

STATEMENT OF

RAFAEL ANTONIO PEREZ,

TAKEN AT THE MTA BUILDING, ONE GATEWAY PLAZA, LOS ANGELES,
CALIFORNIA 90012.

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
Los Angeles, California 90012

Michael Burditt
Detective
Internal Affairs Group
150 N. Los Angeles Street
Los Angeles, CA 90012

Joel Justice
Sergeant
Internal Affairs Group
West Section
6464 Sunset Boulevard, Ste. 1000
Los Angeles, CA 90028

Lance Smith
Sergeant
Internal Affairs Group
West Section
6464 Sunset Boulevard, Ste. 1000
Los Angeles, CA 90028

Jeff Paillet
Sergeant
Los Angeles Police Department
Robbery/Homicide Task Force
One 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

00-007

LOS ANGELES, CALIFORNIA, THURSDAY, FEBRUARY 3, 2000, 10:54 A.M.

MR. ROSENTHAL: Today's date is February 3rd, 2000. It's 10:54 in the morning. These are the continuing interviews of Rafael Perez. I'm Richard Rosenthal, Deputy District Attorney.

Present are Rafael Perez, his attorney Kevin McKesson. If you could introduce yourselves?

SGT. SMITH: Sgt. Lance Smith, assigned to Internal Affairs, 24371.

SGT. JUSTICE: Sgt. Joel Justice, Serial Number 24871. Assigned to Internal Affairs.

MR. ROSENTHAL: Okay. Before we begin the Internal Affairs interviews, there are two cases that involved, uh, defense habeas writs that we want to discuss briefly.

Uh, before we begin, so, if you'll 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: Thank you. All right. Uh, the first case involves a defendant Nicholas Morgan. Morgan, M-o-r-g-a-n. Uh, Case Number is GA031063. This is actually a South Pasadena Police Department case.

Uh, we do have a report. However, it appears to have been prepared by Officer Nino Durden relating to a traffic stop that took place on December 4 of 1996 by -- uh, or with Mr. Morgan being the person who was stopped. And, according to the report, it is a Perez/Durden detention.

Uh, according to a defense writ, the contend that, uh, Officers Perez and Durden falsified their reports relating to a stop, and the defendant's detention was, in fact, illegal.

I have given you an opportunity, Mr. Perez, to review a two-page report by Durden that was prepared.

Q And, uh, let me ask you if you remember this incident.

A Yes, I do.

Q And, uh, is there anything -- first of all, why don't you tell us just briefly what happened? At least, uh, --

A Uhm, I can --

Q -- is the report accurate?

A The report is accurate.

Q All right.

A I can tell you that, uh, -- uh, after reviewing this report, I haven't seen anything on here that is fabricated or that, uh, is misleading. Uh, this was a simple traffic stop. Uh, pursuant to the traffic stop, some equipment was, uh, observed in the vehicle. And the guy pretty much came out and said that, you know, what he had done.

Uh, this wasn't something that, uh, -- it wasn't gang-related. So, it's just something that we decided to just turn over to, uh, the -- the agency involved. Uh, the gentleman told us exactly where he did it. Uh, we met up with, uh, some, uh, South Pasadena officers there, and a supervisor. And we just turned over the whole case over to them.

Q Okay. As C.R.A.S.H. officers, you didn't normally do traffic stops; did you?

A Well, we'll do traffic stops. But we try and target, uh, gang areas, and gang members. Uh, and this was just -- from what I remember, it's just a male White, older-looking. Uh --

Q So, why would you have stopped him if you were working

C.R.A.S.H.?

A Uh, --

Q According to this, his date of birth was 1/20/66. Or actually -- yes. And then, the date of arrest was 10/14/93. So, he would have been about --

A 32.

Q -- 32, 33.

A Mmnh-mmnh.

Q Uhm, you consider that older? Or certainly for a gang member?

A We -- I mean, for us it wasn't, uh, you know, the criteria that we're looking for, you know, the young shaved-head, uh, you know. This guy, if I remember correctly, he was unshaven, male White. Uh, and he was -- if I remember, when we did the traffic stop, Alvarado -- Alvarado and maybe Pico. Somewhere around there. Uhm, -- uh, he didn't fit in the area. And he had just passed us up speeding. We were in plain cars. So, a lot of times you'll have guys speeding and just running through red lights, not knowing who we are, 'cause we're in plain cars.

And he just speeded -- speeded right by us. And Durden decided that he's gonna go stop him. And just incidental to a lawful traffic stop, you know, we came across all these other equipment. You know, a bunch of computers, and all kinds of stolen stuff in the car.

Q Okay. So, the report is accurate?

A It is accurate.

Q And there was no misconduct on either your part or Officer Durden's?

A No, sir.

Q Okay. Thank you. We're off the record just for a moment.

(Off the record at 10:58 a.m.)

(Back on the record at 11:04 a.m.)

MR. ROSENTHAL: Okay. We're back on the record. It's 11:04. Uh, the next case that was up for discussion, I'm going to need to review the transcripts and determine, uh, whether it's been discussed before and to what extent. So, I'm going to turn it over now to Internal Affairs detectives to conduct their interviews.

So, why don't you go ahead.

Q BY SGT. JUSTICE: This is a tape-recorded interview of Internal Affairs Investigation No. 99-4637. Today's date is February the 3rd, 2000. The time is 1105 hours. Location of this interview is the MTA Building. Present to be interviewed is Rafael Perez. Present as his attorney is Winston McKesson.

Representing --

MR. MCKESSON: I don't know if I like the way that's phrased.

SGT. JUSTICE: What's that?

MR. MCKESSON: I don't know if I like the way that's phrased.

SGT. JUSTICE: I'm sorry. I was --

MR. MCKESSON: I'm teasing.

SGT. JUSTICE: Okay. Representing the District Attorney's Office is Richard Rosenthal. The interview is being conducted by Sgt. Joel Justice, Serial No. 24871, and by Sgt. Lance Smith, Serial No. 24371.

Present as a stenographer is Sara Mahan. Present as observers are Detectives Diane Cazares, Serial No. 25267 and Detective Mike Burditt, Serial No. 24454.

And the interview is being recorded on Tape No. 225011, Side A.

Okay. Prior to me asking questions, I believe my partner has one question left from the Alan Lobos case that he wanted to ask you -- something that came up.

Q BY SGT. SMITH: And that was over on Hartford, 443 South Hartford.

A Yes, sir.

Q Do you recall, off, uh, Sgt. Dickerson, who he was?

A Do I know who Sgt. Dickerson is?

Q Right.

A Sure.

Q Do you see him there?

A Sgt. Dickerson? Yes. Right here.

Q No. 3?

A Yes, sir.

Q Okay. Uh, I have a print-out that shows he was at

the scene over there at Hartford --

A Hartford. Okay.

Q -- where you, uh, were shown the gun by one of the officers who had responded. Do you recall what Torsney -- what, uh, Sgt. Dickerson -- where he was? Do you recall?

MR. MCKESSON: I don't think he was telling that he recalls Sgt. Dickerson being there.

Q BY SGT. SMITH: Okay. Do you -- do you recall him being at the scene on Hartford?

A Not particularly. I -- at this point, I do not remember. Not to say he wasn't there. But I just don't remember him being there.

Q Okay.

Q BY SGT. JUSTICE: Is that all? Okay. Prior to going on tape, you had a chance to review your transcripts regarding a -- an arrest made on August 23rd, 1996 at 527 West 52nd Street; is that correct?

A Yes, sir.

Q Uh, can you tell me about that arrest?

A I was using an informant [**** CI # 6 ****]
[***** CI # 6 Information Redacted *****] was, uh, providing me with a lot of information as to the activities of the Temple Street Gang.

Uh, on this occasion, I had received some information [**** CI # 6 ****] that there was gonna be a party, uh, thrown in the 77th Street area. Uhm, there other clique,

the Temple Street clique of the Tokers were having a party. [**
[***** CI # 6 Information Redacted *****]
[*****]

What I did earlier that day was I responded to the area where [CI#6] told the party's going to be on 52nd Street. I monitored -- monitored it for a few, uh -- a few minutes and noticed that the place was getting, uh, -- it was getting heavily populated with people. And it appeared that a party was gonna be thrown.

I had made some arrangements, uh, with the other C.R.A.S.H. units, uhm, to respond to my location. Uh, and we met up with, uh, 77th Street C.R.A.S.H. supervisors, and their officers. And they were gonna assist us in the outer perimeter. And we were gonna be, uh, -- we were gonna be breaking up this party.

I had, uh, established with my informant that [**] was gonna be calling me on my cell phone, updating me [** CI # 6 **] [***** CI # 6 Information Redacted *****] [*****] Uhm, and [***] did that. [*****]

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

[*****
**]

[*****
**] by a van.

Uhm, [*****] CI # 6 Information Redacted
*****] Uhm, and that was about it. Uh, we told [CI#6]
okay, we're gonna -- we're gonna go ahead and do it anyway.
Uhm, we had sent several officers, uh, several different
directions to respond to the location. Officer Liddy and his
partner were to go, uh, just one yard, uh, behind the location.
One back yard behind it.

Uhm, there were several other officers, uh, that were
sent in different -- to respond in different, uh, directions as
well, through an open field, and several different directions.

At any rate, when we hit the party, I was one of the
very first cars to pull into the front of the party. Uh, Mr.
Bailey was there, uh, Mr. Montes was there. Uhm, once everybody
was detain- -- as we hit the place, different people started
running in different directions.

MR. ROSENTHAL: Let me interrupt for a moment. This
relates to D.R. No. 96-12-26394. And D.A. Case Nos. BA137221,
BA139279, and City Attorney Case No. 6CR21476.

THE WITNESS: When we -- as I said, when we hit the place,
uh, people started running inside the -- the house. I was aware
of who house it already was, or who lived there. Uh, Mr. Otto,
uh, lived there. And, uhm, we detained everyone that was out
front. Uh, everybody was handcuffed. We made the determination
that we were gonna go inside and -- and get everybody else
that's inside out.

We found some people up in the attic, uh, several

different places. In bathrooms, we found several different people hiding. After the detention, we decided, you know, who's gonna go for what. Uh, Durden decided that he's gonna take Mr. Montes for rock cocaine, uh, and Mr. -- uh, Officer Durden had that rock on him. He already had it with him. It wasn't like he had to go get it somewhere. He had it on him.

So, he put that narcotics on Mr. Montes. He was going.

Q BY MR. MCKESSON: When you say -- excuse me. Can you define when you say "Put it on him?"

A In other words, uh, put a case on him as though -- he was gonna say that he saw Mr. Montes drop this cocaine. And -- and say that, uh, he dropped it, and, you know, he's gonna be arrested for it.

And it was actually planted on him. The narcotics was planted on him.

Q And when you say "planted on him" what do you mean? 'Cause I don't know what you mean.

A On paper it's planted on them. Not literally go over to him, put in his pocket, or put it on the floor and say, "Oh, look. You dropped this." Just on paper. You know, when you write the report, you know, we describe that he dropped this narcotics. And we're arresting him for it. And we recovered it. And we're booking it into evidence. When, in actuality, the narcotics was in, uh, Officer Durden's possession the entire time.

There was also a Samuel Bailey that was at the location. And I decided to take Samuel Bailey based on some information that I had received from the informant, uhm regarding Mr. Bailey and his, uh, -- some of the actions that he wanted to take against, uh, an officer -- particularly me. Uh, he was trying to -- trying to develop a plan on how to take me out, uh, how to kill me. So, he was going for that.

I knew he was on parole. Uh, and there was, -- uh, Officer Liddy, we came up with the plan that he was gonna describe seeing, uh, Mr. Otto placing the shotgun under the couch as we approached. And he ran inside the house. When, in actuality, we knew that shotgun was under the couch the entire time because we had received information from my informant, [** CI # 6 **] that the shotgun was there.

And when we debriefed before we left, everybody knew there's a shotgun under the couch by the van.

Q BY SGT. JUSTICE: Everyone knew that?

A Everyone knew that that was at the briefing that -- that, uh, was there with us at the -- uh, before we hit the place.

Uh, there was also a guy, I believe they call him Moreno. I can't think of his name right now. I think he was filed on a misdemeanor. There was also a gun found and it was put on him. Uhm, I think Officer Richardson -- I think it was Officer Richardson that, uh, took credit for that one.

Uh, but, he saw this guy throw a gun or discard a

gun. And we found the gun and we just put -- put it on him. We said that we saw him drop it or whatever.

Uhm, Mr. Montes, several months after he was arrested, and had done some time, came to the police station and wanted to talk to me. Uh, I met with him at the front desk. And he talked to me about wanting to know why exactly did my partner set him up. He said that, yeah, he was having problems with drugs. Because we had known Mr. Montes on -- on many occasions, we had seen him out in the street, uh, selling drugs, using drugs. And we -- we had told him on many occasions, "Stop what you're doing so you don't end up going to jail."

And so he wanted to come to the station to talk to me and ask me why exactly did you guys set me up. You know, -- you know, I had to go to jail. And this and that. And why can't you just tell me why you guys set me up?

And I told him, "I don't know what you're talking about. You know, you shouldn't be out there hanging out with drugs and things like that."

And then, that was the end. He just left after that. Uhm, Mr. Otto, I believe it is. I keep saying Otto. I'm not a hundred percent sure that's his name.

Q Otto Castillo.

A Otto Castillo?

Q Who lived at the residence?

A Yeah. We had talked to him. And had talked to his -- I think his mother was there, at the time. And we had,

basically, convinced him that we knew he lived there, and we knew that he had put the shotgun under there, even though the information came from our informant, we told him that we saw him. So, he was pretty much, uh, convinced that, you know, he -- he was -- that he was had. You know, we -- we found him. Or we saw him put that shotgun there.

So, we had him convinced that we saw him. Uhm, anything in particular you want to ask?

Q Yeah, I got a lot of questions. Uhm, you had mentioned that there was a 187 suspect at the party.

A Yes, sir.

Q Do you remember who that was?

A He was not at the party. We were hoping that he was at the party. A, uh, guy by the last name of Adams. They call him Stymie.

Q Uhm, and in your briefing, was that held at 77th Station?

A No, sir. That was held -- there's a street right off the freeway. And it's sort of like a -- it parallels the -- the 110 Freeway. There's like a --

Q Flower?

A I'm not sure what it is. It's -- it's -- like here's the freeway, it's on the west side of the freeway. The very first street on the west side of the freeway. It's a little small like alley street. That's where we met up. Everybody had met up there. We, in fact, all the cars were lined-up

there.

Q Okay. Uhm, all the cars including 77th?

A Yes. We had one vehicle that we had set up at the location with a video camera. I had set up -- I think it was actually a van we set up in -- uh, somewhat offsetting the location with a video camera. They were video-taping everything that was going down.

Q Do you know who was in that van?

A We had one of the C.R.A.S.H., uh, 77th C.R.A.S.H. officers do that for us.

Q You don't know who it was?

A Their names? I met them that day. I don't remember their names.

Q Okay. Do you know what happened to that video?

A I do not.

Q Uhm, did you say you were the first unit to approach?

A I was the first -- first unit, uh, yes. I was the, uh, lead, uh, vehicle.

Q Okay. And you guys approached in -- in tandem?

A Yes, sir.

Q Uhm, do you know was there any 77th units in that -- in that tandem?

A There was some, but they were at the very rear.

Q Okay. And when you approached, uh, can you tell me how many gang members were out front?

A Not really. I'd be guessing. There was a bunch.

Q Was there more than ten?

A Yes, sir.

Q Okay. Did any of them run?

A Yes.

Q Do you know if any of them got away?

A I'm assuming so.

Q Okay.

A They never came back and told me. I don't know. Uh, I know some ran inside the house. Some ran between the houses. Who got away? I don't know.

Q Uhm, the ones that ran into the house, do you know how -- first of all, do you know how many ran into the house?

A I know we pulled like six or eight out of the house. So, I'm assuming they were outside, and when we showed up they ran inside. So, in fact, --

Q Do you know --

A -- there were some up in the attic even. Like two or three were up in the attic.

Q Do you know who they were?

A I know Otto was up in the attic. Uhm, Castillo was up. He was one of the ones that was up in the attic. And there were several others. And I -- I can't remember.

Q And you said, uh, Samuel Bailey or Largo was there?

A Yes, sir.

Q Where was he when you guys first approached?

MR. MCKESSON: When he first saw him?

Q BY SGT. JUSTICE: Yeah, when you first saw him.

A I remember he was out in front of the location.

Q Do you know if he ran?

A I don't think he ran. To be honest, I don't know if he ran and then he was stopped, or you know what I mean? I know after I saw him, I made the determination he's one of the ones that goes.

Q 'Cause he put out a threat on you?

A Yes, sir.

Q Uhm, did he even have his hand on his waistband like it says in the arrest report?

A If I remember correctly, he was wearing an army jacket and -- and I never -- the part that I said that I saw him putting his hand on his waistband and turned around as I call him, all that's fabricated. All that's a lie. I mean, that's -- uh, so, no, I never saw him with his hand on his waistband.

Q Uhm, where did the -- the gun that was planted or, -- or the gun that Bailey went to jail for, where did you guys find that?

A That was found in the house.

Q Inside the house?

A Yes, sir.

Q Do you know what kind of gun that was?

A Not at this particular moment, unless I looked at the report.

Q Okay.

A It definitely wasn't a gun that we produced or that we supplied. It was a gun that was found at the location.

Q Was it, by any chance, a cap gun?

A A cap gun?

Q Yes. Like a starter -- a starter pistol?

A I don't remember examining the gun real well. Uhm, in fact, probably somebody booked all the property for us while we wrote the reports. But I don't recall.

Q Uhm, do you know where, uh, Roy Montes was when he was taken into custody?

A No, sir.

Q So, he could have been in the rear. He could have ran inside.

A Yes, sir.

Q You don't recall him running?

A I remember seeing these people out in front of the house. Once everybody's get -- getting into custody and detained, and then seeing them out in front of the house. Where exactly they were detained, originally, or did they -- were they in the front and ran to the back, and then brought back forward? I don't know.

Q Okay. How -- how do you know Durden had the narcotics on him?

A Because he had showed it to me.

Q Prior to --

A In fact, it was --

Q -- to going in the house.

A No, after he, uh, said that he wanted to take Montes, he showed me the narcotics that he was gonna put on him. And from what I remember correctly, there was a large sum or rock. 'Cause I was saying, "Are you gonna put all of it on him?" And he was like, "Yeah." I -- I don't know -- I haven't seen the report, but, uhm, from what I remember correctly, it was a large sum of rocks. I don't know what the weight was, but it was a large sum of rocks. I remember him showing it to me.

Q And he told you that they weren't Montes'? Or how did you -- how did you come into the knowledge that he possessed that?

A Uh, that he possessed that? Who possessed that?

Q Uhm, Durden.

A He showed it to me. He had it.

Q Prior to contact with Montes? Or was that after contact?

A No. It was after.

Q Okay. So, how do you know he didn't actually get that from Montes?

A Because we wrote -- I wrote the report. And on the report, if you notice, it says that when we pulled up to the location, as soon as we pulled up, and as we're exiting our vehicle, we can see Mr. Montes dropping a bindle to the ground. That didn't happen. We established -- myself and my partner Officer Durden -- that we're gonna put a case on Mr. Montes.

Q Okay. Uhm, according to Samuel Bailey, he says Montes was actually smoking cocaine at that party.

A He had been for quite some time. That's why I said that he's been using and selling cocaine, and we've given him many breaks before. We used to stop him on the 101 Freeway at Alvarado many times. That's where he used to hang out, sell, smoke. Uh, so, he -- when he came -- when I talked about him coming to the station and wanting to talk to me about why they planted it, why we planted narcotics on him, he did have a problem with narcotics, but, you know why did he have to go to jail, and he should have went to a program or something like that.

Uhm, I was aware that he had been using narcotics, yes.

Q Okay. But you still say it's not possible that Durden observed him with the narcotics?

A Impossible.

Q Okay. Do you recall where -- do you recall Umberto Vasquez?

A If I saw his picture I could say definitively.

Q Here.

A Yes, that's him.

Q Do you know where he was taken into custody at?

A Not exactly, no.

Q You don't know if he ran or --

A No.

Q Do you know who took Vasquez into custody?

A I believe, on the report, we -- we said that Richardson took him into custody.

Q Okay.

A What the report might say and where exactly he was taken into custody, are probably two different things. That's the problem with saying Richardson took him into custody, because even though the report says that, he was probably just stopped with everybody else. You know, and a big group of people that were stopped. But, of course, in the report, we put that this particular officer saw him, you know, walking or running and tossed a gun -- or had a gun in his waistband.

And that's a fabricated story.

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

SGT. JUSTICE: Yeah, it's right here. Let me ask you.

MR. MCKESSON: Just take a moment and look it. And while you're looking at it, I have to go to the restroom.

SGT. JUSTICE: We're gonna pause for a minute. It's 11:30.

(Off the record at 11:30 a.m.)

(Back on the record at 11:40 a.m.)

SGT. JUSTICE: We are back on tape. It is 1140 hours.

THE WITNESS: Again, I just want to clarify something. I think I said that Officer Richardson was the one that detained, uh, Defendant No. 3., Mr. uh --

SGT. JUSTICE: Vasquez.

THE WITNESS: -- Vasquez. On the report it does indicate

that, that Mr. Rios and Mr. Richardson -- Officer Rios and Officer Richardson, detained Mr. Hernandez. But that is also not -- not accurate?

THE REPORTER: Hernandez or Vasquez?

THE WITNESS: Vasquez. Uhm, this story about him seeing him in the back of the house by a shed, and removing a handgun, was all what we came up with. It was -- you know, this was my gang. Who do you want to go? Mr. -- Mr. Vasquez, Umberto, was pretty unfamiliar to me in the gang. If I remember correctly, he's had tatted up. He's got several tats. And he was new to the gang to me. He had somewhat of an attitude.

Later on, after this actual case, he sort of became real friendly towards me. Uhm, but, at the time, I wanted him to go 'cause he had the -- the attitude in the group. Uh, and it was strictly up to -- again, this was my gang. It was strictly up to me, you know, if there was guns recovered, I'm gonna decide who's gonna go. You know, we'll detain everybody. Perez, just tell me who you want detained and we'll have the story ready. That type of thing.

So, --

Q Do you know where the gun was found that was -- uh, that Vasquez was booked for?

A I may have, at the time. From what I remember, they were all found, other than the shotgun, they were all found in the house. Uhm, except the shotgun that was found, uh, -- or it was under the couch in the driveway area.

Q Okay. Uhm, so, Richard did -- Richardson didn't find that in a pat-down?

A In a pat-down? No.

Q Do you know who actually recovered that gun inside the house?

A No. I probably did when it -- you know, as we were searching somebody said, "Hey, look. We got this." Whatever. But it just didn't -- it's not something that stuck with me.

Q Okay. Did Vasquez ever make that statement in there about, uh, drilling off the serial numbers? I believe you stated, "Yeah, but I didn't do it. Somebody else drilled it off."

A Who did he make that statement to?

Q Uhm, I believe -- well, actually, I'm not sure who he made it to. Maybe Rios.

A I think that kind of statement is just we write it in there to establish, you know, the -- was he booked for 12090? Yeah, altering a firearm. That's just a statement we throw in there to show an admission that the serial number -- he knew that the serial number -- not that he particularly did it himself, but he knew that the serial number was altered, so we could try and get a conviction. That's all that is.

Q Okay. Do you know who recovered the shotgun?

A For some reason, I want to say Durden pulled it out. But I'm not a hundred percent sure.

Q Okay. Uhm, is it possible -- well, let me ask you.

Where was, uh -- was Liddy actually in the -- in the rear yard, or the house to the rear?

A Yes.

Q Okay. Is it possible that he saw Castillo remove the shotgun and put it back?

A Very unlikely. We knew the shotgun was there. Why, when we approach, would the pull the shotgun out? The officers see me, and then, put it back in. The shotgun is sitting there the whole time. [***** CI # 6 Information Redacted *****]

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Q So, it's very unlikely that happened?

A I know it didn't happen. I mean --

Q BY MR. MCKESSON: Well, you didn't see it?

A No, I didn't see it. But, by talking to Liddy, and, you know, our -- you know, getting our story straight, uh, I know he didn't see it. Uh, just based on, you know, our conversation. Uh, I remember him seeing -- saying that he did some -- some of the guys running into the back door. But he never saw the -- you know, the shotgun.

Q BY SGT. JUSTICE: [***** CI # 6 Info Redacted **]
[*****]

[*****]

A [***** CI # 6 *****]

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SGT. SMITH: [***** CI # 6 Information Redacted ****]

SGT. JUSTICE: [***** CI # 6 Information Redacted ****]

SGT. SMITH: [***** CI # 6 Information Redacted ****]

THE WITNESS: [***** CI # 6 Information Redacted ****]

[*****]

MR. SMITH: [***** CI # 6 Information Redacted ****]

Q BY SGT. JUSTICE: [** CI # 6 Information Redacted **]

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Q [***** CI # 6 Information Redacted ****]

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Q Okay. Do you know if a knife was taken from inside

this house?

A A knife?

Q Mmnh-mmnh.

A I mean, again, not that it didn't happen. But it just doesn't stand out in my mind about a knife.

Q How about --

A I've haven't came across a lot of knives.

Q How about nunchucks? They were on a wall like being displayed on the wall in one of the rooms.

A Again, not that it didn't happen. It's just I'm having a -- uh, these little things like that, just aren't gonna stand out in my mind.

Q I understand. These are things that are brought up. I just want to cover them. That's all.

A Okay.

Q You guys had consent to search this house?

A I know somebody talked -- uh, I believe that his mother was there.

Q Ophelia?

A I don't remember her name. But I remember there was -- the -- the lady of the house was there. And I think somebody talked to her. I'm not exactly sure how. But I think we might have asked her, "Listen, you know, gang members might have run in there. They might have had a gun." You know, that type of thing. And she was like, "Oh, go ahead and look." That type of thing.

Q Okay. If you look on the arrest report another page back, I believe there's a Consent form signed.

A Yes, sir, Ophelia Castillo. The mother of Otto Castillo.

Q It wasn't you that had her sign that?

A It's not even signed by a witness. I would, normally, sign it underneath as the -- you know, the officer. It's just filled out -- yeah, it's not my -- wait a minute. No.

The -- the part that's filled out like, you know, "527 West 52nd Street" well, maybe that -- she might have filled that out herself.

The Consent to Search is actually in English. And it's filled out -- it appears that it's filled out completely in her handwriting. I was gonna say, I don't know whose handwriting this is, but it looks like it may be hers. So, I'm assuming that she, uh, understands English.

MR. MCKESSON: Can I just ask a question?

SGT. JUSTICE: Sure.

Q BY MR. MCKESSON: How could you tell that's in English?

A Oh, the -- no, I mean, --

SGT. SMITH: Strike the question, your Honor. Strike the question.

THE WITNESS: The Consent to Search itself --

MR. MCKESSON: Not enough sleep last night.

SGT. JUSTICE: I understand. No need to explain.

THE WITNESS: The Con- -- the Consent itself is in English. And the, uh, Ophelia Castillo signature there, there is no witness to the signature itself. I would normally, uh, sign it, you know, being that this is my, you know, my caper -- my gang. But that's not to say that there was some other Spanish-speaking, or any English-speaking officer, for that matter, that might have had her, you know, sign it, uh, for us going in.

Q BY SGT. JUSTICE: Okay. So, you don't recall when that was signed, if it was before or after you went in? Or --

A I do not.

Q Okay. Or by who?

A I do not. Can I add something?

Q Absolutely.

A One of the things that we do, especially with the Temple Street Gang, they would always get upset and they would always wonder, let's say Mr. Otto, for example, had a shotgun.

Q This is hypothetical?

A Yes.

Q Okay.

A Uhm, and my informant calls me and says, "Mr. Otto is holding a shotgun as we speak. And he's getting ready to put it in the trunk of his car. Right now. Look. He's doing it as we speak."

Uh, I'll wait 'til I -- you know, let's say a block away, 'til I see Mr. Otto's car coming out, uh, pull him over,

and write a nice report saying how I saw him put a shotgun and, uh, place it in his trunk, and all this. And I'll -- I'll -- I'll create this whole story that probably actually occurred, based on what my informant tells me. But I actually didn't witness it.

So, a lot of times, I'll write a story based on what my informant told me was happening while he was there. And it's real similar to what actually happened. The problem is, I never saw it. It's just what my informant told me.

So, a lot of times I'll fabricate a story -- or I'll -- I'll -- I'll totally fabricate a story about seeing this guy putting a shotgun under the couch. We didn't see that. [*CI#6] [***** CI # 6 Information Redacted *****] now, we're able to write a report similar to what actually happened. So, a lot of times the gang members will think, yeah, well, they must have saw me. [***** CI # 6 Info Redacted **] [***** **]

But I just wanted to make that clear.

Q Okay.

A Because it's happened in other reports. You know, that it's real similar to what actually happened even though we didn't see it. Because we have a little bit more information.

Q Okay. Do you know who testified on this arrest in court?

A I believe we never went to Superior Court. I believe myself, as well as Durden, might have testified at the prelim level. But I don't think it ever -- it ever went to trial. Uhm, --

MR. MCKESSON: Bailey?

THE WITNESS: I don't think it ever went to actual, you know, Superior Court trial, where we had to testify in Superior Court.

Q BY SGT. JUSTICE: Did you testify at any -- well, how about prelims?

MR. MCKESSON: That's what he just said.

THE WITNESS: I said -- I said I believe myself and Durden might have testified at the prelim. And, actually, I -- for some reason, I believe they were held separately like Montes' and Bailey's might have been -- I don't know if they separated the case or what they did.

MR. ROSENTHAL: Right. The cases were -- Bailey and Castillo were filed together. And Montes was filed separately. The guns cases together. Montes was separate. And Umberto Vasquez was a City Attorney filing. So, it would be separate.

According to my records, there was no, uh, trial. They all pled out. But I don't have the record right here with me as to whether or not there was a preliminary hearing.

THE WITNESS: I'm pretty confident that I might have testified at prelim level. But I'm pretty sure I didn't testify at Superior Court level.

Q BY SGT. JUSTICE: And do you know if Richardson testified, or Rios, or Liddy?

A They may have. I mean, this was several officers involved. And, uh, there's a very good possibility that they may have testified, yes.

Q Okay. Did Sgt. Ortiz give you permission to sign the booking approval? Sign his name to the booking approval?

A Do I specifically remember Sgt. Ortiz saying, "It's okay for you to sign the booking approval?" No. Was it a standing order that, you know, we would run down what happened, or, you know, the supervisor was there, so he -- he knows what happened and once we got the booking sheets, we would just sign his name for him? Yes, that was pretty much a standing order.

Q So, you didn't actually have to ask him for permission?

A No.

Q Did you have to, at least, run the arrest by him?

A Absolutely.

Q Okay. And did he require --

A He would want to know how we're writing it, you know, and even maybe review the report real quick, uh, before, uh, he may leave or we're going to the Jail Division to get the face sheets, you know, and we'd sign his name, 'cause we got to make copies to book the property and things like that.

Q Okay. Sgt. Ortiz was involved in this one, then, right? Is that correct?

A Uh, yes, sir.

Q Was he at the scene that evening?

A Absolutely.

Q Do you know if he knows that this report is fabricated?

A Uh, pretty much, yes, sir.

Q And how do you know that?

A Again, I know this might be a little bit hard for some of you guys to understand. But we have certain terminology, certain forms, certain ways that we talk, uh, in the street -- in C.R.A.S.H. anyway. I mean, not all police officers talk this way. Rampart C.R.A.S.H. talks this way.

When we say, "This guy is catching a case" or "This guy is going" we know what we mean by that. Uhm, if we actually, let's say, saw somebody tossing a gun, we're not gonna describe it, you know, uhm, "Man, this guy is so lucky I didn't, you know, shoot him. Uh, he's pulling out a gun." And, yeah, that's one thing. But when we say "This guy's gonna go for this. And this guy's going for that," we know what we're talking about. And we don't need to sit here and go, "Okay. I'm gonna plant a gun on this guy. And, okay, Sarg?" That's not the way it goes. That's not how it happens.

It's a little bit -- a little more subtle than that. Uh, so, it's in the form that we talk. You know, "Sarg, uh, this guy's gonna go. He's gonna go, he's gonna go, he's gonna go. We've got three guns. These three guys are gonna go. And

this guy's also gonna go for some dope. Durden wants to take him." That -- that would have probably been the gist of what he knew.

And he would say, "Okay, just show me the report when you're done writing it." You know, that type of thing.

Q Okay. Was Ortiz present during this whole incident?

A Yes.

Q So, he pretty much saw how it went down?

A Yes.

Q Okay. Do you know if he read this arrest report?

A Uh, again, I can't be a hundred percent sure. But I would definitely make him a copy. He would have to do a Sergeant's log. And the only way to do his Sergeant's log is to read the report so that him -- so, that he can write down the booking number of who was arrested, the location, all that type of thing.

Q Okay. If you look back a couple of pages in there, you'll see his Sergeant's log. And it also shows that he wrote you a commendation for this. Do you recall receiving a commendation for this?

A I'm not saying it didn't happen. But I just -- I don't know. I'm sure the whole -- everybody that was there must have gotten a commendation, not just me.

Q Okay.

A Okay. I see a report entitled "Sergeant's Daily Report, E. Ortiz, 23230, 2000." It's talks about "Perez and

Durden received information regarding a Temple Street, uh, Gang members in 77th Division." It talks about, uh, that we met with 77th C.R.A.S.H. supervisors and set up a tactical to approach the location. Uh, 2230 hours, it talks about the location. It's talks about the guns recovered. Uh, it talks about us, uh, updating I-cards. It talks about Mr. uh, -- or Eddie Ortiz talking to the owner of the house, Mrs. Ophelia, understood what happened and she had no complaints and was handed a business card.

Uhm, it talks about how we debriefed the incident with all -- with everyone involved, which is something that we commonly did. We would debrief how everything went down.

Q Do you specifically remember this debriefing?

A Yes. Well, we actually went to back to 77th Division, uh, to debrief certain little things, yes.

Uhm, there is some other stuff in here, possible T.C. But it's not important. But, yes, I -- I see the Sergeant's Log.

Q Would that indicate to you that he was there during that entire incident?

A Yes.

Q And you also have an independent recollection of being -- him being there during the entire incident?

A Absolutely, yes.

Q Okay. So, you would think that he would have the facts of how this actually went down?

A Yes.

Q Do you recall him doing a personnel complaint on this?

A Doing a personal complaint?

MR. MCKESSON: Against who?

Q BY SGT. JUSTICE: Against you for fabricating a police report?

MR. MCKESSON: He being Ortiz?

Q BY SGT. JUSTICE: Yes, Ortiz.

A I don't recall it. Off the top of my head, do I recall a personnel complaint that came from this?

MR. MCKESSON: When you say the personnel report, would it be initiated by Ortiz or be initiated by a citizen's complaint?

Q BY SGT. JUSTICE: By Ortiz.

A Sgt. Ortiz initiated a personnel complaint?

Q Yeah. Do you recall if he did?

A Against me?

Q Yeah. For fabricating a police report.

A Absolutely not. I thought you meant a citizen went to Ortiz who came to me.

Q Uh, --

MR. MCKESSON: What he's trying to do is establish that Ortiz, if you're telling the truth didn't follow protocol.

SGT. JUSTICE: That's what I'm establishing.

THE WITNESS: Okay. I'm sorry. I -- I thought you were actually referring to an actual complaint that I didn't know nothing about.

SGT. JUSTICE: Okay.

THE WITNESS: No. I'm sorry.

Q BY SGT. JUSTICE: And when you referred to I-cards earlier, you meant intelligence cards that we keep on gang members?

A Yes, sir.

Q Okay. And, uh, could Ortiz have actually gotten this consent form signed, do you know?

A Sure. He's a Spanish-speaker. And he's --

Q So, that's possible, but you don't have recollection of that?

A That's right.

Q Do you recall what time you started monitoring this gang?

MR. MCKESSON: That day or --

SGT. JUSTICE: Yeah, that day. I'm sorry.

THE WITNESS: Early evening hours. I had -- I went down and monitored it, noticed that, yeah, a party's gonna go. Uh, then I contact Ortiz in the C.R.A.S.H. unit and told him, "Let's meet up with 77th C.R.A.S.H. and let's do it." But what exact -- what time, I want to say early evening hours.

Q BY SGT. JUSTICE: Was it already dark?

A It was getting there.

Q I want to go ahead and switch sides now. It's 1205 hours. We're on Side B. And it's 1205 hours.

Do you recall any 77th C.R.A.S.H. officers going

inside the residence with you doing a search?

MR. MCKESSON: Now, when you say "77th C.R.A.S.H. officers" are you using that generically to include any 77th officers?

SGT. JUSTICE: Yes.

THE WITNESS: You know, there were some 77th officers that were giving us -- who were -- they were handling the Toker Street, uh, Gang. And they had some intelligence. So, we had them nearby to give us some -- 'cause there were some gang members there that we didn't recognize. We didn't know who they were. Because they're from this clique and not from the Temple Street Clique, up in Rampart Division.

So, I know we had them nearby. Uh, did they go in the house? I -- I don't remember. But they were nearby. I mean, they were kind of helping me out with who was who, as far as the gang members that I didn't know.

Q Do you recall anybody inside yelling outside, "Trailers up. Trailers up, "meaning you need somebody else to come in and search? And a Robert Castaneda from 77th C.R.A.S.H. came in?

A. I -- I do -- uh, the name sounds real familiar, too. But did --

Q BY MR. MCKESSON: Which question are you answering? The one about "trailers up" or --

A Both.

Q All right.

A And I think it was actually Ortiz that might have

said, uh, "Trailers up," uh, when we were searching. I -- by you saying that, I do remember that. And -- and I do remember the name. Uh, he's one of the ones that were -- he was helping me. And if you were to ask me a question now, after refreshing my memory with that comment, I would say, "Yes, I do remember this 77th officer."

Q BY SGT. JUSTICE: Okay. Is he the only one you remember going in?

A So far. You know, you refreshed my memory with -- with that name and that comment. Uh, there were probably be more. Give me a second here and see if I can try and remember. I mean, uhm, besides going iinside the ouse, you got to remember there were several officers out in front of the location. Uh, my thing is trying to remember who went in, as far as 77th. And it's kind of difficult, because it's not something that stands out.

Q BY MR. MCKESSON: Were all the officers in uniform?

A Yes, other than some officers we had out front away from the location in plain clothes video-taping the location.

Q BY SGT. JUSTICE: The O.P.?

A Yes, sir.

Q Okay. Observation Post. Uh, --

A So, to answer your answer, is he the only one I remember? At this point, yes.

Q Right. Do you know if he has knowledge of what this

-- uh, what's in this arrest report?

MR. MCKESSON: He being the 77th officer?

SGT. JUSTICE: Robert Castaneda

Q Do you think he ever read this arrest report?

A I don't think so.

Q Now, you said you had made arrangements with, uh, 77th when you first started talking about this, you called down there and you had an informant. You knew there was gonna be a party. You called 77th to make arrangements. Do you know who you talked to?

A No, sir. I do not.

Q Okay. Do you know if, uhm, Stymie was ever arrested?

A Eventually, yes.

Q Okay.

MR. MCKESSON: Are you referring to that evening?

SGT. JUSTICE: No, just ever.

Q 'Cause, uh, he wasn't arrested that evening, correct?

A No, sir.

Q Okay.

Q BY SGT. SMITH: After the incident, was he ever arrested?

A Sometime later, yes.

Q Okay.

Q BY SGT. JUSTICE: What was the information you got from your informant regarding Bailey wanting to take you out?

A He had told me that Bailey was 5150. Meaning kind of

crazy. Uh, and he didn't use those words 5150. He was using crazy. I'm using 5150. But he had told me that Bailey had gotten out of prison and he was somewhat crazy. He was upset at me because I had been making so many arrests. [*** CI # 6 ***]

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

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[***] And Bailey had talked about, uh, taking me out. Uh, you know, how he wanted to do it, you know, things like that.

Q Okay. And you gave that information out at briefing?

A Did I give it out at briefing? Yes. As well as several -- several other gang members that were involved.

Q Okay.

Q BY MR. MCKESSON: I don't understand that response.

A I gave out the information that Bailey had made some comments or was trying to make a plan to take me out, as well as some other gang members that were involved in these same type of conversations, as far as taking me out.

SGT. JUSTICE: Okay. Lance, do you have any questions?

Q BY SGT. SMITH: Your informant, had you gone through the department procedure with regard to informant's and registering him?

MR. MCKESSON: You mean the specific informant he's talking

about?

SGT. SMITH: [**** CI # 6 Info Redacted *****]

SGT. JUSTICE: [* CI # 6 **] I believe it was.

SGT. SMITH: [***** CI # 6 Information Redacted *****]

SGT. JUSTICE: [**** CI # 6 Information Redacted *****]

SGT. SMITH: [**** CI # 6 Information Redacted *****]

THE WITNESS: I -- [** CI # 6 Information Redacted **]

SGT. SMITH: Okay.

THE WITNESS: Completed a package. Myself and Sgt. Peters turned it over to Capt. Moraz who was gonna place it in his safe. I don't know what happened to it.

Q BY SGT. JUSTICE: Captain Moraz, you say?

A Captain Moraz. [***** CI # 6 Info Redacted *****]
[** CI # 6 **].

Q BY SGT. SMITH: Now, you said earlier that you responded to 77th to check this. Who did you go to 77th with?

A With Officer Durden. He had somebody on there. He knew some people. Uh, he worked 77th C.R.A.S.H. before he came to Rampart. So, he had sort of a liaison with them. And he knew several of the officers there. So --

Q Okay, now. You say -- so, okay, let me -- let me clarify this then. When you say you went to 77th to take a look at the place, did you go to the station, or did you go to 52nd and Figueroa to take a look at what was going on?

A 52nd and Figueroa.

Q And Durden was with you?

A Yes, sir.

Q Okay. And no other C.R.A.S.H. officers from Rampart Division were with you?

A Uh, the initial point, or --

Q Initially, when you went over to 52nd and Fig.

A The only one that was there before everyone else was in plain clothes 77th C.R.A.S.H. unit that we had set up to O.P. it after we had to leave to gather up and meet with everybody else. But I don't remember anybody else being with us early on, you know, when we first got there.

Q Okay.

A I know, eventually, people started showing up when we decided, yeah, there's gonna be a party here.

Q So, you drive over to 77th with Durden. And you, apparently, contact this 77th C.R.A.S.H. unit when you arrive there. They establish an O.P.

MR. MCKESSON: When you say "arrive there" you mean 77th?

Q SGT. SMITH: No. When you arrive over to 52nd and Figueroa, correct?

A No, sir. When we get to 52nd and Figueroa, and we decide that there's gonna be a party, --

Q Right.

A -- we decided that we're gonna meet up with 77th supervisors --

Q Where?

A -- everybody. At 77th -- their trailer.

Q So, you did go to 77th? You did, even- -- you did go to 77th then?

A We had a big briefing.

Q You're talking about the -- I'm sorry. Go ahead.

A I'm sorry. If -- uh, I don't know if I made a mistake or how it happened. But you're saying that I told your partner that I never went to 77th?

Q Right.

A Uh, if that's what you understood, maybe I'm not -- I'm not very clear in what I'm saying. We did, eventually, go to 77th. We held a meeting. I had talked about talking to supervisor and everything. And we formulated a plan. From 77th Division, we met at Flower -- or I think he called it Flower. I'm not sure. That street just west of the freeway -- along the freeway. But the actual meeting -- in fact, when we determined that we're gonna have a plain clothes officer monitoring the place, in a van, that happened at the meeting, uh, when all the Rampart C.R.A.S.H., uh, officer, 77th, and the supervisors from 77th and Rampart were there.

Q Okay. Now, that's where you're ahead of me.

A I'm sorry.

Q My understanding is that you and Durden go over to the location first yourselves.

A Right.

Q While you were there, did you contact someone from 77th? While you were on 52nd and Fig, did you radio anybody

from 77th and have you meet -- and have them meet you there?
Or did you go to 77th Division?

A No, I think we just went to 77th Division.

Q You went over to 77th.

A Okay. When you say 77th Division, you mean 77th
Division Station? Or are you talking about we just went to
52nd and Figueroa?

Q The station where you met the 77th C.R.A.S.H.
officers.

A We went to -- at some point, we went to, uh, the
station, yes.

Q You and who?

A Durden and everybody else. Everybody.

Q Okay. So, correct me if I'm wrong. Initially, you
said you went up to the location. And you observed what was
happening. And then, you called for everyone else to respond
with you?

A No. We --

MR. MCKESSON: See, the thing -- I think if we're gonna
respond like that, I think we need to look at the transcript.
Because, as I recall, Officer Justice's question --

SGT. SMITH: Well, we're just trying to clarify it. We're
not looking for any discrepancy. We're only trying to clarify
how it went down.

MR. MCKESSON: Well, I understand. And -- and I think
that may be your intention. But the way it sounded to me, --

SGT. SMITH: Right.

MR. MCKESSON: -- it's becoming adversarial. You're trying to show him where he's been giving incorrect testimony.

SGT. SMITH: Oh, no, no, no, no. I'm just trying to clear -- clear it up.

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

(Off the record at 12:10 p.m.)

(Back on the record at 12:15 p.m.)

SGT. JUSTICE: We're back on tape. It is 1215 hours.

THE WITNESS: Let me, uh, clarify something. I think Sgt. Justice asked me did we meet at the location, meaning the 52nd and Figueroa Street area. And I talked about, yes, that we had met on a street just west of the freeway that parallels the street. And the cars were all lined-up there. That's where we stacked up and we met there. And we were actually talking about I had just received information just prior to about the shotgun. That's why we were talking about it. We sort of never even got to the police station. That's why I was talking about a meeting there.

But prior to that meeting around the 52nd and Figueroa Street area, we all met -- all. The supervisors -- all the 77th C.R.A.S.H. supervisor. In fact, I think even a lieutenant, as well as all the Rampart people, uh, met at 77th Division. We game-planned it. We discussed everything. How -- who's gonna approach which way. We wanted, basically, our guys -- our C.R.A.S.H. guys to be the interior, uh, searching officers.

And the 77th guys were just gonna be the outer perimeter for continuity. I mean, we just wanted to keep it, -- you know, the integrity of the searches, we wanted our guys doing it.

Q BY SGT. SMITH: When you say Division, you mean the station?

A The station.

Q You mean 77th Station? That's where you met?

A Yes. Did I say division?

Q Yes.

A The station. We met at 77th Station. I believe it's a trailer that -- that they work out of. That's where we were. It's a long little trailer. And we were all sitting there. And I got up. I gave out -- I passed out photos of Stymie, who we were looking for. I gave a little history on it. That type of thing. But, yes, we definitely all met at the station.

While we were at this station, I, uh, go ahead. I went and told them, "Yes, go ahead and give me a unit. Plain -- one of your plain clothes guy's who's familiar with the area to go out right now and leave this meeting and go set up on the location for me. Because we got nobody sitting on it right now. Because I left that location to come to this briefing at the station."

Q I got you. I understand.

A All right.

Q Was Durden with you when you went to the station?

A Yes, sir.

SGT. JUSTICE: Let me ask him.

Q BY SGT. SMITH: Now, let me get this in first before I forget it. Who do you recall being present at that meeting, at that -- at briefing at 77th Station when you and Durden went there?

A There was a Black sergeant. I don't know names. So, I'm gonna have a problem.

Q That's okay. Don't worry about names.

A I remember there was a Black sergeant.

Q Okay.

A I remember there was a White lieutenant. And, again, I don't know any of these people's names. I had -- Durden knew quite a few of them. 'Cause like I said, Durden had just came from 77th C.R.A.S.H.

Q Okay.

A So, he was familiar with them. Uh, I was trying to let him establish the little liaison for them helping us, you know. He was gonna talk to some of the people that he knew down there.

And then, there was a bunch of officers. But I couldn't tell you any of them, who -- you know, their names or -- I just don't know them.

Q Meaning 77th C.R.A.S.H. officers?

A Yes, sir.

Q Who you believe were 77th C.R.A.S.H.?

A I was told they were 77th C.R.A.S.H. We were using

only C.R.A.S.H. guys.

Q Now, how many of the Rampart officers were also at this briefing at 77th Station?

A All of them that were gonna be involved.

Q Do you recall who they were by name?

A Everyone that was involved? I'm pretty sure that it's on my report. Can I just say it off the top of my head? I could probably name some. I'm sure I'll miss some. But I -- I know quite a few of them that were, I mean, there.

Uh, I mean, you want me to say Officer Liddy, Officer Rios, Officer Richardson. Uh, myself, Officer Durden. Uhm, there's a bunch of other officers.

Q Okay. During the -- go ahead.

Q BY SGT. JUSTICE: While you were at 77th Station giving the briefing, was that when the shotgun was discussed?

A No. The shotgun was discussed when we were talking about being set-up along the thing. And right before we hit the place, --

Q BY MR. MCKESSON: You said along the thing?

A Along the freeway. But I don't know what the name of the street. And I'm not gonna start guessing whether it's Flower or not.

Q Or Olive.

SGT. JUSTICE: It's -- I believe it's Flower.

THE WITNESS: It's one street just right off the freeway adjacent -- it runs parallel with it. And, you know, it's

almost -- it's where all the streets -- the numbered streets dead-end into it, 'cause the freeway's there.

SGT. JUSTICE: Right.

THE WITNESS: Anyway, we stacked-up there. Right before we hit the location, right before we decided okay we're going in, [***** CI # 6 Information Redacted *****]

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[*****
*] [*****] It's -- the couch itself is sitting on the driveway outside the house, under it. [*****]
[***** CI # 6 Information Redacted *****] It belonged to Otto. Uh, actually, I call him Thief -- it's what I knew him by.

[***** CI # 6 Information Redacted *****]
right before we hit the location -- the -- the house, [*****]
[***** CI # 6 Information Redacted *****]
[*****]

Q BY SGT. SMITH: Did you stand up before everyone in the -- at 77th Station during the briefing and discuss what your plan was when you guys went to this party?

A I gave the entire briefing.

Q You gave the entire briefing?

A I gave the entire briefing. I -- I set up the assignments. I, uh, I talked about what tach we're gonna work

on. I passed out all the pictures of who we were looking for. I pretty much ran the whole -- the whole, uhm, briefing.

Q In your opinion, were you thorough?

A Yes.

Q In your opinion, did you make it clear what your plan was?

A Yes. I certainly wouldn't -- with Sgt. Ortiz present, he definitely would check me if I -- if I wasn't.

Q In your opinion, prior to leaving 77th and going to the staging area, did you have the feeling that everyone understood what was supposed to go down, and what their responsibilities were?

A Sure. Yes, sir.

Q Okay. You're now over on Olive near the 110 Freeway.

A Okay.

SGT. JUSTICE: Flower.

SGT. SMITH: Flower and the 110 Freeway.

THE WITNESS: I don't know the name of the streets.

Q BY SGT. SMITH: You're on the west side of the 110 Freeway?

A Yes, sir.

Q And we verified that it was, in fact, the 110 Freeway, the Harbor Freeway?

A Yes.

Q Okay. [***** CI # 6 Information Redacted *****]

A Yes, sir.

Q -- with regard to a shotgun being placed in the couch?

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

[*****
*]

Q And under a pillow or whatever.

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

[*****
*]

Q Okay.

A During this conversation, [* CI # 6 Info Redacted **]

[*****
*]

[*****
*]

[*****
*]

Q Did you bring that conversation you had with him, to the attention of anyone who was with you at the staging area?

A Everyone. Yes.

Q When you say "everyone" does that include everyone who was a part of Rampart C.R.A.S.H. and was present?

A I'm wrong there. When -- right before we went to hit it, we had a -- another quick pow-wow. But it was just the interior guys. It was just our guys. And that's who I mentioned it to.

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

A Our Rampart C.R.A.S.H. guys. The guys who were gonna actually be going into the interior of the house, or -- or hitting the house, not just the C.R.A.S.H. guys who were just gonna be the outer perimeter.

Our guys, I just -- I advised them that [** CI # 6 **]

[***** CI # 6 Information Redacted *****] I did mention it to them.

Q BY SGT. SMITH: Now, how did you know Otto lived there?

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

Q [***** CI # 6 Information Redacted *****]

A Mmnh-mmnh.

Q Had you had any prior contact with Otto prior to this particular case?

A I had seen him. I had had contact with him once maybe twice. But nothing -- no arrests or anything like that.

Q You were one of the first to drive up to the location.

A I was the lead car, yes, sir.

Q Do you recall whether you went westbound or eastbound on 52nd?

A Westbound.

Q Do you recall how you parked your vehicle out in front?

A Right -- as you're going westbound, the house is on the north side of the street, if I'm not mistaken. There's a

driveway that goes into the driveway on the right side of the house. I don't know if you have photos of the place.

I pulled my car right into that driveway, 'cause I didn't want any vehicles backing out or leaving. I always try and close off the exit in case there's a vehicle and somebody's gonna try and peel out or whatever. I pulled my car right into the driveway.

Q Do you recall who pulled in alongside of you?

A (No audible response.)

Q Do you recall who you -- what officer you first saw when you exited your vehicle?

A I was the first car, so I'm -- everybody is behind me. And as, you know, we're moving in, obviously, more officers are -- are scooting up. But I'm -- I'm the very first officer in there. I'm the very first one. So, there was no one in front of me.

Q No one in front of you.

A No, I was the very first officer in.

Q You stated everyone was handcuffed. Did you handcuff anyone?

A Uhm, I'm sure I did. Who did I handcuff? I have no idea. I mean, I can't remember that.

Q Were the Rampart officers involved in handcuffing anyone?

A See, I don't know if you're just asking me were they involved in the -- or in handcuffing anyone in front of the

house? Or are they involved in arresting, or handcuffing anyone inside of the house?

Q In front of the house, when you initially arrived.

MR. MCKESSON: You mean before he got inside?

SGT. SMITH: Right. Before you went inside the residence.

THE WITNESS: I don't think that was their -- their primary -- uh, I believe we were probably gonna have 77th people do that.

SGT. SMITH: Mmnh-mmnh.

THE WITNESS: So, I can't -- that's not for me to say that this particular officer definitely didn't handcuff this guy. I mean, I wasn't paying attention to every officer. But I think we probably, from what I remember, would have allowed -- or had 77th guys handle the detention of these guys while we're trying to make our entry into the -- into the location.

Q Okay. As you were about to make entry in the location, do you recall who was with you?

A Again, certain officers stand out. And certain ones don't.

Q Who were the officers that stand out?

A Uh, Eddie Ortiz. Uhm, Richardson. Liddy. Myself. Durden. For some reason, I don't remember Rios going in the house. Or I mean, uh, doing the search. I'm sure he was. I just don't remember -- remember him there.

And I know -- we needed all the officers because we -- it was a -- it's a big house. And, in fact, we had people

up in the attic. A number of people of hiding. So, we needed a lot of people. So, we used probably everyone that was available. But who is everyone? I can't recall everybody's - - unless I had something to refresh my memory, I just can't remember everybody's face.

Q Okay. Now, prior to going in the house, did someone go and retrieve the shotgun?

A Yes, sir. The shotgun that was out under the couch?

Q Right. You may have said that. Who went and retrieved it?

A And, you know, I can't say positively.

Q Okay.

A For some reason, I remember Durden handling the shotgun. Now, did he pull it out? I'm not a hundred percent sure. I don't know if somebody else pulled it out and handed it to him.

Q Okay.

A But I remember him -- I remember him handling the shotgun. But who exactly got it out of there, I don't remember. I remember Durden handling it.

And I remember it being placed in the trunk of somebody's car.

Q Excuse me. Are you focusing on the shotgun that was under the couch?

A Yes, sir.

Q So, at some point, you remember Durden handling it?

Was this while he was in the front yard?

A Yes, sir.

Q Okay.

A And I remember that he walked over to place it in the trunk of the car -- our car.

Q You stated you spoke with Liddy.

A Go ahead. I just wanted to make a comment. Uh, another thing, there was no communication over the radio as to while we're approaching. Let's say when we're coming in on westbound 52nd Street, there was no communication from Liddy to us saying, "Oh, by the way, guys, there's a guy with a shotgun out front. He's putting it under the couch." There was never any communication of that.

If, actually, Officer Liddy would have actually saw someone handling a shotgun as we're pulling up front, believe me, he'd have made every noise, every ruckus, everything. He would have made everything on the radio to let us know there's a guy out front with a shotgun. Believe me, we would have known that. There was never ever any communication, uh, to that effect.

Q Okay. And to your knowledge, you were the first one there. And you didn't see that?

A I didn't see that. I definitely didn't hear it. I -- and if it would have happened that way, that would have been a big, uh, ass-chewing on Liddy's part for not communicating that.

Q Now, you stated that, at some point, you did

speak with Liddy about the shotgun while you were at the scene?

A Yes, because he was -- he said he would take the credit for that one because he was back there. He would take the credit for the shotgun under the, uh -- under the couch.

Q And when you say "he would take credit" what do you mean "he would take credit?"

A He, -- in fact, we knew that it was Otto's shotgun. He lived there. When we got the guy out of the -- out of the attic -- Otto was up in the attic. Liddy said, "Yeah, that looks like one of the guys that ran to the back of the house and went in." So, -- and we said, "Yeah, that's Otto. That's the guy -- one of the guy's that lives here." He goes, "Okay. Then, just put him down as being the guy that put the shotgun under the couch."

We sort of formulated the plan as we went along, and as we found people, okay, "Yeah, that's him. That's -- that's Otto. Plus, he's one of the ones that ran in anyway."

Q Who -- who was standing in an area to hear Liddy make that statement?

A Probably Durden would have been. Probably Richardson. You got to remember when I'm talking to him, it's not my intention to go around looking for who's listening. I just know that we're sitting there all talking. And we're trying to figure out who's gonna go for what. And what's gonna happen. And I know there's people around me. I know Durden's around me. I know we're talking to Liddy and, uh, his partner.

And we're trying to figure out, okay, you guys have seen this from where you were at? Yeah. Okay. And you saw somebody running in? Yeah.

Okay. It was this -- you know, when we finally got the guys out of the attic, he goes, "Yeah, that's one of them right there. He's one of the ones that ran in." And we're confirming, "Yeah, that's Otto. He's one of the guys that lives here." So, it'll be consistent with what the -- the information that we already have.

Q Is this conversation taking place inside the house?

A No, actually, it's taking place in the back yard of the house.

Q In the back yard of the house?

A It's a black rod iron -- I'm sorry.

Q Go ahead.

A It's a -- from what I remember, there was like a -- a steel, uh, door, uh, in the back of the house. And there's some steps that lead up to it. Uh, we were out in the back yard, uh, close to those stairs when we were talking about it.

(Off the record for momentary discussion.)

Q BY SGT. SMITH: Okay. A gun placed on Moreno, Richardson notes that. Uh, when you spoke about what was going to happen to Moreno, --

SGT. JUSTICE: Vasquez.

THE WITNESS: Moreno?

Q BY SGT. SMITH: Or Vasquez.

A Okay.

Q Is it Vasquez or Moreno?

SGT. JUSTICE: Montes was booked for the narcotics.

THE WITNESS: Montes.

SGT. JUSTICE: And Vasquez was booked for a gun.

THE WITNESS: Right. I think we talked about Richardson finding that gun in his -- in Vasquez' waistband or something.

SGT. SMITH: Right.

THE WITNESS: And that's not true. That was fabricated.

Q BY SGT. SMITH: Well, was that discussed as well, while you were out at the scene on 52nd and Figueroa?

MR. MCKESSON: You're confusing me. You mean, after the arrest was made?

SGT. SMITH: No, while at the scene.

SGT. JUSTICE: After everybody was detained.

SGT. SMITH: Detained.

THE WITNESS: After everyone is detained, and after we've done a search of the -- you know, we had to search the entire house.

SGT. SMITH: Right.

THE WITNESS: Get everybody out and start gathering evidence and this and that. After everything was said and done, it was determined that we were taking, uh, Vasquez. And Richardson told me, again, uh, that he'll -- he'll testify to that one that he saw Mr. Vasquez with a gun in his waistband and that whole story by a shack or whatever. That was all

fabricated.

Q BY SGT. SMITH: Who was standing with you or in position to hear that?

A I don't recall.

Q Okay.

A But to go back to one of your questions. Was it 77th officers that stopped him at a grocery store?

SGT. JUSTICE: I don't know.

THE WITNESS: They were stopped at a grocery store by 77th officers. Somebody stopped them. I remember -- I remember the

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

[*****
**]

[*****
**]

I don't know if you guys have talked to [CI # 6] on this case or not.

SGT. JUSTICE: Not yet, no.

THE WITNESS: [CI#6] has a lot of information.

Q BY MR. MCKESSON: You think [CI#6] going to give it up?

A Well, [CI#6] was a very cooperative informant, at the time. I don't know what [CI#6] is now. But, at the time, [CI#6] was a very cooperative informant.

Q Is [* CI#6 *] -- is [CI#6] in custody? Or do you

guys know?

SGT. JUSTICE: [CI#6]? I don't know if [CI#6] ever was in custody.

THE WITNESS: No, I don't think [CI#6] in custody.

Q BY SGT. JUSTICE: Do you know where [CI#6] lives?

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

Q Do you know how we can get a hold of [CI#6]? I'll talk to the RHD guys.

MR. ROSENTHAL: Let's do that off the record.

THE WITNESS: All these secrets.

Q BY SGT. SMITH: Okay. Tell me about this debriefing.

A Which one?

Q At 77th Station. Did you guys have one there?

A Briefing or debriefing?

Q Debriefing.

A Yes.

Q Okay.

A Uhm, the biggest thing I remember is that we gave him about 50 bucks to go buy beer and to thank them for all their help. I know we did that. Uhm, we talked about what we recovered, uh, whose going to jail. We wanted them to have the information for their paper work, I-cards. Uh, we explained to them how everything went down.

Q Did you take center stage and explain to everyone

what was recovered, and what went down?

A I believe I did. But Sgt. Ortiz did some talking as well. And Sgt. Ortiz was the one that gave them the money, too. I know he did some talking prior to -- I don't know what exactly he was talking about. I know I ran down, basically, how some of the arrests went down and who was going and for what. Did they have knowledge as to these people being planted, you know, the weapons? No. I mean, we didn't come up to them and say, "Oh, we're putting a case on him." We just told them what we had and who -- who's going for what.

And, uhm, we talked about how the deployment -- how when we deployed, how it went. Certain people ran certain different directions. We probably missed. And how it could have been covered a little bit better. Things like that. It was -- it wasn't a very long debriefing.

Q To your knowledge were the majority of people who were present at the briefing, present at the debriefing?

A I think there was less people at the debriefing than there was at the briefing.

Q Now, in the report, it shows that Officer Moore -- take a look at the booking page, which is on page number -- take a look at the booking recommendation slip on this incident.

A The booking recommendation?

Q Right. It's right after your Declaration of Probable Cause.

A I got it.

Q Do you see the first one? Does it have Moore's name on it there as searching employee?

A Yes, it does. It has Officer Moore as the searching employee and the, uh, time of the search. And the Jail Division with negative results.

Q To your knowledge, did Officer Moore know that this report was, in fact, false?

MR. MCKESSON: Who is Officer Moore? I'm sorry?

SGT. SMITH: He was present at the -- out at the scene.

SGT. JUSTICE: A Rampart C.R.A.S.H. officer.

SGT. SMITH: A Rampart C.R.A.S.H. officer.

Q BY SGT. JUSTICE: Do you know if Moore ever read the report?

A I don't know. Let me, if I can throw this in. It's very difficult to explain things because I know how things work in Rampart C.R.A.S.H. And if -- I might have said it once to certain investigators. I try not to repeat that same thing about how Rampart C.R.A.S.H. works. So, I don't repeat it to you. We don't go around Rampart C.R.A.S.H. bragging to each other, "Oh, I put this case on this guy. And I put this case on this guy." If we're in a situation where there's a party, you will notice that, for example, there's three people here that went to jail for guns.

And I guess what I'm telling you is, in your mind, imagine police cars approaching a party. And now, just imagine, how is it possible that we can see all three people, the three

guns that we find, we happen to have observe all three of those people, specifically, at that exact time, removing weapons or putting the weapons down. It just doesn't happen that way. Moore, may have not been, uh, specifically, right there when this person was detained or taken into custody. And he may have not seen when the gun was recovered or where it was recovered from.

But within the unit, you have an understanding. And you know about some of the things that go on. So, when Moore shows up and he's one of the few officers -- the first few officers that's with us, and we detained, uh, Bailey and -- and Montes. And he was involved in detaining all of them. And when we're detaining them, we're lining them all up. We're not going, "Oh, my God, we got a gun. We got a gun." No one's talking about a gun the first ten, fifteen minutes of the search.

And, on the report, I'm putting that as soon as we got there, we saw Samuel Bailey drop a gun. And it's impossible when Moore is right behind me as one of the officers that are approaching. And we never stopped Mr. -- Mr. Bailey didn't get pulled out of the pack -- or Mr. Montes wasn't pulled out the pack 'til everything was done, as far as all of the searches. And we decided who's going, at that point.

So, if you're gonna ask me did Moore know what happened here? Technically, if you ask me that, no. I didn't come up to him and say, "Moore, you know, we put a case on this

guy." But, Moore, as an intelligent officer, knows that when he -- when he arrived at the location right behind me, he saw that one guy. And he saw that guy, too. And nobody particularly paid them attention or no one said, "Oh, my God, we've got a gun right here. This guy's got a gun," or, "This guy just dropped some dope." None of that happened 'til after all the searching was over. And then, it was decided on who's gonna go.

Q BY SGT. SMITH: Here's a better question. It shows Officer Moore being a searching employee. And we -- I will assume that, uh, the searching employee of a Otto Castillo, who is being booked for a shotgun under 18 inches. Was Moore present over on -- near the 110 Freeway when you told the rest of the C.R.A.S.H. members that a shotgun had been placed in the couch?

A Yes, sir.

Q You can attest that Moore was present then?

A Yes.

Q Were there any other shotguns, other than the shotgun that was recovered by Durden, that was taken away from this scene?

A No, sir.

Q To your knowledge, is it this shotgun that you -- that you were -- that Durden recovered that Sgt. Moore -- I mean, Officer Moore is searching Castillo for during this actual booking? Do you follow that question?

A Is -- is Mr. Castillo being booked and transported by Officer Moore for the shotgun that we had talked about prior to hitting the location that was recovered and we told everyone -- or I told everyone that was gonna be under the couch in the driveway, at the time of the -- of the raid? Does Mr. Moore know that?

Q Right.

A It's very difficult. It's very difficult. Of course, I told -- Officer Moore knows that there was a shotgun under the couch. Everyone knew -- Sgt. Ortiz, Mr. Liddy. Everyone knew there was a shotgun under the couch. And he knows that Mr. Otto went for the shotgun. I mean, you --

Q Okay. Was Stepp and Moore partners that day?

SGT. JUSTICE: No.

SGT. SMITH: They weren't.

SGT. JUSTICE: I don't know. I'd have to look at the log.

SGT. SMITH: Check and see if they were partners.

THE WITNESS: I think it was O'Grady and Moore.

SGT. JUSTICE: Yeah, it was O'Grady and Moore.

Q BY SGT. SMITH: It was O'Grady and Moore?

A I believe so.

Q Okay.

A They were partners --

Q Yeah.

A -- for quite some time.

Q And O'Grady was over there near the freeway as well,

to your knowledge?

A Everyone that's on this list, for the C.R.A.S.H. guys, they didn't just show up later. They were definitely at the -- at the location.

Q Now, with regard to the narcotics.

A Mr. Montes?

Q Montes. The arrest report, it shows that Stepp -- SGT. JUSTICE: Stepp searched and booked Montes.

Q BY SGT. SMITH: -- searched and booked Montes.

A Yes, sir. Is that in a --

Q To your knowledge --

A -- booking recommendation?

Q Yes. To your knowledge --

A Yes, sir.

Q -- did Stepp have any information that Durden had the narcotics on him prior to arresting Montes for it?

MR. MCKESSON: Can you read that back, Sara?

(Reporter read back last question.)

Q BY MR. MCKESSON: Do you have that question in mind, Ray?

A It's impossible for me to know what Durden might have told Stepp. Uhm, again, the same thing that I said about Moore.

Q Okay. Did you tell Stepp that Durden had planted narcotics on Montes?

A I don't remember telling him that, no.

Q Okay. A suspect came to the front desk at Rampart

Station after this incident and asked why did your partner put a case on him, correct?

A Mr. Montes.

Q Mr. Montes. Who was present at the front desk when he -- when you spoke with him?

A There were some desk officers at the station. Who they were, I don't remember. I know I just so happened to be walking by. And they -- one of officers say, "You're a C.R.A.S.H. officer, right?" I'm like, "Yeah." "You may want to talk to this guy." I opened the -- if you walk down the hallway in Rampart Station, before you make a left to go into the Watch Commander's Office, and you keep straight, there's a door there. That leads out to the front desk. I walked him in and stood him right by that door and talked to him right there. And he -- he wanted to talk to me about, you know, uh, why -- you know, why -- why did your partner have to, you know, set me up like that, you know. Yeah, I had a problem. But, man, you know, I -- what I needed was help. And, you know, you guys made me to go to jail. That type of thing. And I didn't want to discuss that with him. I just told him, "Well, that's something you have to talk to him about. I -- I don't know what you're talking about."

Q One last question. During the debriefing at 77th, you said that most of the -- most of the people were there. But it wasn't as full with all the officers -- were all the Rampart officers from C.R.A.S.H. at the 77th debriefing, when

you went back?

A I'm not gonna say that, because we had to have officers, uh, transport, and things like that. So, who did the transporting and who went back for the debriefing, I really don't remember. It would be impossible for me to remember who did all the transporting and who did -- who we had at debriefing. One thing that stands out is that we collected like 40, 50 bucks for them.

Q In your opinion, is it not unlikely that every C.R.A.S.H. officer, who was at that scene, is it not unlikely that, uh, they would not have known that Otto Castillo was booked for that shotgun?

A Everyone that was --

Q From Rampart C.R.A.S.H., is it unlikely that they would have not known that Otto Castillo was booked for possession of that shotgun?

A No, they would have known.

Q And why -- why would you -- how would you qualify that?

A There's several reasons why they would have known. Number one, we had a debriefing with 77th. And when we got back to Rampart Station the following day, we had another debriefing about what happened, as well as, that they're seeing the man being transported, taken out of the house, and taking him to jail. I mean, unless they have their eyes closed and not looking, or not wanting to look, you can't help but to know

that they're taking him away for the shotgun.

Q But you say that you had another debriefing at Rampart the following day?

A Yes, sir.

Q Who, uh, spoke during that debriefing?

A I would have spoken. And, actually, we both spoke. Myself and my partner, we both spoke.

Q And did you address the actual arrest of each individual from 52nd and Figueroa?

A Yes, sir.

Q And did you discuss what they were arrested for?

A Yes, sir. And -- and the debriefing is consistent with what the report shows.

Q With the report.

A Not with what actually happened.

SGT. JUSTICE: That concludes this interview. It is 1250 hours.

(Off the record at 12:50 p.m.)

(Back on the record at 2:00 p.m.)

SGT. JUSTICE: This is a tape-recorded interview of Internal Affairs Investigation 99-4623. Today's date is February 3rd, 2000 at 1400 hours. Location of this interview is the MTA Building. Present to be interviewed is Rafael Perez.

Present as his attorney is Winston McKesson. Representing the District Attorney's Office is Richard Rosenthal. Present as the stenographer is Sara Mahan. Uh,

present as an observer is Detective Mike Burditt, with serial number 24454.

The interview is being conducted by Sgt. Lance Smith, serial number 24371, Sgt. Joel Justice, serial number 24871. The interview is being recorded on Tape No. 225014, Side A.

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

THE WITNESS: Yes, sir.

Q BY SGT. SMITH: Okay. This investigation involves, uh, Case No. 96-02-16585. And that would be Gerald Peters.

MR. ROSENTHAL: Okay. Hold on just one moment.

All right. This relates to D.A. Case No. BA131401. And correct me if I'm wrong, the D.R. number should be 96-02-16585.

SGT. SMITH: Correct.

MR. ROSENTHAL: Okay.

SGT. SMITH: Okay. I've given, uh, Officer Perez a copy of his summarized statement.

Q Okay. Do you recall when you were interviewed regarding that case?

A Yes.

Q I'm going to show you two Polaroid photographs. One depicting a 1070 West Kensington, to the north of the building; and the interior of the apartment building.

MR. MCKESSON: Do you have a better picture of the suspect?

SGT. SMITH: I'm going to show him. It's about the most decent black-and-white I have.

MR. MCKESSON: Thanks.

THE WITNESS: Is there a question pending?

Q BY SGT. SMITH: Not yet.

A Oh, okay.

Q Are you done?

A Yes, sir.

Q Just refreshing your memory.

A Yes, sir.

Q Do you recall the incident?

A Yes, sir.

Q Okay. Do you recall who you were working with?

A I believe it was Tovar. But I'm not a hundred percent sure.

Q Okay. Do you recall what your observations were on Kensington, when you first arrived?

A It was a bunch of us lined-up there read to move in. We had, I think it was, Officer Montoya, I believe was working patrol. He had received a call of a 415 group party. Uh, a disturbing party at a particular location on Kensington.

He called us -- some of the C.R.A.S.H. units over --

SGT. SMITH: Could we go off tape here for a moment?

SGT. JUSTICE: I'm gonna pause. It's 1405 hours.

(Off the record at 2:05 p.m.)

(Back on the record at 2:10 p.m.)

SGT. JUSTICE: We're back on tape. It's 1410 hours.

Q BY SGT. SMITH: Okay. I think I was asking what were

your observations when you initially arrived at this location?

A And I think I had mentioned that Montoya had actually received a call. He requested some C.R.A.S.H. units to come handle it. Because, uh, we better prepared to handle these C.R.A.S.H., uh, parties. It was our function anyway to handle the C.R.A.S.H. parties -- or the gang parties.

I remember we got there. We decided that we're gonna go in and deploy on the location. When we arrived at the location, as we got into the courtyard, we heard people running and scattering, and going every which way. And we knew that a bunch of them ran into an apartment. We just didn't know which one. Uh, we were told by somebody -- I forgot who it was -- that it was this particular apartment, because there's a guy that lives there and he has these parties.

It might have been the manager. I'm not a hundred percent sure who it was who told us which apartment they ran into. To -- if you want me to discuss the -- the first male -- the male with the gun, I can do that. Or just start to --

Q Okay.

A The male with the gun was actually legitimate. This guy showed up at the party while we're doing this raid. He walks up. And I believe it's Montoya that detained him. And he had a gun on him. So, that was actually righteous. That was a legitimate, uh, arrest.

So, I don't know if you have any questions on that. And I'll go on to the arrest, uh, with Mr., uh, -- I call him

Green Eyes.

Q Gerald Peters.

MR. ROSENTHAL: The -- the gun arrest, I believe was Peter Cordero.

SGT. SMITH: Right. Peter Cordero was a juvenile. And he was arrested for the gun. He did jump out of a car and he had a gun.

THE WITNESS: Yeah, that was a righteous arrest. Uhm, Mr. Peters was known to, uh, some of the officers there as being a problem person. A person who was on parole. Uhm, we had knocked on the door for several minutes. We had set-up on it. We had officers in the back looking at the -- you know, the back windows. We were set up. They wouldn't open the door. Or actually, he opened the door once and said, "Fuck you guys." Something like that, and slammed the door shut again.

At that point, Sgt. Ortiz ordered us to go get the -
- uh, the, uh, ram and the -- and the hook. And we went and got that. Uhm, eventually, we got into the location, detained about another ten, twelve people inside. They were all taken out. We were aware that this was Mr. Peters' apartment. Uh, once everybody was detained and hooked-up, we were trying to figure out -- because we knew it was his apartment, and we knew it was him that came to the door and said, "Fuck you guys. I ain't coming -- we ain't coming out." Or stuff like that.

We had made the determination that he was gonna go. Once everybody was detained, uh, Sgt. Ortiz wanted to know what

is he gonna go for. And Martinez said, "He's gonna go for some dope." And that's what, uh, eventually, uh, the story was gonna be that as -- as we showed up, the guy ran up the stairs and dropped some dope and ran into his apartment. And that's how the dope was recovered. But it was actually -- that dope was actually planted on Mr. Peters.

Q And how do you know the dope was planted on Mr. Peters?

A Because I was there when we went into the courtyard. And, number one, by the time we got into the courtyard -- ran into the courtyard to see where they were going, they were already in the apartment. We were not in a position to see any narcotics being dropped by anybody. Or at least not by Mr. Peters.

And, uh, I know for a fact that we were coming up with a story on what we're gonna book him for. And, uh, I remember, uh, Martinez saying here, he had the narcotics. It was -- you know, he was gonna use his own. And that's what he was gonna for was some narcotics.

Q Do you recall the conversation in which Martinez acknowledged that he had some narcotics on his person?

A Yes.

Q Or did you know what it was? Was it, uh, cocaine?

A Rock cocaine.

Q Did he show that to you?

A No.

Q Who was --

A It was just --

Q I'm sorry.

A I'm sorry. You were saying that he was talking to me. We were actually having a little meeting with Sgt. Ortiz, after they were already detained, and after we had busted the door down and gotten in. That's when we dis- -- we were discussing, you know, what's he gonna go for, and that type of thing.

Q Okay. And that all -- that meeting consisted of Ortiz, Brian Liddy, Tovar, McNeil, and Martinez and yourself?

A I believe so, yes.

Q Do you recall anyone else being amongst you guys?

A There may have been. Uh, but I can't recall, unless I looked at a log to see who else was there. I know -- as a matter of fact, we were at the very bottom -- the bottom landing of the stairs. Or here -- right here. Uhm, if you look at -- they're not numbered. But, you can't see it on this photo, but I think you could see it on this one right here. We were standing somewhere on the bottom here when we were discussing -- when Sgt. Ortiz was discussing with us, what's he gonna go for and who's gonna write it, and that type of thing. And Martinez said, "I'll write it. I'll book him for some dope."

Uh, the decision for him to go was made before we even got into the apartment, especially, when he opened the door and said, "Fuck you guys. I ain't coming out," or whatever

and he slammed the door again. We knew he was going.

Q In your mind, you're saying you knew he was --

A In our minds.

Q -- but you didn't actually discuss that as a group prior to actually bringing him out?

A That's correct.

Q So, Ortiz asked the question, what's he gonna go for?

A What's he gonna go for, and who's gonna handle it.

Q And Martinez states, "I will?"

A "I'll do it." Yeah.

Q And he has his own dope?

A Yeah.

Q Did anyone appear to be surprised by that?

A No.

Q No?

A It would have been a surprise if he said, "No, we're not gonna arrest him. He hasn't done anything." That would have been a surprise. On this incident, everybody knew this guy's going. It's just a matter of who's gonna handle it and what's he gonna go for.

Q Well, let me, uh -- why don't you go over the report right quick. Read the report. Let's go -- just go with the basics of that.

A Anything particular you want me to read? Or you just want me to read the whole report?

Q Why don't you just read the whole report. We'll go

off tape momentarily while he reacquaints himself with it.

SGT. JUSTICE: It's 1420 hours.

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

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

SGT. JUSTICE: It's 1425 hours.

Q BY SGT. SMITH: Okay. When you initially acknowledged that Montoya had called for additional units, was Montoya working C.R.A.S.H., at that time?

A No, sir. He was working Patrol.

Q Oh, he was not working C.R.A.S.H.?

A That's correct.

Q Okay. In the arrest report, in the first paragraph, it acknowledges that, uh, Officer Perez, Tovar, Valdez, McMahan, Lujan, --

MR. MCKESSON: Are you on Page 2 of 9?

SGT. SMITH: Page 2 of 9. D.R. 96-02-16585.

Q You all responded to the location, uh, that being Officer Tovar, Valdez, McMahan, Lujan, Veloz, Liddy, Harper, and Ortiz.

A Yes.

Q You stated that as you guys actually -- after you exited your vehicle, when you walked up to the location, that you saw individuals running up the stairs?

A We actually saw people scattering. We could hear people, uh, yelling, scattering. I think we detained a couple up front. But the apartment they actually went to, was a

mystery to us.

Q Okay. So, you did not see anyone walk into, or run into an apartment building in this location? You did not see that?

A No.

Q Was there -- who was standing --

A I went with --

Q Who was standing around you in terms of C.R.A.S.H. officers?

MR. MCKESSON: At what time?

SGT. SMITH: When the people were walking and scattering throughout the area.

THE WITNESS: I know it was, uh, Martinez, myself. I believe Tovar. I believe, uh, Valdez, McMahon. I believe -- I believe Harper and his partner. I believe Harper and his partner were in the rear of the building. But, as far as I can remember those are the officers that went up there. I believe Sgt. Ortiz -- I believe Sgt. Ortiz also went up to the front.

Q All right. Going to Page 3 of the arrest report. It indicates that, in the first paragraph, "Once we arrived at the location, my partner and I -- and this is Officer Martinez speaking.

A Right.

Q Uh, "Valdez, McMahon, and Ortiz, went to the back of the location. Uh, as well as Liddy and Harper went to the back window of Apartment 14." Do you know why, uh, they went to

Apartment 14 -- to the back of Apartment 14? Or why did 14 become the focus of attention?

A That's just -- well, that's just what's written on the report.

Q Okay.

A We don't know that Apartment 14 is involved. We have no idea. We haven't had anybody go in the courtyard yet. For them to say this is just part of their report. Because, if you think about it, we don't even know what we have in there, other than we're not even close to the location yet. We know that there is some kind of party or something going on in this courtyard here.

Q Right.

A So, how is it possible? I mean, unless the radio call or something specifically specified Apartment 14, and they knew exactly where Apartment 14 was.

Q Mmnh-mmnh.

A You know, it's on this side of the building and it's -- the windows in the rear are right back here or something like that. I don't -- and if you're telling me -- if you're saying this correctly, you're saying all of these officers -- these six officers went -- all went to the rear of the location?

MR. MCKESSON: No, I think all he's doing is reading the report and asking if you can explain what's in the paragraph. Is that correct?

Q BY SGT. SMITH: Right. That's all.

A I don't know why there would be six officers going to the rear of the location when there's only nothing but a -- one window there.

Q No, we understand that.

A Oh, okay.

Q No, we --

A I don't know why it was written this way. Like I say, I didn't write the report.

Q Okay. We -- we understand. Now, let me ask you this. Did --

MR. ROSENTHAL: You guys are talking over each other.

SGT. SMITH: And I'm sorry.

Q Did it ever come to your attention that Apartment No. 14 was the focus of attention on what was going on in this courtyard or this apartment complex?

A I believe we talked to a -- well, it might have not been me. Somebody talked to somebody. I think it was an apartment manager or something, saying that the problem was coming out of Apartment 14. And a lot of them ran -- we were told that they ran into Apartment 14.

Q Did you go and talk to the apartment manager?

A I think the apartment manager came and talked to us. But I think she specifically talked to -- I don't know who she specifically talked to.

Q Okay. So, what you're telling me is that when you arrived, you did not observe anyone running up the stairs and

enter Apartment No. 14?

A No. Even -- as a matter of fact, when we get to this courtyard, we don't even know that those stairs are there, until once you're already in. Uh, so, no, we definitely didn't -- we didn't see them go into the apartment, let alone running up the stairs.

Q And, again, did you observe a male with a ponytail running up the stairs toward Apartment No. 14?

A No, sir.

Q Did you observe a male running up the stairs who had a ponytail, that being, uh, Mr. Peters, go into his shirt pocket and throw a canister out -- a film canister?

A No, sir. But, I -- you know what? Now that you say that film canister, I remember that that's what was booked. But, no, I don't remember him throwing a film canister out. On his way to his apartment, he's gonna throw the film canister out on the stairs so that officers can see him and then go into the apartment? No.

Q Did you see Officer Martinez chasing anyone up the stairs at this apartment complex, when you arrived?

A We didn't go up the stairs. And when we did, eventually, go up the stairs, we all went together, almost as a -- we were set up in a sort of a search team. You know, how you line up, stack up, and go up and to the door? Because I -- if I remember correctly, I believe this is the apartment here. And I believe there's some stairs --

Q Let the record reflect he's looking at a Polaroid shot of 1070 West Kensington.

A I don't know if this shows it here or not. Are there supposed to be some stairs right around here?

Q Yes.

A On -- on the smaller picture you can see them. If you go right up the stairs and make a left, then, you -- and the door is right here. And when we, eventually, went up those stairs, we went up as a squad, as a search team. We all went together. We didn't just have officers chasing people, you know, ran up the stairs and officers were downstairs. That's not how it went.

And we didn't go up those stairs until after we already talked to the manager. He told us where they probably ran into.

Q So, you didn't see any C.R.A.S.H. officers running up --

A No, sir.

Q -- any stairs chasing anyone in this apartment complex?

A No, sir.

Q After a C.R.A.S.H. officer spoke with the manager, you say the manager identified the problem as coming out of Apartment 14?

A Yes, sir.

Q You guys -- you and --

MR. MCKESSON: I think he said somebody who may be the manager. He wasn't sure who it was.

Q BY SGT. SMITH: Okay. It may have been the manager?

A Yes. I'm sorry.

Q Okay. You and several of the other C.R.A.S.H. officers then went up the stairs in a -- what type of fashion would you refer to it?

A Like a - well, we call it a searching team.

Q Okay.

A Uh, it's sort of, you know, stacked one behind each other. We tactically deployed on the apartment.

Q Do you recall what position you held in this approaching search team?

A Uhm, I wasn't the point. I believe I was one of the cover officers. But I'm not -- I can't -- I can't -- I don't remember exactly where -- what my position was. I know I was in the -- in the team. I just don't remember where I was positioned.

Q Do you remember --

(Off the record to change paper.)

SGT. JUSTICE: Back on tape. It's still 1436 hours.

Q BY SGT. SMITH: Okay. Do you recall who was a member of the -- who were the other C.R.A.S.H. officers that went up those stairs with you?

A I know Ortiz was there. He was the, uh, team leader. I know Martinez was there. I know I was there. I believe Tovar

was there. You don't want me to look in the report to refresh my memory?

Q No, that's okay. The report doesn't really spell it out.

A It doesn't?

Q Did -- did it ever come to your knowledge that any of the C.R.A.S.H. officers who were at this apartment complex -- did it ever come to your attention that some of them did go to the back of Apartment 14?

A Uh, yes.

Q When did that come to your attention?

A After we found out that -- which apartment it was.

Q Okay. Do you recall Valdez or McMahon going to the back?

A I don't remember specifically, no.

Q You don't recall specifically who did go to the back?

A No.

Q Now, at some point, you reached the apartment, do you recall what took place when you reached the door of this -- uhm, this Apartment 14?

A I know we knocked on it for a while.

Q Mmnh-mmnh.

A Uh, the guy came out. Uh, he said something. I know he said a curse word or something and then slammed the door again. I know, eventually, we got a key. We opened up the door.

Q The guy came out. Who's the guy?

A Uh, Mr. Peters.

Q Would that be Gerald Peters?

A Yes.

Q He able to come out and close the door before you guys entered?

A He opened -- what he does -- what he did was open the wood part of the door. A wooden door. And then, there's still a screen -- a metal screen door. So, we couldn't get in, at the time. He opened up that door, said some words, a curse word, then slammed the door shut again.

Q So, there was a rod iron screen door?

A Yes.

Q And then, the wooden door?

A Yes.

Q Okay. Did he say, "I don't have to come out. Good night?" Do you recall hearing that?

A Well, I don't remember the "good night" part.

Q Okay.

A I -- actually, I remember him cursing or saying some kind of curse word. Like, "Fuck that. I don't have to come out." Or, "I'm not coming out." Or "We ain't coming out." Something like that.

And then, I remember him slamming the door real hard, real -- you know, shut real hard.

Q And then someone went to retrieve a key?

A Yeah, uhm, from the manager. But I think -- I think it's in the report -- uh, the key only opened the, uh, screen door. It didn't open the wooden door.

Q And was the screen -- the rod iron door -- open?

A Yes.

Q What was -- what was next?

A I know, eventually, we made entry. And there was probably, as soon as you walk in, there's a couch and another couch. And everybody's just sitting down and smoking. They're all a bunch of people in there. And we just got everybody out and lined them up on their knees along the, uh --

Q Now, how did make entry --

A -- along the wall, uh, to the apartment, outside the apartment.

Q How did you make entry if you didn't have a pass key?

A I remember that we and got the ram. I forgot who went and got it -- but somebody went to their vehicle -- and, you know, on this thing it says Liddy was in the rear. I think it was Liddy that went and got the -- the ram. It was in his car.

Q BY MR. MCKESSON: Is that what you believe?

A That's what I remember, because we were sort of -- we were holding. And Liddy went and got -- 'cause Liddy would keep a lot of the equipment in his car.

Q Mmnh-mmnh.

A And I remember thinking it was Liddy who came forward, or, you know, left and came back with the, uh, ram.

Q BY SGT. SMITH: So, you -- now, do you -- was that ram used to force open the door?

A I want to say that it was, only because, as soon as we got in, everybody was sitting there just sitting looking dumb, like, you know, what are guys doing here? But I just don't -- it wasn't me who -- if it was knocked open, it wasn't by me. But I just don't remember.

Q Did you take note of Gerald Peters when you entered into the Apartment No. 14?

A Did I see him?

Q Yes.

A Yeah, I saw him.

Q And what was he doing?

A He was being detained in the living room, is what I remember.

Q Did someone immediately detain him?

A I know after being -- after being there a few seconds, I remember seeing him. You know a White guy with, you know, light color eyes and a ponytail. Was it immediate? I'm not sure.

Q Was this residence searched?

A Yes.

Q Do you know why it was searched?

A We just searched it. I'm sure we were looking for weapons and narcotics, or anything, any type of contraband.

Q Was the immediate area searched as you walked into

the door? To your knowledge, or was it -- did the officers search throughout the apartment?

A Oh, we searched the entire apartment. You're talking about inside the apartment?

Q Right.

A No, we searched inside.

Q The entire apartment, and not just the immediate area?

A Right. No, we searched everything.

Q While you were at the front door, do you recall hearing a toilet flush at all?

A No. Uh, I read that in the report. But we had been there a long time. Uh, but -- and, at no point, were in a position, uh, you know, unless you can hear through these walls, or -- at no time did we hear or even talk about the toilets flushing or evidence being discarded or anything like that.

Q You say you were a long time. How long would you say -- uh, how much time expired from -- from the time that you arrived at the apartment complex, up until the time that entered Apartment No. 14?

A I'll say at least a good 45 minutes.

Q Everyone was walked out of the apartment and brought downstairs?

MR. MCKESSON: You mean everyone who was inside of Apartment 14?

SGT. SMITH: Right.

THE WITNESS: Everyone was taken out of the apartment, yes. Q BY SGT. SMITH: As they were -- were they taking F.I.'s? Any of the officers taking F.I.'s on the subjects that were brought down?

A I remember they were being questioned as though F.I.'s were being filled out. Was it, at this point, or if any of those F.I.'s were turned in, I don't know. If they were done, they would have been turned in to Martinez because he was handling it.

Q Now, after everyone was walked downstairs, at what point did you, Martinez, Ortiz, and McNeil, and Tovar and Liddy gather and discuss the arrest of Gerald Peters?

A After the situation was Code 4, you know, we had everybody detained. Uh, after the search was done in his apartment, after, uh, the -- after -- pretty much after everything was completed, uh, while in the courtyard, that's when we just started discussing, you know, who's gonna go. And we knew who was gonna go. But, uh, Ortiz wanted to know. And he was talking to Martinez about it.

Actually, the first question was, who was gonna handle it.

Q Mmnh-mmnh.

A Martinez saying, "I'll handle it. I'll write it." And then, the next question was, whose -- you know, what's he going to go for? And Martinez said, "Well, uh, you know, he's gonna go for some dope." And I think one of your questions

was, did he show that dope?

Q Exactly. That's what I was about to ask.

A And I don't remember seeing it out at the scene, but I think later I -- I remember seeing that. When you said "film canister" that reminded me of something that -- that it was -- I remember it being, supposedly, in some kind of film canister. I do remember that.

Q Did you see that film canister?

A Yes.

Q While out at 1070 West Kensington?

A Like I said earlier, I don't remember seeing it at the scene. I remember seeing it back at the station, you know, whenever we went, I remember seeing it then. But not at the scene.

Q Did you see the rock cocaine?

A Yes. Actually, yes, for some reason, I remember it was just -- was it just one rock?

Q (No audible response.)

A It was just one rock? Okay. Yes.

Q Did Martinez tell you where he had gotten the rock cocaine?

A No. I know he said he had it.

Q Okay.

A You know, he had -- again, you know, we start talking about how we talked in C.R.A.S.H. I mean, it was -- you know, it was understood that he didn't need nobody to, you know, go

find him any dope or anything like that. He had the dope. He had it. So, he was gonna handle that part.

Q What was Martinez -- or Ortiz' response when Martinez said that he had the dope?

A He had an understanding of what's -- what's gonna happen. You know, we were gonna -- okay, that's -- he's gonna go. Uh, I think we talked about him being on parole or something like that. He knew, okay, this guy's gonna go. He's going to jail.

There was no -- there was no confusion. There was no, uh, you know, before, you know, when Ortiz was there, before we go into the apartment, there was no talk of, okay, we've recovered some narcotics, uh, we definitely, you know, got to get in, 'cause, uh, you know, this guy -- we recovered narcotics. There was no talk of narcotics.

In fact, there was something I wanted to mention. Actually, it was in your -- in your report that kind of stood out. Yeah, okay. I think that's the only thing I wanted to mention that, on his report, it indicates that he recovered this narcotics, this film canister. On the stairs he saw Mr. Peters drop it.

And, again, had we actually saw narcotics dropped, uh, you know, and seen Mr. Peters drop it and go into Apartment 14, we wouldn't have waited almost an hour to get into the apartment. At that point, we would have had different circumstances. A fleeing felon who we see drop the narcotics.

We would just go into the apartment, knock the door down, there's no questions asked.

Q In your opinion, did Sgt. Ortiz, Brian Liddy, Umberto Tovar, Scott McNeil, understand that Gerald Peters was being arrested for narcotics which he did not have?

A Only because -- not that it happens on all cases. On this particular case I'm confident that everybody knew that this guy did not have narcotics, but he was gonna go for narcotics.

Q And why are you confident of that?

A Oh, his actions. And, like I said, remember I had said that he had opened the door and said, "Fuck you. You know, we ain't coming out." You know, we all looked at each other, like, you got to be kidding. You know, this is a parolee telling us this. "I ain't coming out. You know, screw that, or fuck you," or whatever. And slammed the door shut in our faces.

At that point, I mean, without even saying a word, everybody knew this guy's going. Uh, it was just one of those things. We knew he's going.

Q Is there anything relative to that discussion that you guys -- that Sgt. -- that Martinez had with Ortiz, yourself, in the company of Tovar about the narcotics that would also, uh, confirm that in your mind?

A The discussion itself. I mean, he wanted to confirm who was gonna handle it and what they were gonna do him for. And it was very clear that Martinez said, "Yeah, I'll handle it. I've got some -- you know, I have the narcotics." And

he'll -- he'll do the report.

Q After the report was written, did you ever review it?

MR. MCKESSON: Before today, right?

Q BY SGT. SMITH: Before today?

A Well, you mean, before this investigation --

Q Right.

A -- 'cause I've, obviously, reviewed it before today. I may have seen portions of the report. I don't think I saw the -- the report in it's entirety. I think I may have seen portions, up to a certain point, that he had written. And I just checked for him, or looked at how much he had written. But I don't think I saw the entire report completed.

Q Look at Page No. -- the page following 9 of 9. It would be --

A The disclosure statement?

Q The disclosure statement.

A Okay.

Q Let me go to that.

A It looks like there's a page missing.

Q Do you have that page. Yeah, there it is. Oh, it looks like there's a page missing?

A There probably should be two or three disclosure statements of all the officers' names that were there. This one only indicates six off- -- uh, about six officers that were there.

In fact, it doesn't even -- it doesn't even show

Martinez on this disclosure. So, there's -- I'm pretty sure there should be one or two other disclosure statements that should be attached to this.

Q Was it -- let me ask you this question. Was it customary that when completing these disclosure statements that officers assigned to C.R.A.S.H. would write down everyone's name who was present at the scene of one of these incidents?

A We know it was improper because the purpose of the disclosure is saying each officer is taking accountability for themselves, signing it and saying, yeah, everything that's written about me is true and accurate. And there's no false or misleading statements. But, as a practice in C.R.A.S.H., yeah. Somebody would take two or three of them and just start writing everybody's name down that was there, you know, at the incident.

And the same with signing the supervisor's name on the report. It was pretty customary with us.

Q And that was whether or not they, in fact, observed the quatus of a crime being committed?

A That's correct.

Q And attest to anything that had occurred.

A What we used to call this in -- in Rampart C.R.A.S.H. was a subpoena.

Q A subpoena?

A Because we knew -- we aware that most D.A.'s, filing D.A.'s when they saw this, a lot of times the -- the subpoena list would come right off of this. A lot of times they would

just go through the report and then write some of the officers' names down. But a lot of times we knew that if we wrote our names on these things, you're gonna get a subpoena, and you're just gonna be on call. It was overtime. So, it was money.

So, I mean, everybody would say, "Yeah, put my name on it. Go ahead. No problem. Put my name on it. And in case you need me to testify to something later, just go ahead and put my name on it."

Q Well, let me ask you this. Valdez' name is here on the disclosure statement. In your opinion, did Valdez have knowledge about this actual arrest, or the falsification of this arrest?

A Well, you're -- you're asking me as though I knew for certain that Valdez was there.

Q Right. In a position to hear the discussion between Martinez and Ortiz.

A I think -- I mean, let me say this right. I think, based on what happened there that night, on what this parolee did to Rampart C.R.A.S.H., by opening the door, telling us we ain't -- "I ain't coming out. F-you," whatever, and slamming the door shut, based on everybody talking about that -- what this guy did -- uhm, I think it was really easy for any of these people that were there at the scene, to say, "Yeah, we knew he was going. Yeah. Yeah, we knew, that, you know, there was no narcotics recovered. But they're gonna put some on him."

Because even if I had been to the rear, and when I

came back around after they finally got in, and they said, "Do you know what this guy did? He -- he opened the door and said, 'Fuck you. I ain't coming out.' And slammed the door shut." "Really?" And my next question would be, "What's he going for?"

Q But you didn't actually hear Valdez ask that question?

A I can't attribute any of these officers -- I can't -- you're almost asking me to -- to see everything through their eyes. I can't -- I can't -- it's almost impossible for me to say, uhm, I mean, "Yeah, at one point or another, all of these guys were around us, near us, while we were discussing certain things."

Q Okay. Harper?

A Mmnh-mmnh.

Q Harper is not listed, uh, amongst -- you did not, initially, state that Harper was with you, Martinez and Ortiz when they had this conversation?

A Correct.

Q The only question is, do you recall Harper standing around?

A Eventually, yes.

Q When Martinez and Ortiz were having a discussion?

A Oh, I'm sorry. Now, you're asking about the discussion.

Q That's okay. That's the question.

A No.

Q What about Veloz?

A No.

Q Lujan?

A I don't remember Lujan.

Q And McMahon?

A I don't remember him either.

Q BY SGT. JUSTICE: What about Montoya?

A Montoya was up front by the, uh, -- the sidewalk. But that doesn't mean that he didn't know that this guy was going for some dope. It was -- on this particular incident, it was a well-known fact -- and when you ask me the question earlier whether any of these people knew -- and I can't say that about every case.

But on this particular case, this guy was so -- I mean, to be a parolee and to have the audacity to come and say and do something like that, everybody knew that he was going. I mean, it just was a matter of what he was going for and who was gonna handle it.

Q When, uh, Martinez said that he handled the case, "I've got the narcotics," how did you know that he didn't recover it inside the apartment?

A Because we just knew that had we had something, number one, we would have talked about it beforehand. Uh, wouldn't have had to discuss what's he going for. Because we would have known, yeah, we recovered narcotics. We saw him drop narcotics, or whatever the case is.

It was more of, "Who's gonna handle it and what's he gonna go for?" That's the discussion. And the -- the resolution was that Martinez is gonna handle it. And, uh, he's gonna go for 11350. "I got some, uh, some dope. And, you know, I'll book him. I'll handle it."

Q So, in your opinion, there was nobody involved in that discussion that could be mistaking this?

A No, not this, no.

Q Okay. Do you know if, uh, Sgt. Ortiz initiated a personnel complaint for a falsified report?

A No.

Q You don't know, or no, he did not?

A I don't believe that he did one.

Q Okay. You said you were there probably about 45 minutes before you made entry. Why did it take you guys so long to make entry?

A Because he wouldn't open the door. We kept knocking, trying to tell him, "Open the door. Open the door." We tried getting -- getting a key from the manager. We opened the iron gate. It wouldn't open the regular gate -- or the regular door -- the wooden door. And it just took a while.

And, you know, we kept asking him, "Open the door. You know, open the door." And, I think, eventually, we finally got in.

Q Okay.

Q BY MR. ROSENTHAL: Why didn't you guys just break it

down --

A We had no --

Q -- from the beginning?

A -- we had nothing to go by.

Q BY SGT. SMITH: No. P.C.?

A We had no P.C. All -- all we did was break up a party, and people ran into an apartment.

Q I was gonna say, that never stopped you guys before.

A I understand. But now you have managers, you have the whole -- now, it's like a little scene now. Now, it's a party

-- you know, not a party. But it's a -- for -- for all the other residents that are there -- I don't know if you can see this apartment, I mean, this building -- you know, there's apartments all the way around.

So, now, you got everybody looking out. And, you know, "Wow, what's going on with the police. What are they doing today?" We can't just, you know, --

Q You have to have some tact about it, right?

A Right.

Q You just can't -- you just can't go --

A And believe me -- and believe me, had we actually seen him drop some cocaine, yeah, we would have just went and knocked the door down. We wouldn't have waited 45 minutes. The problem is that all that was fabricated. So, I mean, -- and it doesn't make sense now, I mean, when you really look at

it. If we actually saw somebody drop some cocaine, why wouldn't we just go in through the door. Because there was no dope -- cocaine.

Q BY SGT. JUSTICE: So, 45 minutes later, you decided you had enough P.C. by then, or --

A Forty-five minutes we finally made entry, uh, after trying and trying, and trying to knock on the door, and trying to get him to open the door. And -- and, finally, we made entry after about 45 minutes.

Q Okay.

Q BY MR. ROSENTHAL: And that was because he finally let you in?

A I think we finally got in the door. I don't know if he -- like I said, I don't know if it --

Q BY SGT. SMITH: You said that there was a ram used?

A I know that we had a ram. We went and got a ram. I don't know if we actually used it or not. I know we definitely, uh, got a ram and a hook. But I don't know exactly if we had to use it or how exactly we got in. I know I didn't -- I didn't have to knock the door down.

Q Do you know where Martinez had the dope?

A I don't think he had it at the scene. I think he had it back at the station. Because he didn't show it to anybody. That's another thing. There was no dope shown to anybody at the scene. It wasn't like, "Oh, look what I found," and there was people passing around a canister. All that didn't come up

until we got back to the station.

Q BY SGT. SMITH: Why did you guys go in the apartment?

A Why did we go into the apartment?

Q Yeah.

A Because we wanted to break up the party. And there was some word that, supposedly, some shots were fired. So, it's a gang party, shots were possibly heard, we got to look for guns. I mean, it's no doubt we have to look. We have to -- we're gonna go in there and look no matter what.

So, you know, we wanted to make entry into this apartment, the guy who lives there, who's on parole, comes out and tells us, "You ain't coming in. We ain't coming out." Klunk. Slams the door in our face.

Q Do you recall an Officer D. Stepp? Stepp?

A Doyle Stepp.

Q Doyle Stepp? Do you know Doyle Stepp?

A Yes.

Q Was he present?

A I don't recall.

Q What about Cardinez?

A Both of those are C.R.A.S.H. officers.

Q Was Cardinez there?

A I don't -- I don't recall.

Q Kalkus? Kalkus?

A Kalkus is also a -- uh, in the C.R.A.S.H. unit.

MR. ROSENTHAL: Could you spell that?

SGT. SMITH: K-a-l-k-u-s. T. Kalkus.

SGT. JUSTICE: We're on Side B. It is 1500 hours.

SGT. SMITH: You don't have to belabor over it. If you don't remember, it's okay.

THE WITNESS: No. Oh, I was just waiting for the -- I -- and, again, I'm not saying that none of these guys were there. It's just, you know -- it's -- you know, sometimes it's very difficult to try and remember everybody that was there. I mean, it's just certain things stand out and certain things don't.

Q BY SGT. SMITH: And Officer Byeon?

A I don't know him.

Q B-y-e-o-n. Byeon. Does that sound familiar?

A No, he's not a C.R.A.S.H. member.

Q No, he's not C.R.A.S.H. I was able to dig up this officer.

A These are the Patrol -- this is probably before Kalkus came to C.R.A.S.H.?

Q Yeah, he's -- this -- these are --

A Yeah.

Q This incident was before they came to C.R.A.S.H.

A Yeah, I don't -- I don't remember them. But that's not to say they weren't there. But I just don't remember them.

Q Let me ask you this question. Do you recall that this incident occurred several hours before the incident with Alan Lobos? The same evening.

A That this incident occurred the same evening as Alan

Lobos? Lobos being?

Q The gun was planted on him on Hartford.

A On Hartford? Do I remember if it was the same evening? Not particularly.

Q BY DET. BURDITT: Ray, is it common, at least, when you were working C.R.A.S.H., that when officers, as back-up officers, responded, would they go Code 6?

A C.R.A.S.H. officers?

Q Yeah, if they -- if you requested back-up, or you're -- you're requesting two additional C.R.A.S.H. units to a location to assist you, would they normally contact Communications, because their cars are not MDT-equipped, and their only working with radios. 'Cause what I found in a number of these cases, is the DFAR's, uh, don't match up.

A No, because, uh, I, personally, uh, -- and you can check mine -- very rarely would I even show Code 6. I -- I could be, you know, in the -- in the -- when we first start our watch, the -- the PSR at the Watch Commander's Office would, uh, log you on. But, if you had a unit history, it would show logged-on. And that's it. I ran throughout the entire -- is it stopped here, stopped there.

Very rarely did I just show myself Code 6. And I think that's pretty common with the rest of the units. We just -- you just go, you know, about your business. And very rarely -- unless you need another unit, do you show yourself Code 6. Code 6 meaning at the scene.

Q BY SGT. SMITH: Is there anything that I have not asked you that you think would be helpful in investigating this case relative to a false arrest?

MR. MCKESSON: Let me just say this, Detective, the only problem that I have with that question, is I take it he's talked about that case a couple of times. And he brought that case to the attention of the task force investigating officers. And I believe that's a catch-all question. It's kind of difficult for him to answer, at this point,, since he's volunteered all this, and he'd have to look at everything to see if there's anything else he'd have to add.

SGT. SMITH: Okay.

THE WITNESS: Other than what I've already given you.

SGT. SMITH: Okay.

THE WITNESS: Or if I have stated in other interviews, uh, there is really nothing else that I could think of right now. But if I do, I'll -- I'll bring it to somebody's attention.

SGT. SMITH: Okay.

SGT. JUSTICE: That concludes this interview. It's 1507 hours.

(Off the record to change speakers.)

SGT. PAILET: Okay. This is going to be a tape-recorded interview of RHD Task Force Investigation No. 99-2949. Uh, today's date is gonna be February 3rd, 2000. Time 1535 hours. Location of this interview is One Gateway Plaza.

Present to be interviewed is Rafael Perez. Interview

is being recorded on Tape No. 223831, Side A. Being conducted by Sgt. Jeff Paillet, Serial 23307, from the RHD Task Force. Also present in the room is Sgt. II Joel Justice, Serial No. 24871; Sgt. II Lance Smith, Serial 24371; Det. II Mike Burditt, Serial No. 24454 from Internal Affairs Group.

Mr. Perez is being represented by his attorney, uh, Kevin McKesson. Uh, present is District -- Deputy District Attorney Richard Rosenthal, and, uh, Court Stenographer Sara Mahan.

Q Okay. Mr. Perez, just prior to me speaking to you, I gave you an opportunity to review a three-page paraphrased statement that I took from you, uh, from an interview with you on December 20th, 1999.

Have you had adequate time to review that paraphrased statement?

A I have.

Q Okay. And is that statement, uh, accurate?

A The report itself is accurate. There was one, uh, correction that I made on it. And it was the, uh, fourth paragraph, uh, on the first sheet where it indicated that, uh, Officer Roger Ruggiero was with me. It was actually Officer Frank Arujo. And I corrected that -- that mistake.

Q Okay. Great. And you've also initialed that?

A Yes.

Q I noticed you initialed the first page. If you could do me a favor, initial the second page.

A Okay.

Q And, then, uh, sign the -- that last page. And write today's date, which would be February 3rd. And just write, "The above is accurate." If you would do that for me.

A Okay.

Q Okay. Thank you very much.

A Yes, sir.

Q Okay. I just want -- had one quick follow-up question on this particular one. Uhm, when you -- you stated when you first met -- physically met Sadia Garcia, you believed it was when you, uh, went to where her -- her place of employment was Pep Boys; correct?

A I definitely know for a hundred percent that when I first physically met her, she was walking from Pep Boys to her home. And I, uh, pulled up next to her.

Q Okay. 'Cause she seems to recall the first time she physically met you was the same day that you had the telephonic conversation with her, and that you went to her house. And you met her outside her house, that, apparently, you were on a cell phone. You called her up and told her, "Hey, Sadia, I'm right outside your house. Why don't you come outside." And then, you walked outside there.

A That sounds familiar, or something that -- that's happened. But I don't think that was the very first time that we actually -- physically saw each other you mean?

Q Right.

A I think it was one day when she -- she was on her way walking. Or at least what I believe, she was on her way home walking, uh, -- where she worked at, and where she lived, was only maybe a quarter of a mile.

Q Right.

A And what I believe was she was on her way home walking, uh, from work. I mean, did she come out from outside her house? It's possible. But I thought she was actually walking home from work. So, I might be able to get -- I might be getting it mixed up. It's my belief that she was actually coming home from work. She had on her Pep Boy's uniform.

Q Okay.

A So, unless she was in her house wearing the Pep Boy's uniform.

Q Okay. So, your best recollection, you -- you believe that she was walking home from work when you first met her?

A Yes.

Q Okay. And, again, in your opinion Officer Espinoza was clearly aware that you were dating, uh, Sadia Garcia?

A Oh, he -- he was very aware, yes.

Q Okay. Had you told him the, uh, details of specific dates you've gone out with her, or do you ever recall doing that, or --

A I don't know if I ever gave him like, you know, details. I know I told him that, you know, that we'd been going out. Uh, I think I had told him -- actually, he had come to me

saying that Sadia was all upset and crying because I don't call her. And I had told him that I didn't want to really be involved with her any more.

And he -- he was telling me, "Man, you know, call her, man. You're dogging her out." Or something like that. So, I, eventually, did call her. I guess he convinced him to tell me to call her. So, I, eventually, did.

Q Okay. The only other -- the last thing I want to ask you. I'm going to show you a picture of a female named Shanee Hana. That's how she pronounces it. Uhm, she's actually Egyptian, is what she is.

Do you recognize the photograph of that young lady at all?

A She looks very familiar. I'm not sure from where, though.

Q Okay.

A But she looks familiar.

Q She states she met you, uh, -- or she observed you at the Academy Lounge -- Academy Bar, uh, 1880 Academy Drive, uh, apparently, at a party for Rampart C.R.A.S.H., for the unit. She -- she actually is a friend of Joel Espinoza. She met him up there. Uhm does that -- with giving you that information, does that help at all?

Apparently, other people that were at the party, maybe Sonny Garcia, and Melissa New. If you recall, she came with three female co-workers.

A I was about to say, do you recall on our meeting on the 20th, you had asked me if Espinoza had known me to be with anybody else?

Q Right.

A And I had said that one time there was a party up at the Academy.

Q Right. When you went with some girl.

A No, I didn't go with some girl. When I got there, I met some girl.

Q Okay. You met her.

A Right. Uhm, it is possible that that girl might have been with her. Again, I was actually very intoxicated that day.

Q Right. I remember you telling me about a girl.

A But I was very intoxicated and somebody told me, "Hey, this girl is checking you out." And one thing led to another. But, you know, which may be why this girl looks familiar, but I just can't really place her. It may have been that she was one of the girls that was with the girl that I went out with, or maybe didn't go out with -- I was with that night.

Q Did you ever hear the term "partitioning"? Was that ever used?

A I think I've heard it from several detectives. I have no idea what that means.

Q You've never heard that term before?

A Never.

Q Okay. Because she somewhat alludes to the fact that there were several of the officers sitting at the table, having a discussion allegedly, or she believed, of partitioning recovered narcotics amongst themselves.

A Was I involved in that conversation?

Q Uh, well, she says you might have been around there. And, so, I'm asking you, A, if you ever heard the term, or, B, where you aware of any other officers involved of taking narcotics and --

A A, I was not involved in a conversation in front some civilians about partitioning, uh, narcotics. And, B, I have never heard the phrase "partitioning narcotics". Uh, C, I don't remember ever having that conversation, uh, anywhere, uh, in the Police Academy, or the -- the Police Club.

Q Okay. So, you never heard it and you're not involved in it?

A No.

Q Are you aware -- okay, as far as Espinoza, have you ever heard him use that term?

A I've never heard him use that term.

Q Okay. All right. That's about it. If that's it, we'll go ahead and conclude the interview. Time is gonna be 1540 hours.

(Off the record at 3:40 p.m.)

(Back on the record at 3:50 p.m.)

SGT. JUSTICE: This is a tape-recorded interview of

Internal Affairs Investigation No. 99-4630. Today's date is February the 3rd, 2000. And the time is 1550 hours.

Location of this interview is the MTA Building. Present to be interviewed is Rafael Perez. Present as his attorney is Winston McKesson. Present representing the District Attorney's Office is Richard Rosenthal. Present as a stenographer is Sara Mahan. Present as an observer is Detective Mike Burditt, Serial No. 24454.

The interview is being conducted by Sgt. Joel Justice, Serial No. 24871, and by Sgt. Lance Smith, Serial No. 24371. And the interview is being recorded on Tape No. 225010, Side A. Q Did you have the opportunity to review your transcript on, uh, an arrest that was made at 1657 West 12th Place?

A Yes.

Q And, also, the arrest report?

A Yes, sir.

Q And does that refresh your memory of what occurred?

A Yes.

MR. ROSENTHAL: Why don't we get a D.R. Number and name of the arrestees?

SGT. JUSTICE: D.R. Number is 98-02-05317. The arrestees are Ramon Avalos and Jesus Avalos.

MR. ROSENTHAL: And that relates to two different D.A. case numbers. For Ramon Avalos it's BA162683. And for Jesus Avalos, BA163249. Go ahead.

Q BY SGT. JUSTICE: Can you tell me about this arrest?

MR. MCKESSON: I don't understand. When you say "tell me about it" I mean, in what respect? 'Cause he's talked about it before.

SGT. JUSTICE: Tell me what he recalls about this arrest.

THE WITNESS: Uhm, I remember, originally, this was information that I received [***** CI *****]
[***** CI Description *****]
[*****] information about a -- about two guys, two brothers who were selling dope and had some guns. Uhm, I think, I remember correctly, I had worked late the day before. Or I might have had court that morning, and I was -- I was at work pretty much all day.

And this was close to being end of watch. And my boss asked me to let somebody handle it, so, that way I could get home, uh, -- get home.

At any rate, uh, Officer Liddy and Officer Peteque had, uh, volunteered to handle -- Officer Liddy and Officer Peteque were gonna handle it. At any rate, we game-planned it. We had several officers, uh, -- uh, that were assigned to Rampart C.R.A.S.H. follow us over there. And we went to 1657 and 1657-1/2 West 12th Place, and door-knocked it.

Uhm, we knocked on -- at first we knocked on the door, which would be, I believe 1657-1/2, which would be the door on the right-hand side. We knocked there first. Uhm, a male and a female, uhm, came down. Uhm, they were detained. Then, we

received some information that the brother lived next door.

We went next door, door-knocked it, and, also, got them to come down. Uhm, while they were downstairs, a lady and a young 10-, 11-year old child -- young man, young boy -- uh, stayed sitting on a couch upstairs, uh, while we had the -- the two adults -- the two Avalos brothers downstairs on the front porch.

While at the front porch, we received -- or we -- we, eventually, received some type of consent from someone to search the apartments. We searched the apartments. Officer Liddy, eventually, found some narcotics. Uhm, but, then, we couldn't find any weapons.

While we were talking -- while the two Avalos brothers are on the front porch, we start asking them, you know, "Well, where's the guns?" Uhm, and I know, on the report, it says that I read them their Admonition of Rights, LAPD -- per LAPD Form 1503, I think it is. That's incorrect. I never read them their -- their Rights.

Uh, at any rate, eventually, he told us that, uh, when we showed up, he gave his gun to his nephew. So, we were a little confused. "What do you mean you gave it to your nephew?" Yeah, he gave it to his nephew. So, we went back upstairs. And it turns out that the nephew was sitting on the gun. He had put it inside his pajama pants and was sitting on the gun.

So, that gun was recovered. Uh, there's some

statement attributed to one of the Avalos brothers, that he admitted to the narcotics being his and some money being his. I don't know where that statement came from. He never -- they never made that statement to us. Or, at least, not to me.

Uhm, again, Page 3 of 6, it says that they admitted to -- uh, to me, uh, that he owned cocaine, and that, uh, the gun was his. He did, uhm -- the part about the gun, he did, uh, advise us as to where the gun was. He didn't particularly say the gun belongs to me. He told us where the gun was.

But the cocaine and cash that definitely did not happen. Uhm, and -- and, again, the reading of the Miranda Rights, and the writing that the Miranda Rights were read to them, that's incorrect.

Q Was the cocaine and cash recovered at that residence?

A Yes.

Q Okay. [***** CI Description

*****]

[*****

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A [***** CI Description Redacted

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Q Do you know who that supervisor was?

A I believe it's Sgt. Sanchez.

Q When you knocked on 1657-1/2, you said that's the first place you went to?

A The door on the right-hand side. If that's 57-1/2, yeah, that was the one.

Q Do you know who answered the door?

A A male. Actually, there was a male and a female. And -- and, uh, I think there's some stairs -- I'm sorry. I know there was a male and a female, eventually, at the door. Uh, but I think it was the male that came to the door first.

Q Do you know who that was?

A It's one of the Avalos brothers. But --

Q Would you remember if I showed you their picture?

A I think so. If I remember correctly, this one was

the one that was on the left side. This is the one with the -
- with the gun, right? Yeah. This is the one there was a gun
in the apartment on the left-hand side. This is the one in the
apartment on the right-hand side -- the 1/2 apartment.

Q So, Ramon is the one at 1657-1/2?

A Yes, sir.

Q Okay.

A No, I'm sorry. Ramon's the one that's the one on the
left-hand side. The even number, 1653. Uh, I think it should
be 1657. The other one, 1657-1/2 West 12th, -- Jesus Avalos is
the one with the gun. He's the one with the left-hand side
apartment.

Q You mean 1657-1/2, the right-hand?

A That's what it says here. 1657 and 1/2. But if I
remember correctly, this -- this guy was in the apartment --

Q Well, let me ask you. Maybe this will clarify it.
Where was the narcotics found, in the one apartment where you
had to go upstairs? Or --

A Exactly. There was a --

Q So, that would 1657-1/2.

A Okay, then. That's the one. And the narcotics was
found by Liddy inside of a closet in like the back bedroom, or
somewhere back there. I remember him -- I do remember him
recovering the narcotics. In fact, I think it was like maybe
aluminum bindles or something.

Q Okay.

A Yeah, foil bindles.

Q Okay. Oh, I'm sorry. I thought you were looking something up.

A No, I'm just waiting on you.

Q Okay. Uh, in your original statement, on Page 4, it's numbered Page 15, if you want to look at it. You said here, "We were -- we were telling them, 'Hey, look, man, we know you guys are, you know, dealing drugs. Tell us where they're at.'

Did they tell you? Did they tell you where they were at? Or you had to find them on your own?

A We found them.

Q Liddy found them on his own?

A Well, Liddy found them on his own, yes.

Q Who was with Liddy when he found them?

A I was.

Q Just you and Liddy?

A I think so. As a matter of fact, uh, we were in the bedroom, it's just me and Liddy.

Q Do you know where Petequa or Buchanon were, at that point?

A No.

Q Uhm, and, also you said --

MR. MCKESSON: Excuse me. The line you read, you quoted, what lines were you referring to? Was that Page 17 to 22?

SGT. JUSTICE: No, Lines 4 through 5, on Page 15.

MR. MCKESSON: Hold on one second. That statement you read, Sgt. Cook read that out of the report; correct?

SGT. JUSTICE: Uhm, --

MR. MCKESSON: 'Cause I'm looking at 14, starting at Line 26, by Sgt. Cook. And it says "Q, and was the reason because you're a Spanish-speaker and they're Spanish-speaking?" And the answer is "Right. And that's the reason Liddy put it all in the report." "Right. But that's when --

SGT. JUSTICE: I don't believe that statement's in the arrest report.

MR. MCKESSON: Okay. I may have misread it.

MR. ROSENTHAL: Just to -- for the record, the -- that would be Volume 5B, about Page 14 you were reading from.

SGT. JUSTICE: Okay.

MR. MCKESSON: But the question which you were reading from, I guess, my confusion is Det. -- Sgt., is what you were reading from was the question. So, that would have been by John Cook. By Sgt. Cook.

SGT. JUSTICE: I -- I think that might be a mistake, because this actually sounds like it's his statement. Because the question isn't --

MR. MCKESSON: Sara made a mistake?

SGT. JUSTICE: No, it had to be somebody else.

MR. ROSENTHAL: Uh, you know what? Let's go off the record for a minute and see if we can figure this out.

SGT. JUSTICE: We're gonna pause. It is 1600 hours.

(Off the record at 4:00 p.m.)

(Back on the record at 4:03 p.m.)

SGT. JUSTICE: We are back on tape. It is 1603 hours.

Q Okay. Referring to your statement, you said, "We were -- we were telling them, 'Hey, look, man, we know you guys are, you know, dealing drugs. Tell us where they're at.'" And your answer was that they didn't -- Liddy searched and found them?

A Right.

Q Okay. And that was in, uh -- in a closet, you said?

A That was in a closet -- a -- a bedroom closet.

Q Okay. Uhm, it said in the arrest report that you guys heard footsteps running and a toilet flush repeatedly in the upstairs apartment.

MR. MCKESSON: No, he's asking does it say that in the arrest report?

THE WITNESS: Yes, it does says it -- say that in the arrest report.

Q BY SGT. JUSTICE: Is that accurate?

A No, we didn't hear no toilet flushing outside.

Q Okay.

A That's just part of the probable cause.

Q Okay. Did, uh, Suspect 1, Ramon, make the statement, "It's my house. Go ahead and look if you want?"

A No. What actually happened was, we had the two males outside, and we kept the females inside. What we did was get

consent from the females, and not the males. That's how we, uh, circumvented that.

Q Okay. Uhm, you already stated that you did not give the suspect their Miranda Rights?

A That's true.

Q Were you questioning them in Spanish?

A Primarily, yes.

Q Okay. Uhm, is it possible that Liddy, uhm, believed that you read him his rights because you were talking in Spanish?

MR. MCKESSON: Okay. I see what you're saying.

THE WITNESS: This was never a conversation as to, "Hey, go ahead and read them their Rights." It was more like, "Tell them to give up the dope. Where is it? You know, and where are the guns? Where are they?" It was that type of thing.

It was never, "Okay. Let's go ahead and read them their Miranda Rights." Uhm, you know, it wasn't that type of conversation, or that conversation didn't take place.

Q BY SGT. JUSTICE: Did you tell Liddy that you read them their Rights?

A No.

Q So, he just wrote that on his own?

A Yes.

Q Did the suspect Jesus admit to the gun?

A Yes, he told us where the gun was.

Q So, that's accurate?

A Yes.

Q That it was in the nephew's pajamas, or underneath them, you said? He was sitting on it?

A Yes.

Q Okay. Do you know who found that gun -- who recovered it?

A Uhm, both me and Liddy.

Q Okay.

A I -- I actually helped pull it out. 'Cause, at first, he was real hesitant to stand up. And we're like, "What's going on with this kid?" He was just a -- a young -- a little small kid. And the gun was -- you know, it was a big old gun sitting in his -- his pants.

Q Was anybody else present?

A I believe it was either his mother or aunt or somebody. There was another female there with him.

Q Would that be Luvie? Do you remember?

A I don't know these people's names.

Q Okay. Uhm, where was the money found?

A I believe the money was also found in the closet, but I think in the upper level of the -- you know, how you got a closet and it has like a top?

Q Like a shelf?

A Like a shelf up top. I believe that's where he -- uh, Liddy found it.

Q Was it found with the narcotics?

A I think the narcotics was actually on the bottom portion -- portion of the closet. Same closet.

Q And who found the money?

A Liddy did.

Q Okay. Was consent obtained prior to the search, or after the search?

A I think it was after.

Q And who gave consent, do you recall?

A I believe it was the ladies that lived there. Uhm, I mean, these were like -- these were two apartments -- an upper and a lower. It's like a duplex. But they were all family. You know, you got the two brothers. Now, I'm not exactly sure whose wife was who. Because, apparently, they -- they kind of live -- they all live there.

But, when we got -- eventually, got consent, after we had already found the gun, after we found the dope, uhm, we got it from the females there. We left those females inside the apartment. And we brought the males outside the apartment. So, consents were actually gotten from the females inside.

Q Okay. Uhm, was consent coerced? Let me -- maybe this will refresh your memory. Did -- did you, or someone, tell the -- the female, who I believe to be Luvie, that if she did not give you consent to search, that you guys would take her children away?

A I believe that that is possible that that happened. But I just don't think it was done by me. But, I believe

somebody, you know, might have -- may have told her that.

Actually, I believe it might have been a female officer.

Q Peteque?

A I believe so.

Q Do you recall that?

A I remember Peteque talking -- Peteque was in charge of, you know, stay with the female while we're gonna go search and do whatever. And I think that may have come up, uh, while we were walking around the apartment searching and looking around. I believe that conversation took place. But, like I said, it wasn't with me. I think it was with Peteque and the -- the lady that was in the apartment.

Q Was that conversation in English or Spanish?

A I believe it was in Spanish.

Q Peteque speak Spanish?

A Yes. She's a fluent Spanish-speaker.

Q Do you know who, uh, -- who originally knocked on the door?

A On the door on the right?

QQ Yes.

A Well, I know I was at the door. And Liddy was at the door. Who knocked? I think, at one point or another, we both knocked. I think I might have knocked, or he might have knocked and said something in English. I think I knocked and said something in Spanish.

Q Okay. And then, after the door was answered, did you guys just make entry, or did you pull them out?

A We pulled a couple -- several people out.

Q Okay. Did, uh, Mario Avalos give you consent to search the other -- other apartment?

A No.

Q Do you know?

A I don't think so.

Q Did you have consent to search the other apartment?

A You talking about the apartment on the left?

Q Yes. 1657.

A That's the lower apartment?

Q That's correct.

A That's where the juvenile was?

Q I believe so. According to the report.

A Yeah, and there's a female in there?

Q Yes.

A I don't think -- the consents never came -- but I can tell you that the consents never came from any of the males. If there was a consent after we had already searched and things like that, it came from the females. The -- the women of the house.

Q Were any of these consents written? A signed written consent for, by any chance?

A I didn't see a -- a written one. Or I didn't have anybody have one -- sign a written one.

Q Did -- do you know if Peteque had knowledge that some of the facts of this arrest report were fabricated?

A (No audible response.)

Q Was there a discussion there?

A I don't know. Uh, I left shortly after -- uh, let's just say that I did not see this report completed, uh, that night. I didn't -- I was -- uh, I did not stick around to see this completed -- completed report. So, I don't know if she read it or -- or Liddy discussed it with her what he was gonna write.

Q Mmnh-mmnh.

A I'm assuming, as partners do, he would have her, you know, review it, to confirm, you know, agree with it or not agree with it, or have him make any changes that she thought needed to be made.

Q Okay. Can you tell me who else was at the scene, at that incident?

A I know there was Sgt. -- uh, the sergeant was there.

Q Sanchez?

A Yes. I know I was there. I know Buchanon was there. I know Liddy was there. Peteque was there. Without looking into the report, that's who I remember being there. Seems to me like there would be somebody else, though. But I don't remember.

QQ Okay. Do you know who testified, or did -- if anybody testified in court?

A I remember going to court on this, because when I went to court, I remember seeing them being out of custody. 'Cause I -- I remember thinking they must have bailed-out or whatever. But did I actually testify? I'm not sure whether I testified or not.

Q Do you know if Liddy testified?

A I'm not sure.

Q I know -- I definitely know that I went to court. And, in fact, Liddy also went to court. I just don't remember if we had to end up testifying, or the case was trailed, or what happened, or if there was a plea or -- I don't remember what happened exactly.

Q Uhm, do you know if Sgt. Sanchez actually knew what occurred?

A I don't think so.

Q So, you don't think he had knowledge of this one?

A I don't think so. Sgt. Sanchez was sort of just -- just listening to whatever we told him. He's not much of a -- as a supervisor, he's just one of the inexperienced supervisors that just sort of whatever you guys do, just let me know what you did. That type of thing.

Q Very passive?

A Yeah. He didn't have a whole lot of supervisory skills or experience.

Q Okay. Uhm, do you know if he gave -- uh, he being Sgt. Sanchez -- Liddy or Peteque permission to write his name

on the arrest report, or booking recommendation?

A I do not.

Q Was that common practice with him?

A Not with --

Q Do you know?

A Not with me and him. Uh, with him, I would have him look at the report and sign it himself, unless he gave specific instructions to do that.

Q Okay. Do you have any questions?

Q BY SGT. SMITH: Uhm, do you have an opinion as to why Liddy would write in the report that you read them their Rights per LAPD Form 1503?

A Because if we don't, we don't have a filing, and we just wasted our time. Uh, he needed to write that we read him his Admonition of Rights, that way anything that's get said or told to us, or "The gun is mine" and all that other stuff, would be admissible in court.

Q Okay.

A If we just go there and knock on the door and tell him to step outside, and we go inside and we see a female and tell her, "Stay right here." And we go search, and find some dope, and everything else, none of that is any good.

So, in order to -- if you're gonna do this report, you're gonna write it, and take the time to book him, you want to -- you want to get a filing.

And, if you're going to get a filing, the way it

happened it wasn't gonna jive.

Q BY SGT. JUSTICE: And you guys did not have consent to search, is that correct?

A We had consent to search, or we had gotten like a consent to search afterwards from the females. Not the males themselves, but from the females.

Q And you and Liddy talked to the suspects on the porch?

A They were on the porch the entire time.

Q Did, uh, -- and this is your first statement. I just want to verify it. You guys were end of watch, you stated. And he goes -- meaning Liddy -- "I'll put you down for something when you read it tomorrow." Do you recall that?

A Mmnh-mmnh.

Q Okay.

A Meaning he was gonna put me on the report for something.

Q Something, meaning you did something at the scene?

A Right.

Q Okay. Something you'd have to testify to?

A Something to get a subpoena for.

Q Okay.

Q BY SGT. SMITH: Did you go home early? Or did you remain and book this, uh --

A Actually, I think this was very late when this occurred. I think this occurred at 3:00 in the morning. And I wanted to hurry up and -- I think I had been in court, or I

might have worked late the day before.

But there was some reason that my sergeant didn't want me working late, again, that day. Uh, I think after we might have helped do something real quick, either dabis the bodies or book the evidence, or something, we took off.

MR. MCKESSON: I show it's 4:15. And I have to run.

Q BY SGT. JUSTICE: Okay. Did -- do you know if Buchanan had any information about the fabrication of this arrest report?

A The entire interview, the entire time we talked to them, it was just me and Liddy talking to the two males out on the front porch. No one else -- and I don't even think we even relayed to them, "Hey, we didn't read them their Admonition of Rights." That wasn't that important to us. That was just strictly me and Liddy. Nobody else knew what was going on.

Q I'm almost finished. Two quick questions. [*****]
[***** CI Description Redacted
*****]

A [***** CI Description Redacted
*****] Q Okay. That's all I have. Do you have anything?

SGT. SMITH: No, I don't.

SGT. JUSTICE: So, that concludes this interview. It is 1621 hours.

(Off the record at 4:21 p.m.)

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