were like, "No way." And I was like, "I am serious." You know, we -- we discussed it at length. And, you know, I told them I was rather upset about it. Uh, and then, we left it at that. And, you know, we're not gonna book the weapon to the body or anything. We're just gonna hang on to the weapon.

Q And they agreed with that?

A Yes.

Q To not book the weapon?

A Yes.

Q And what happened to the weapon after that?

A Uh, Officer Durden, uh, kept it in his possession.

Q Uh, did anyone ever run the serial number on the gun?

A I believe that that serial number was run. I believe it was run, uh, obviously, right after we had -- or some time after we had gotten the weapon into custody.

Q Did you personally run the gun?

A I don't remember. But for some reason, I do remember that the weapon was stolen and it was stolen from a Sergeant who I knew. Uh, and that's why I'm thinking that, obviously, it had to be run, because I knew that it was stolen from a --

from a -- a sergeant.

Q Right. But you don't remember if you personally ran the gun?

A I don't know if it was me or my partner.

Q Okay. Did the other two officers, did they see -- actually see the gun? Did you -- you show it to them?

MR. MCKESSON: Uhm, the two officers who placed him in the vehicle?

Q BY DET. MAHONEY: Right. The two officers who, obviously, missed the gun.

A I'm not sure. I don't know if my partner, at one point, showed them. While we were outside talking, if he went to the trunk and showed them or not. I'm not real clear about that.

Q If he had taken them to the trunk to show them, where would that have been?

A Right there at Rampart Detectives.

Q The Detective Station on 3rd and Union?

A Exactly. The lower parking lot.

Q And in between the time that you recovered it and the time that it was booked in relation to Mr. Hernandez' arrest, where the was the gun, at that time?

A Mr. Durden, or Officer Durden had it in his custody the whole time.

Q He just kept it in his -- in his bag?

A Yeah. Yes.

Q Did you have to take your bags out at night? Or did you leave them in the car?

A We'd take them. He -- he would always -- we would go into, uh, Rampart Station. We'd park by his truck. He would take his bag out and put it behind his truck, or in the rear of his truck, or his vehicle. He would always put in it in vehicle. And then, uh, take it with him.

Q And that was at Rampart Station?

A Rampart.

Q On Temple Street?

A Correct.

Q Okay. I just want to have you -- have you have a look at the arrest report real quick. If look on the face sheet right there where it says, "Time of Arrest." Obviously, that's been changed.

A That's a good point. Now, I remember when that gun was run. If I remember correctly, it was obvious -- it was probably that day that we recovered that gun. Or -- or that day that we actually ran that gun.

Q Okay.

A And put it was -- I think we were thinking, hey, we ran that gun. And that we needed to change the time of arrest.



If I'm remembering correctly, when you just showed that --

Q Right.

A -- that sparked a big memory in my mind.

Q BY MR. ROSENTHAL: Why don't we describe what's on the arrest report? There's, uh, -- under "Time Arrested" is there a way to tell what the original time was?

A I'll describe it.

Q Yes.

A On the actual, uhm, booking face sheet, under the division it says, "4202." "The detail arresting" it says C.R.A.S.H. "The date of arrest" it says October 25th, 1996. Now, under "Time of Arrest" it says "0". And then, something is scribbled out. And it says, "1-5." And then, it says, "Time booked 0305."

Now, I believe that the time of arrest was probably something like -- 'cause this was -- this arrest we made it right at end of watch. In fact, we were supposed to be taking our vehicle from Rampart Station to Rampart Detectives, 'cause we were already end of watch.

So, I -- so, I am thinking, although, it's very difficult to make it out, I believe that's supposed to show a 0115 hours. It was probably -- it was probably either 0215, and we changed it to 0115. Or is it -- or it was 0115 and we changed it to 0015.

I think we had thought about that we had just ran that gun. And we didn't want it coming back, as far as, if somebody were to generate when the gun was ran in correlation to when we actually booked him. It was definitely, uh, -- we, obviously, had booked a -- or, uh, ran the gun before we had arrested him.

Q Okay. So, you think you ran the gun before you made the arrest, realize it's a police officer's gun, and you decided you had to get rid of it, is that kind of what you're saying?

A Not necessarily that it was a police officer's gun and we had to get rid of it. But because we arrested this guy at end of watch, past end of watch, and then, we thought about, you know, we just ran that gun an hour ago.

We need to back up as -- as though the arrest was made a little bit before we actually had gotten it.

Q Then, if you look at the booking approval, the booking approval is signed by Sgt. Ortiz. You can see the times on that also appear to have been changed.

A Right. Yeah, I'm -- I'm pretty sure that that's what occurred with that. This booking approval was signed by -- with Sgt. Ortiz' name. But it was signed by, actually, me. Sgt. Ortiz was already end of watch.

Q Sgt. Ortiz --

A He was already end of watch.

Q He was already end of watch.

A Yeah. And we just contacted him, tell him -- uhm, -  
- uh, we let him know what he had. And he said, "Okay. Fine.  
Do it. Sign my name."

Q Do you know how you contacted him?

A He was still at the station. He was in civilian  
clothing. We told him what we had. Uhm, and, uhm, -- and then,  
he said, "Okay." And he approved the, uh, extended watch. And  
the -- and the booking approval, through the phone.

Q All right. I'll have you look real fast. This is  
your DFAR. "Los Angeles Police Department Daily Field  
Activities Report" dated Thursday, October 24th. And it's for  
Officer Durden, 31106, and Perez, 26905.

A Okay.

Q Now, at the bottom there, I'm not sure which letter  
it is.

A "R"?

Q Uh, I'd have to look here on the entry -- under "H".  
It says "3rd and Alvarado".

A Yes, sir.

Q Now, is that entry related to the arrest of Mr.  
Hernandez?

A Yes, it is.

Q Okay. Do you see the time on there?

A 0100.

Q To?

A 0145 at the scene investigating.

Q Were you actually there 45 minutes?

A We were there five minutes. Uhm, another thing is, these logs are done probably the next day.

Q Right.

A They're -- they're not done the same day. But they're done the next day during roll call --

Q Right.

A -- finish off your log.

Q BY MR. ROSENTHAL: So, this log would have been made consistent with the fact that you had already run the gun and you wanted to make sure that it did not appear that you had run the gun before you made the arrest?

A Right.

Q Okay. Who -- who wrote this log?

A Officer Durden.

Q Okay.

DET. MAHONEY: Okay.

Q BY MR. ROSENTHAL: Let me actually ask you this about the timing of running the gun. Based upon looking at the face sheet of the arrest report, and noticing the change in the time, are you saying now that you do not believe -- because,

initially, you said that the gun was run two days before. So, is it now your belief the gun was actually run right before the arrest, and then, after the arrest?

A I believe that gun was run the day of the arrest, uhm, probably about an hour before. Uh, about an hour before we had ran that gun, I believe.

Q So, that --

A When we -- when I saw that scratched out, that jarred my memory. And it reminded me, that's right, we were trying to change all the times. Uhm, I don't know if you have my DFAR and it shows -- oh, you do have the DFAR. It shows where, uh, end of watch is. We definitely couldn't have made that arrest at 0100 or whatever it says, because I believe our end of watch is 0115.

Q BY DET. MAHONEY: Okay. It shows your end of watch time as 0500.

A Yeah. Let me -- let me see that one. Our original start of watch was 1530. 01530 means our end of watch would have been at 12:00 midnight.

So, we were at Detectives trying to go end of watch. But we remembered that we had to take our vehicle from Detectives, uh, back. So, when we -- wait a minute. Okay.

It says "Roll call was at 1700." Yeah -- no. But our -- our roll call -- our start of watch would have been 1530.

Which means our end of watch would have been, uh, midnight. But we were at Detectives trying to figure out how we're gonna return our vehicle. And I believe there was something going on. I don't remember what it was.

At any rate, we were on our way back from Rampart Station to Rampart Detectives to return our vehicle.

Q Okay.

A And, now that I think about it, that weapon was probably not run at Rampart Detectives. I think I said earlier that it was at Rampart Detectives that it was -- uh, that the gun was ran. It might have been at Rampart Station that that weapon was run. But I'm not a hundred percent sure.

Q BY MR. ROSENTHAL: Well, the first time it would have been run before the arrest. Where would it have been run?

A That's what I was saying. I believe I had stated in a prior interview that it was at Detectives. I'm thinking that it might have been at Rampart Station. Because we were sitting there for awhile trying to figure out whether to go end of watch or not.

Q And -- and then, after -- the time it would have been right after he was arrested, was it run a second time? I'm sorry?

A Oh, I'm sure it was run a second time to pull out the print-out and all that. But --

Q Right. And that -- where would that have been -- occurred? At Rampart Station or Rampart Detectives?

A That would have been at Rampart Detectives.

Q Oh, both at Rampart Detectives?

A No. No.

Q No? I'm sorry.

A What I said was, the first one, I believe was at Rampart Station. And the only reason I'm saying Rampart Station is because we were there while trying to figure out who was gonna give us a ride back from Detectives back to the station. 'Cause we had -- in other words, our vehicle that we were using, we have to turn it in every night. Because Detectives use it during the day.

Uh, and -- and sometimes what we'll do is on the weekend, just leave it at the station. But they get upset the next day, or the following Monday, because we didn't leave their car. And they got to come all the way to the station.

Q And your locker and your vehicle is in -- and your lockers and vehicles are at Rampart Station on Temple Street, so you have to get back there at the end of the shift?

A Right. Which is what I was saying that we have to somehow get our -- get back or someone's gonna have to give us a ride, or something. Right.

Q So, as best you can remember, you were on your way,

at that time -- to Van Nuys -- or Rampart Detectives. You were gonna drop the car off. And then, someone was gonna drive you back?

A That's correct.

Q Okay. Okay. This is a print-out that we have that shows that on the morning of the 25th, at 1:13, that gun was run at Rampart Detectives.

A Okay.

Q And then, it was run a second time --

MR. MCKESSON: What date was it?

DET. MAHONEY: The 25th.

MR. MCKESSON: What was the date of arrest?

DET. MAHONEY: The 25th. The DFAR was dated October 24th. That's when they started their shift.

MR. ROSENTHAL: Uh, you may have missed this because you were on the phone. What Mr. Perez said was that, uh, that he now -- he now remembers the gun was actually run that same day, not two days before.

MR. MCKESSON: The day of what arrest?

MR. ROSENTHAL: The day of the arrest of Miguel Hernandez.

MR. MCKESSON: Okay.

MR. ROSENTHAL: All right.

MR. MCKESSON: At what time was this arrest?

DET. MAHONEY: Okay. The first time it was run was at



1:13 a.m. And that was at Rampart Detectives. And then, the second time it was run was at 2:10 a.m. And that was at the Temple Street Rampart Station.

MR. ROSENTHAL: Now, looking at the arrest report, let's see. We've got this one at -- the one at 1:13 a.m. And the face sheet of the arrest report of Miguel Hernandez, --

DET. MAHONEY: Shows an arrest of 1:15. The "1" is penciled in. It's not computerized.

Q BY MR. ROSENTHAL: So, the change makes it appear as though the arrest was 2:00 -- well, if it is 1:15, then, it's two minutes after.

A Right. But that -- well, actually, that's not com -- I was gonna say that's computer-generated. The only thing that's computer-generated is the time of booking, right?

DET. MAHONEY: Right.

THE WITNESS: Uhm, like I said, we were there probably five minutes at the scene with him. And we were back in Detectives writing reports and booking him.

DET. MAHONEY: Right.

THE WITNESS: So, it didn't take us, uh, two hours to -- to dabis him. He'd go -- I'd go straight to writing the reports. He goes straight to dabising and -- but it didn't take us two hours.

MR. ROSENTHAL: Is there a way to get the original?

DET. MAHONEY: Yes, we can probably get an original from downtown.

THE WITNESS: Can I see the face sheet, please?

MR. MCKESSON: Uhm, is there any way --

MR. ROSENTHAL: Okay. Let's go back. We're back on the record.

THE WITNESS: What my attorney was gonna say is is there any way you find the original sheet, which is what Mr. Rosenthal asked about?

DET. MAHONEY: Yes, we can probably find the original --

THE WITNESS: Okay.

Q BY DET. MAHONEY: -- as well as -- was a Field Interview card done when he was arrested?

A My partner would have filled it out. I don't know if he turned it in or not.

Q Do you know -- did you -- was he typed up at Jail Division, or did you type him yourself?

A My partner would have typed him up at the --

Q Was he typed up at Jail Division? Or did you type him up yourself?

A We had typed him up ourselves. My partner would have typed him up at, uh, Rampart Detectives and printed it out at Rampart Detectives.

Uhm, we didn't go Code 6. But did you guys look at

the -- any tapes to see if we tried to get, uh, 2 C.R.A.S.H. 20 up on the air? Uh, that just entered my mind.

Q That's possible.

A I'm not sure if we just asked them to raise up in the air and he said, "I'm already at the station. Call me. Land line me." Or something like that. Uh, 'cause we had to get a hold of him somehow. So, sometime around 2:00 something in the morning, we probably tried to raise him.

Q BY MR. ROSENTHAL: That's your supervisor?

A Yes.

Q All right.

A 2 C.R.A.S.H. 20.

Q BY DET. MAHONEY: That would have been Sgt. Ortiz?

A Yes, sir.

Q All right. Uh, we did find Mr. Hernandez. And we interviewed him, talked to him. He says he doesn't remember speaking to you earlier that night. He says he didn't -- he doesn't remember running into you or your partner.

A He definitely did.

Q He did?

A Yeah. Well, I -- I have no reason to -- he definitely -- uh, we talked to him. In fact, the reason that he was going to jail that day, that my partner was so adamant about taking him is because my partner told him, "I don't want to see you

around here. Get out of here." And we saw him again.

Q What kind of attitude did he have, I mean, when you talked to him?

A Your usual parolee. Try to be, uh, as polite as possible without just telling you, you know, go to -- go to hell, or something. But he was trying to be polite.

Q And do you remember what time that was?

A That we saw him prior?

Q At 6th and Westlake?

A Several hours prior. It was two or three hours prior to that probably.

Q BY MR. ROSENTHAL: So, that would have been before you ran this gun for the first time?

A Yes.

Q And let me just get this. This shows the print-out that you ran the gun first, uh, -- actually, it's under your, I think your serial number, 26905.

A Okay.

Q And it shows you ran it at 1:13 in the morning, uh, at Rampart Detectives. Now, this would have been after your watch was supposedly over? Is that correct the timing on this? Is it 1:13?

DET. MAHONEY: Yes.

MR. ROSENTHAL: Are we certain of that?

DET. MAHONEY: Yes.

MR. ROSENTHAL: Okay.

Q Because you said that your watch would normally have been over at midnight.

A Unless, uhm, there was something going on and just our supervisor said, "Stay late." There were days, let's say, things were happening. Let's say there was other units involved in other things. And he'd just say, "Stay two hours over." 'Cause what we would do is we would come in two hours early and work out. We would work out, let's say, from 1530 to 1730. We'd work out for two hours at the beginning of shift.

And -- but then, we would still work another two hours on top of that, uh, as overtime. Because we would count that as part of our workday, the 1530 to 1730.

Q All right. So, you would have, in this case, you would have had to have been held over, otherwise there's no reason you would have run this gun at 1:13 in the morning?

A If we had some other logs, uh, I'd be able to say what was going on, if other people were staying late, too.

Q Okay. So --

A Other -- other DFAR's.

Q So, we should be looking at the DFAR's for other officers on the same day to see if they were staying late also?

A Correct.

Q This log, actually shows you on until --

A Well, yeah, we were extended watch. So, we were probably there 'til after 5:00 in the morning.

Q That's 5:30. But off at five in the morning. Okay. Now, so you would have run this at Rampart Detectives after you saw Mr. Hernandez. Then, at some time after 1:13, you would have left Rampart Detectives on your way over to Rampart Station?

A No, sir. After we had left, uh, Detectives, we were probably just cruising around. We, eventually, go to Rampart Station. We realize that we have to leave our vehicle at Rampart Detectives. That's when we decide to go back to Rampart Detectives.

Q And that's when you run into --

A That's when we run into him.

Q All right.

A And we were there five minutes. Officer Durden handcuffs him. Officer Durden handcuffs him. Put him in the car. We take him. And we try to get a hold of a supervisor to tell him know what we got. And we go straight to, uhm, writing reports and booking him.

Q And you would have run the gun again in order to get a print-out?

A Exactly.

Q All right.

A Uh, you're referring to a report. I haven't see that yet.

Q No. This is just the, uh, print-out of the gun runs.

A Okay.

Q Uhm, indicating that the gun was run twice on that same day. One at 1:13 a.m. and 18 seconds. And the second one at, uh, 2:10 a.m. and 45 seconds.

A Where do you see that?

Q This is under "Time".

A Oh, okay. Okay.

Q Okay?

A Yeah.

Q All right. Any other questions, at this point? We're -- we're, obviously, going to have to check the DFAR's of the other, uh, officers. And, in particular, we're going to need to get the cover sheet for the, uh, arrest report in order to try and determine what the initial, uh, time of arrest was.

Okay.

A I was gonna say maybe you could check the booking recommendation, too. 'Cause I think that was scratched and erased. But there's no way of doing that unless you look at the original one and maybe see what was behind what was erased.

Q So, I'm sorry? So, in --

A The -- the booking recommendation on the original report --

DET. MAHONEY: Right.

THE WITNESS: -- was erased, right?

DET. MAHONEY: It appears to have been, right.

THE WITNESS: What I'm saying is if -- I don't know if they're still existing. But if you looked at the original booking recommendation, not a copy, maybe you'll be able to see what was behind there.

Q BY DET. MAHONEY: The time?

A The -- the time that was written on there.

Q Right.

MR. ROSENTHAL: Okay. All right. Any further questions on this?

DET. MAHONEY: No, I'm done.

MR. ROSENTHAL: All right.

SGT. COOK: That concludes this interview. The time now is 1652 hours.

MR. ROSENTHAL: And we're -- uh, we're off the record, uh, and done for the day. And we will reschedule another, uh, interview at the earliest opportunity.

(Off the record at 4:52 p.m.)

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E X H I B I T S

<u>PEOPLE'S EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>PAGE NO.</u>
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4 - 1 page photocopy of three photographs depicting trunk area of Cadillac Coupe convertible Lic #3APR336.	23	23-24

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