

STATEMENT OF

RAFAEL ANTONIO PEREZ,

TAKEN AT THE METRO TRANSIT AUTHORITY BUILDING, 1 GATEWAY PLAZA,
LOS ANGELES, CALIFORNIA.

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

APPEARANCES BY:

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REPORTED BY:

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C.S.R. No. 10647

99-033

LOS ANGELES, CALIFORNIA, FRIDAY, NOVEMBER 5, 1999; 11:20 A.M.

MR. ROSENTHAL: All right. Uh, today's date is --

DET. NALYWAIKO: November 5th.

MR. ROSENTHAL: -- November 5th, 1999. And these are the continuing interviews of Rafael Perez. It's now 11:20 in the morning. Uh, I'm Richard Rosenthal, Deputy District Attorney.

Present during today's interview is Sgt. Mark Thompson; uh, Sgt. --

SGT. COOK: John Cook.

MR. ROSENTHAL: -- John Cook; uh, Detective Stan Nalywaiko; myself; Rafael Perez; and Defense Attorney Kevin McKesson.

Uh, let me put you under oath. If you'll 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.

RAFAEL ANTONIO PEREZ,

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

EXAMINATION BY MR. ROSENTHAL:

Q Okay. We're going to first start with two cases that we've discussed before to, uh, have some brief discussions on that. First of all, you mentioned that you wanted to add on some information relating to the arrest of Samuel Bailey, Otto Castillo, and Umberto Vasquez. Uh, this is D.A. Case No. BA137221.

I don't think I've got the D.R. number. Oh, yes, here it is. The D.R. number is 96-12-26394. Uh, this was a gun plant, uh, case. What is it that you wanted to discuss?

A There was just a -- a short brief matter that I wanted to add. Uhm, I don't know if I mentioned it in the first interview. Uhm, prior to us, uhm, deploying on the party, I had [**** CI #6 information redacted ****].

[CI#6]'s the one giving me the information. Uh, [CI#6] had already given us the information that there was a shotgun under the couch. That information was relayed to everybody that was there, including, uh, Officer Liddy, Officer

Richardson -- everyone that was there involved, uh, with the take-down of the party.

So, we already had prior knowledge that the shotgun was already there. So, uh, the information that Liddy had given about he saw someone place the shotgun there, we knew it was already there. Uh, and the reason I -- I brought it up, 'cause it was very important, uh, the informant [** CI #6 information redacted *****]. Uh, I think [CI#6]'s be able to corroborate that [CI#6] had given us the information that the shotgun was already under the couch.

Q Did [CI#6] tell you whose shotgun it was?

A Uh, [CI#6] didn't tell us who it belonged to. [CI#6] just told us that [CI#6 info]. Uh, and that there's a van in the driveway. And there's a couch in the driveway. And under the couch, there's a shotgun.

Q And the shotgun, do you remember who it was put on? I know we don't have the reports with us.

A I believe it was put on the person who lived at the house. Uh, if you told me the name, I'd say yes.

Q We have Samuel Bailey, uh, Otto Castillo.

A Otto Castillo.

Q Okay. All right. Anything else about that one?

A Just that.

Q Or does -- that covers the issue you wanted to discuss?

A Yes, sir.

Q All right. There's also another case that we previously discussed. This, uh, resulted in the arrest of Joseph Jones and Manuel Perez. D.A. Case No. BA154853. The D.R. No. 97-02-28235. And you have in front of you the case packet on that with arrest report. And you've had an opportunity to review that; correct, today?

A Yes, sir.

Q Now, just some follow-up questions. Uh, first of all, I think you previously told us how, uh, the incident did not go down as reported in the report --

A That's right.

Q -- in that Defendant Jones -- and I think you word - - used the word "got hinked up" before the sale was made. And you just wrote it in the report as though the sale was actually made?

A That's correct.

Q Uh, where was the narcotics actually found?

A The narcotics was found in Mr. Perez', uh, apartment.

Q All right.

A I guess they're called apartments there. Yes.

Q Or hotel rooms?

A Hotel rooms. Whatever it is. Yeah.

Q So, was there any narcotics found on Mr. Jones at all?

A No.

Q Mr. Jones was interviewed recently at State Prison.

And one of the things that he said is he said that he had no intention, at the time, of selling any narcotics. But that rather he saw you and Officer Durden dressed in plain clothes. He said that you did not look like narcotics customers or dealers, but you did look shady as hell.

Uh, he also said that, uh, -- that one of them -- Durden looked like he would blast somebody real quick. And he says he confronted you, asked what you were looking for, because you guys looked so out-of-place.

And, at that point, Officer Durden said he was looking for a twenty. Does that sound consistent with your memory of what -- what occurred?

A That's pretty much pretty accurate, yes.

Q At that time, did you think that when he confronted you, or asked you what you were -- what you were doing there, what you were looking for; did you think that he was soliciting you for a narcotics sell?

A That's correct.

Q Is it possible that what his statement here, that he was just confronting you guys because you looked out-of-place, is that po- -- could that be true? Or is that --

A No, because he was engaged in another conversation with what looked like users.

Q Okay.

A And we felt, okay, this guy is working with somebody else. This is the guy who's getting the dope for whoever. So,

that's why, you know, we were approaching him.

Q So, uh, you actually -- did you approach him? Or did he approach you?

A I think we just approached each other.

Q Okay.

A I mean, it was one of those.

Q And what happened to the other narcotics dealers that -- or the narcotics customer that he had been talking to?

A They just walked away. We weren't paying them any mind.

Q All right. So, it's your belief today that he did, in fact, when he approached you, that it was his intent to assist and sell cocaine?

A I believe so, yes.

Q The -- the cocaine that you recovered, uh -- well, first of all, Manuel Perez, where -- when did he come into this?

A He was in the hallway, on the left -- if I remember correctly, it was the left side. An apartment on the left side. And he was at the -- uh, the archway of that door.

Q So, when you approached Jones, would Perez have already been in the doorway where you could see him?

A Yes, sir.

Q So, the door was opened?

A Yes, sir.

Q Why don't you just go ahead and tell me what happened after Durden told him that he was looking for a twenty?

A Uhm, after we told him -- after we told him we were looking for a twenty, he left, came back. And I remember him saying something like, no, -- like he was hinked up. You could tell something was up. And he just wanted to get us out of there.

But, at that point, we just detained him. And we went

-- 'cause I -- we felt, already, that he was already involved in some narcotics transactions. 'Cause we could see him going from the door to the people that we -- I mentioned that were in the hallway. They left. It looked like they were satisfied.

They had what they wanted. And, so, we knew they were engaged in some type of narcotics activity. There was no narcotics recovered from Mr. Joseph. However, in Mr. Perez' apartment, uh, I remember we found a container or something that had cocaine on it.

And, of course, when we wrote the report, we indicated that Mr. Joseph handed me some rock, which is incorrect.

Q And that would explain why you were able to get into the apartment -- or into the hotel room?

A Uh, not necessarily, because they -- we were in the hallway during all this.

Q Oh, that's right. I'm sorry. The report doesn't indicate you went into the hotel room at all.

A Okay. Now, when -- when all this is taking place, all of this is in the hallway.

Q Okay.

A Not in the apartment. Mr. Perez just happened to be at the archway. The door is open. He's at the archway of the, uh, threshold of the, uh -- the door.

Q So, you detained Jones? And then, you approach Perez?

A Yes.

Q And you detain him?

A Yes, sir.

Q Uh, and then, the narcotics, you searched Perez' room?

A Right.

Q You searched Perez?

A Yes.

Q Did he have any narcotics on him?

A Not on him.

Q All right.

A We found it. And I can't tell you what type of container it was. But it was some type of container. Uh, and I'm thinking it was some type of -- you know, those false bottom, uh, Colgate containers? Or, uh, deodorant containers. Sometimes you just screw the bottom. I don't think we -- we booked the container. But we just booked the narcotics.

But I -- I'm pretty sure it was some type of container -- trick type container that we found in there.

Q Okay. Now, in the report it indicates that there was 1.4 grams of rock cocaine that was handed to you. It's Item

No. 1.

A Yes, sir.

Q And, then, 24 grams of rock cocaine that was obtained through a pat-down search of Subject 2, which would have been Manual Perez.

A Okay.

Q So, you're saying that the, uhm -- all of the cocaine was found actually in the room of Manual Perez?

A That's correct.

Q Was there any cocaine that you seized from Manual Perez that was not booked?

A No.

Q One of things that Jones says is that when you got to Rampart Station, that, uh, he overheard you and Durden whispering to each other. And that you told Durden to stick it over there. And then, he observed Durden take, uh, two plastic bags containing cocaine out of his jacket pocket and place them on the lip of rear garage sliding door at Rampart Station.

A The rear garage?

Q Yeah, he said the rear garage sliding door at Rampart Station.

A I don't know what that's all about. I don't know what he's talking about.

Q All right. So, --

A There was no narcotics hidden on the lip of a garage door at Rampart Station.

Q All right. And, so, in fact, all the narcotics --

Q BY MR. MCKESSON: That you're aware of?

A That I'm aware of. Well, I mean, in there it says that I told Durden to do it. So, I -- I know that didn't happen. So --

Q BY MR. ROSENTHAL: So, all of the -- definitely, all of the narcotics that was seized was booked? There was no theft of narcotics?

A None whatsoever.

Q There was no theft of money?

A No.

Q Okay.

A Not that I'm aware of.

Q Right. And whenever we ask a question --

A Right.

Q -- the assumption is whether you're aware of it or not.

A Right.

Q Okay. Uh, that'll conclude that portion -- or the interview on Manuel Perez and Joseph Jones. And we'll take back the, uh, arrest packet on that.

Now, what we're going to be doing -- and, uh, the officers are gonna want to do individual tapes on this. We are going to be asking you about specific case files that you have identified as needing discussion, and we have not discussed before.

And I'll turn it over to Sgt. Cook.

Q BY SGT. COOK: You want to take a couple of minutes to review that, or -- or can we talk about that?

A We can go into it.

Q Okay. Today's date is November 5th, 1999. The time now is, uh, 1129 hours. We're interviewing Rafael Perez. This is Tape No. 222090, Side A.

Rafael, before you, you have a, uh -- an arrest report. Uh, D.R. number is 96-06-31344. The arrestee is Geovanni Cifuentes. Geovanni is G-e-o-v-a-n-n-i. Cifuentes, C-i-f-u-e-n-t-e-s. This occurred on September 6th, 1996.

A Yes, sir.

Q And you put aside this report. What is it that you wanted to discuss about this report?

A Very brief, uh, subject on this. I was not present at this arrest. The only -- I have so -- I have no direct knowledge. The only knowledge I have of this is what Officer Durden told me. I was off on this day. Uh, a few days I got back, he had in his possession, a -- what I would call a "utility tool-type knife/plier, uh, instrument". Uh, I'm not sure who makes it. I can't remember. But I know what it looks like. And if I saw it again, I'd say, yeah, that's it.

Uh, he had told me that he had taken it off of one of these, uh, -- uh, defendants, uh, juveniles on this arrest. And that he kept it. And he put it on his Sam Brown. He was -- he just, basically, uh, committed a theft. He took some

property from these people and didn't book it. He kept it.

Q And that's based on his statement?

A That's what he told me, yes.

Q BY MR. ROSENTHAL: And how is it that you can tell that it related to this particular arrest?

A Because he was telling me it was 6th and Virgil. A bunch of guys had been taken into custody with guns and stuff like that. I remember. I mean, I remember.

Q Can we go off the record a second? And let me take a look at this report.

SGT. COOK: Okay. We're gonna take a break. The time now is 1131 hours.

(Off the record at 11:31 a.m.)

(Back on the record at 11:34 a.m.)

SGT. COOK: We're back on tape. The time now is 1134 hours.

Q Now, --

Q BY SGT. THOMPSON: Go ahead. Uh, Ray, you were gonna give us some more description about the type of utility knife that Durden was --

A Yes, the -- the instrument itself is a, uh, stainless steel, uh, sort of -- not chrome, but stainless steel, uh, utility, uh, instrument, with two, uh, maybe 6 inch, uh, you know, stainless steel, uh, objects on each side that you could open up and it turns it into a pair of, uh -- a pair of pliers.

And with inside the actual sides that you hold would

-- what would be the handles of the pliers -- inside of them would be a screwdriver, a cork-type screw thing, uh, several utility things that you can use inside, uh, of those handles. Uh, and it's contained inside of a sheath that's sort -- it's black. And I believe it's a Velcro, uh, snap. In other words, it closes into a Velcro seal.

Q Is it a knife that is distinctive enough that you would recognize it again if you saw it?

A If I saw it, I would recognize it. Yes.

Q And when, uh, Durden discussed this to you, uh, was it your next working day after having been off, or --

A He would have told me this when I got back from work, or when I got back to work, so.

Q During the course of your shift, or at roll call? Or --

A Probably during the course of, uh, our shift.

Q Was it information that he volunteered to you? Or you saw something on his belt that you hadn't seen before and you asked him about it?

A He was showing me the actual instrument. And, uh, he told me where he got it from.

Q Okay.

A I mean, he -- we were working. And he was showing it to me. And he told me where he got it.

Q And he retained this item on his Sam Brown?

A He was keeping it on his Brown -- Sam Brown. And,

also, he would switch it over. When we would do training days and search warrants, we had what was "web gear." And he would also put it on his web gear as well. Because it is a Velcro thing. And it went well with the, uh, -- this web gear that we were issued.

SGT. COOK: Okay. And, of course, as in all these cases, uh, Ray, we're gonna go into much more detail with you. But for these purposes, uh, -- anyone else have anything?

Q BY MR. ROSENTHAL: Just, do you have any idea which, uh, -- which arrestee -- there are four of them -- that this was taken from?

A No, I have no idea it was taken from. I mean, he said he took it from one of the kids that were -- that were there.

Q Okay.

SGT. COOK: Anyone else? Okay. That concludes this interview. The time is 1137 hours.

(Off the record at 11:37 a.m.)

(Back on the record at 11:38 a.m.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1138 hours. We're interviewing Rafael Perez. This is Tape No. 222091, Side A.

Q And here's another case that you set aside, Ray.

A Yes, sir.

Q This is D.R. No. 96-02-42225. The arrestee is Oscar Eagle, E-a-g-l-e. And the arrest date was December 20th, 1996.

MR. ROSENTHAL: Co-arrestee is Mario Alfaro. A-l-f-a-r-o.

THE WITNESS: Okay. Uhm, the reason I asked you to pull this report to the side so that we can review it today is, again, I have no direct knowledge on this. This is what Officer Durden told me. Uhm, and, also, I do have some knowledge because we met with the informant, uh, regarding this -- this case, uh, on other occasions. And [CI#17] had, uh, brought us, uh, weapons.

Uhm, Durden had told me how he had actually obtained this information and these guns. I know on the report it says one thing. Uh, but what he had actually told me was that he -

- [***** CI #17 information redacted

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** *****].

[CI#17] had told them where guns were. Uh, where they were stashed, where they were hidden, and who they belonged to. Uhm, the officers on the report indicate that they saw, or certain people saw certain people run inside the houses and different places with the guns. And that the person that was arrested further told them that, oh, yeah, I have another gun at my house. That information actually didn't come from the

person arrested. It came from the Informant [CI#17].

But when he wrote it, he wrote it as though this person volunteered this information. Oh, by the way, I have another gun at my house. It's a shotgun. And it's there, or whatever.

But from what Durden explained to me, uh, and he -- after introducing me to this informant, because, uh, we met with [CI#17] later. Uh, several days later. Uh, [

*** ***** CI #17 info redacted

*****] .

Uhm, after introducing me to [* CI#17 *], I -- you know, he had, basically, connected the whole story for me how [CI#17] gave him all the information to where the guns were on that raid we did down there.

And the way he wrote is actually as though they observed something, or a witness observed something, and these info- -- and these people forwarded the information voluntarily, which actually came from the informant, not from -- from where he says it came.

Q Now, the officers involved, uhm, Brehm was working with Durden that day?

A Yes, sir.

Q And what other officers were involved in that?

A The other officers involved were Officer --

Q BY MR. ROSENTHAL: Well, the reports by Durden. And co-signed by Brehm. Right?

A Right. Uhm, I'm trying to find the other officer that responded.

Q Actually, Page 2, the very first line of "Observations".

A Cohan and Stepp. I'm sorry.

Q BY SGT. COOK: Cohan and Stepp?

A Yeah. There it is. Cohan and Stepp are the other officers that, uh, were with him.

Q And it's your understanding, from, uh, Durden, that the -- the officers -- uh, that the observations were falsified?

A Yes, sir.

Q Okay. Now, I -- I see here that Sgt. Peters' information came from C.R.A.S.H. Peters of all the gang group activity. Any indication from Durden that Sgt. Peters was involved in this?

A No.

Q Okay. And I see that Sgt. Peters was the one that approved the arrest?

A Yes, sir.

Q Is that his handwriting? Or is that Durden's handwriting?

A That's Durden's handwriting. There's an initial "N.D." above Sgt. Peters' handwriting indicating that Officer Durden signed it for Sgt. Peters.

Q Okay.

Q BY MR. ROSENTHAL: Are you aware of anything else wrong with this report, other than the fact that the information is indicating as coming actually from two witnesses, rather than the informant?

A Uh, no.

Q Okay. The witnesses -- just for the record -- indicate -- or indicated is Witness 1, Raul Meza, M-e-z-a. Witness 2, Victor Zelaya, Z-e-l-a-y-a.

Okay. Any other questions?

SGT. COOK: Mark?

SGT. THOMPSON: No.

SGT. COOK: Okay. That concludes this interview. The time now is 1143 hours.

MR. ROSENTHAL: The next one will be Omar Alonso?

SGT. COOK: Yeah. Okay. Today's date is November 5th, 1999. The time now is 1144 hours. Tape No. 222- -- uhm, we'll come back and revisit it if we need to.

SGT. THOMPSON: We better let Jesse --

SGT. COOK: He wanted to be here for this one.

SGT. THOMPSON: -- sit in on it, yeah.

SGT. COOK: Okay. We're gonna take a break. 1144 hours, we're gonna take a break.

(Off the record at 11:44 a.m.)

(Back on the record at 11:45 a.m.)

SGT. COOK: Okay. We're back on tape. Today's date is

November 5th, 1999. The time now is 1145 hours. We're interviewing Rafael Perez on Tape No. 222092, Side A. The package we're gonna look at is, uh, D.R. No. 97-02-00625. Arrestee is Omar Alonso. A-l-o-n-s-o. The date of arrest is April 5th, 1997.

Q You set this package aside, Ray?

A Yes, sir.

Q And what is it about it that you want to talk about?

A Uhm, there's several issues, uh, that I need to talk about, including planting narcotics and planting a gun. Uhm, I'll start --

Q Direct knowledge?

A Yes, sir.

Q I'm sorry.

A Yes, sir. Uhm, the officers involved in this is myself, Officer Durden, Officer Stepp, and I believe Veloz. Anyway, uh, I will start on the second page of the report, on "The Source of Activity". It talks about a confidential informant who gave me information regarding a cab driver. That confidential informant, uh, is [** CI #5 info redacted *****
*****].

[CI#5]'s an informant that I've used on many occasions and given me --

Q BY MR. ROSENTHAL: Is this [CI#5]?

A Yes, sir.

MR. MCKESSON: We saw [CI#5]'s picture last time.

THE WITNESS: Do you need [*CI#5 info redacted]?

THE REPORTER: No.

THE WITNESS: Uhm, [CI#5] had given me some information on two brother, uh, one named Leo, one named Omar. Uh, both about 30 years old, who were selling narcotics. [**** CI #5 info redacted

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]. Uhm, [***** CI #5 info redacted *****] is not present. We let him arrive. We take him down. Uh --

Q BY DET. CASTILLO: I'm sorry. When you say "he" -- uh, this is Castillo.

A This is, uh, Mr. Alonso. Let me see here. Mr. Alonso, the -- the driver of the -- the cab driver who meets with us at 6th and Rampart, on the northeast corner. Uhm, on the report, on the third page, it describes, uh, him arriving, exiting his vehicle, and sitting on the hood of this cab.

Uh, by the way, my partner wrote this report -- Officer Durden. It describes that "as we approached him in our vehicle, he quickly re-entered the cab." And then, it describes my partner walking up to the cab and observing a key holder on the lap of Mr. Alonso. That is incorrect.

Uh, it says, "I, Durden, then, recovered the key

holder. And it contained several off-white rocks." Uh, that is also incorrect. The act- -- the key holder was actually recovered underneath the steering wheel column by myself, uh, in the vehicle itself, under the steering column, up against a piece of metal. It was one of those magnetic key holders.

Uhm, so, that's, obviously, incorrect. Uhm, the part about reading, uh, the male his 1503, -- uh, LAPD Form 1503 -- uh, Miranda Rights, that's incorrect. We never read him his rights.

The part that he -- he told us that he had \$700 back at his house, that's incorrect. The reason we knew the 1328 North Waterloo is because we found some paper work, some documentation that led us to that address.

At that point, we decided to, uh, have Officer Stepp and Officer Veloz come with us over there to do a follow-up and see if we could find any additional narcotics or -- or whatever.

Q Okay. Was Stepp and Veloz right there --

A Mmnh-mmnh.

Q -- at -- at the -- at the initial, uh, location of the arrest?

A No, sir.

Q So, they didn't see the initial stop and detention, and the change of events as you're describing?

A That's correct.

Q Did they show up later?

A We requested them later. And they, uh -- they

assisted us on the follow-up to Waterloo.

Q Okay. So, they didn't know that he never -- that he never had the narcotics on his -- they're -- they're just going along -- as what you said?

A Exactly. Yes, sir.

Q Okay.

Q BY MR. ROSENTHAL: Now --

DET. CASTILLO: I'm sorry.

Q BY MR. ROSENTHAL: -- there was actually narcotics in the key holder?

A Yes, sir.

Q It just was -- instead of being on the guy's lap like Durden said, or I'm sorry. This report was by you or Durden?

A Durden.

Q So, instead of being on the lap, it was actually underneath the steering column?

A Yes, sir.

Q Okay.

A And we -- we had prior knowledge to that, that that's where this cab driver usually kept his, uh, narcotics in the key holder. [CI#5] was aware of that. [CI#5] always said that he kept it up under, uh, -- the magnetic key holder up under the steering column.

Q Okay.

A At any rate, we, uh, at that point, uh, after finding some information that he had a Waterloo address, we conducted

a follow-up there. While at the house, we were searching. Uhm, I believe we were met by a female. There was -- there was a couple in the house. One was a female. And I don't know who she is. I don't know if he was -- that was his common-law wife, girlfriend. I don't know who she was. But there was a female at the house.

Anyway, we, uh, asked her that, you know, if we can search. And I believe she said okay. Uh, we searched, found some money. I think, on the report, I indicate that it was \$700 recovered. There was several, uh, amount of money recovered from different places. Uhm, --

Q Did you actually receive consent to search the residence?

A I don't remember. That I don't remember. Uhm, if I had, I would have had her fill out a -- and I did. Okay. So, -- actually, he signed it. Uhm, Mr. Alonso signed one at 12:30. So, he would have signed it at the station before we went to his house. We -- we did have him sign a, uh, Consent to Search --

Q All right.

A -- his residence. At his residence, uh, -- while at his residence, while Officer Stepp and Officer Veloz are in the apartment with us, uh, a gentleman walks in the door. That gentleman being Mr. Estrada. Leo Estrada. Uh, he walks in. He's detained. He is detained by Veloz and Stepp. Uhm, we are aware that this is the second half of this team that -- that's

selling narcotics.

We, uhm, -- and I don't know where we recovered it from -- but we're already in possession of another key holder. Uhm, and we planted that key holder, but we said that it came from him. That what he -- in the report it indicates -- Durden writes that when he walks into the apartment this person, uh, Leo, uh, Estrada, drops a magnetic key holder when he walks in the door.

That's -- that's totally false. Uhm, it also indicates -- I think it says Durden searched him. I believe it says Durden searched him and recovered a handgun from his person. And he recovered a, uh, .38 caliber revolver from his front waistband. That is, uh, incorrect.

Q Where did the gun come from?

A To the best of my recollection, that handgun came from the vehicle.

Q Okay.

A Officer Stepp and Officer Veloz were asked to go out and search the car -- the black Mustang that was parked in the driveway. It's a rear driveway to the residence. That gun was recovered by Veloz and Stepp. They told us about the handgun. And, uh, Durden decided that he was just gonna say, uh, Mr. Leo had it on him when he walked into the apartment.

Q The gun that the, uh, -- I'm sorry. The vehicle that the gun was found in, was that Mr. Alonso's vehicle, or was it Estrada's?

A That vehicle belonged to Mr. Leo Estrada. That was his vehicle that he had pulled in, uh to the driveway while we were there. Uhm, reading further into this report, there's another thing that just entered my mind. We did another follow-up. Uhm, another follow-up because we found another address in their property. It says, "741 South Irolo Street. Apartment No. 414." There we were met by two additional females.

While we were there, there was another, uh, handgun recovered. And if I remember correctly, it was a small chrome-type, maybe .25 or .22 auto, uh, handgun. That gun was never booked. The gun was kept by, uh, Officer Durden.

Q I'm sorry. Where was that found?

A At 741 South Irolo. Apartment 414.

Q BY SGT. THOMPSON: And what type of gun was that?

A I believe it was a chrome -- a small chrome either .25 or .22, uh, semi-automatic handgun.

Q BY SGT. COOK: 741 South Irolo, I-r-o-l-o?

A Yes, sir. That's street. And that's Apartment 414.

Q BY DET. CASTILLO: Let me go back to the Estrada incident. I'm sorry, uh, Stepp and Veloz find the .38 in the black Mustang?

A Yes, sir.

Q They bring it inside?

A Yes, sir.

Q Are they present when Durden decides to put the gun in, uh, Estrada's waistband?

A That never occurred. There -- there is no need to go get the gun and then put it into his waistband and then pull it out.

Q Yeah.

A The thing was we just said, you know what, Durden -- that was something Durden wanted to do. He said, "I'm just gonna say he had it on him."

Q Okay.

A And that's something we just agreed on.

Q Did Stepp -- was Stepp and Veloz present when they -- when they agreed, or was this decided later?

A They were aware that that's how it was gonna happen, that that's what we were gonna write. In other words, what we do is, we sort of just talk about it briefly so that if a sergeant comes and talks to you later, so, what happened over there, and you guys pulled a gun, you know, he doesn't go and tell the sergeant, yeah, uh, we found a gun in the, uh -- in the car. And then, me tell him, yeah, the gun was on him -- or the report.

Q So, now, Stepp and Veloz are aware that you guys are going to put the gun that was found in the car, you're going to put it Estrada's -- in his waistband?

A As well as some narcotics.

Q And the narcotics.

A We made the story about, uh, him dropping --

Q Dropping the narcotics.

A -- the key holder as he walks in and drops it to the ground right as he walks into the apartment. Veloz and Stepp are right at the door. In fact, they are the ones that detain him. Uhm, so, they, obviously, know that he didn't drop anything.

Q All right.

Q BY SGT. COOK: Ray, where did you get that second key holder with narcotics?

A Just we had it somewhere. We, uh -- it was already in our possession.

Q Okay. And do you know what Durden did with the .22 caliber?

A It probably went on a suspect sometime later. I don't know exactly when or where, but -- I don't -- uh, right off the top of my head, I couldn't tell you where it went. I mean, he had it in his possession the whole time. He probably kept it in his, uh, bag -- his war bag.

But what, -- you -- you mean, eventually, where -- where it ended up, I couldn't tell you right off the top of my head.

Q Did either you or Durden take any money in this particular incident?

A Oh, I'm sorry. Yeah, I didn't go into that; did I? I believe there was -- uhm, the reason I believe there was, because I remember Durden writing about what Mr. Omar had told us about there being \$700. And, of course, when we recovered

the money, there was \$719. There was more than that. Money skimmed off the top of this one.

Q Do you know how much?

A No.

Q Did you get part of it?

A Yes, I did. How much exactly, I couldn't tell you. Because I think there was more than recovered from several different locations, including Mr. Estrada on his property. And I believe some of it was skimmed off.

I think it says -- it says here that Mr. Estrada told us that he had approximately \$400 of U.S. currency at his residence at 741 Irolo. Of course, the report now says that when we went there we recovered \$407. The reason you write \$400 that he told you \$400, so that when you go there and turn in \$407, it's consistent with what, supposedly, he told us.

Well, instead of there \$407, there was probably \$1400. We kept a thousand and booked \$400 -- or 407.

Q Did you take any money from Omar?

A Omar, the first one, yes. From his residence.

Q Okay. So, you took money from Omar and Estrada when you did the follow-up to Irolo?

A We did the first follow-up to his residence on Waterloo.

Q Waterloo.

A Money was taken from there.

Q Okay.

A Then, another follow-up was done on Mr. --

Q Estrada?

A -- Estrada's residence up at, uh, Irolo, and additional currency was taken.

Q Other than the gun being recovered, -- the gun -- that was placed -- that was in the Mustang, was there any money recovered from the Mustang, that you're aware of?

A No, not -- from inside the car? No.

Q So, my point would be, did Stepp or Veloz, that recovered the gun, did they recover money? Did they have knowledge of money being taken?

A Oh, no. They don't have knowledge of that.

Q All right.

Q BY MR. ROSENTHAL: All right. Let me just point out. This arrest did result in a case filing on Alonso and Estrada. And the Case number is BA148402.

DET. CASTILLO: 148- --

MR. ROSENTHAL: 402.

Q BY DET. CASTILLO: Let me clear this up. [CI#5] didn't know about money being taken, that type of thing, the planting of narcotics, the-- on this arrest incident or any, no?

A No.

Q You're shaking your head no?

A No.

Q [CI#5] just gave you this information. [CI#5]'s

actually your source of activity?

A Yes, sir.

Q Okay. Just qualifying [CI#5] as an informant but not -- not anything else?

A That's correct.

Q I just wanted to get that in the record there. Thank you.

SGT. COOK: Okay. Mark?

SGT. THOMPSON: (No audible response.)

SGT. COOK: Okay. Again, we're gonna go into some more detail with you at a later date. Thank you. The time now -- this discontinues the interview. The time now is 1201 hours.

(Changed to new tape.)

SGT. COOK: Okay. This is November 5th, 1999. The time now is 1202 hours. We're interviewing Rafael Perez. Tape No. 222093, Side A. We're going to look at Case No. -- D.R. No. 96-02-30371. The arrestee is Salvador Arias, A-r-i-a-s. The arrest date is August 28th, 1996.

MR. ROSENTHAL: And I'll just point out, on this case the defendant had his probation violated in Case No. BA090914. It was in lieu of filing. So, there was no independent criminal charges filed.

MR. MCKESSON: He didn't go to jail?

MR. ROSENTHAL: He went to prison on a probation violation.

MR. MCKESSON: How long?

MR. ROSENTHAL: That's four years.

MR. MCKESSON: Is he still there?

Q BY MR. ROSENTHAL: No. All right. Why don't you tell us why you pulled this file?

A I've had occasion to review this report. And I've asked for it to be pulled to the side because of certain issues. Uhm, I wrote this report. And it talks about, on the second paragraph under "Observations" how my partner and I set up an observation point looking northbound into 2921 West Bellevue. And while we were there, we observed Mr. Arias, Salvador come out of a garage holding a SKS Assault rifle with a sling on it. The defendant then walked from the garage. This is an outdoor garage. Walked around up some stairs, and then, going up to his door and placing a -- this rifle by the side of his door.

What actually happened was, again, this is information received [* CI #6 *]. This information we had already obtained from an informant that this particular person was in possession of a SKS Assault rifle. We were aware that he was on probation. He was not to be having weapons in his house, or having them in his possession. The entire observation of this report is falsified.

The fact that we say we saw him walking, that's incorrect. He was out front. But we never saw him running up some stairs holding the rifle. The rifle was actually recovered by several officers. Officers that were there -- were, uh, Officer Patel, Officer Stepp, Tovar, Buchanon. They were all there. And they witnessed where the rifle was actually

recovered from.

On the report it says the rifle was recovered up against the door, or up against the -- up against the wall right next to the front door. The weapon was actually recovered by some of these officers under his bed.

The weapon did belong to him. It wasn't a planted weapon. But what was fabricated was all of the observations -- the actual observations. The information that five additional rounds were recovered from the defendant's right front pants' pocket by my partner Durden, that is fabricated. That is incorrect.

Q BY MR. ROSENTHAL: I'm sorry. Say that again.

A On the third page of the arrest report, the first -- the top paragraph, it says "that while conducting a booking search, Officer Durden, my partner, recovered five 7.62 rounds from the defendant's right front pants' pocket. That was just merely to substantiate the fact that he had this weapon, he had additional rounds in his pocket that fit the weapon.

Q So, the rounds were planted on him?

A Yes, they were his rounds, but planted on him, or put in his -- or said to be put in his pocket.

Q So, they were actually found in his apartment, or his residence, but put on his person?

A Yes, sir.

Q BY SGT. COOK: And just to clarify, Officer Stepp, Patel, Buchanon knew that the observations were false, and were

involved in -- they knew that the observations that you wrote in the report were false?

A I don't -- I'm not a hundred percent sure if they knew about our observations. No, they did know about our observations because we had just met up with them. We said, hey, this guy's up there and we're just gonna hit it. So, they obviously knew we weren't set up on an O.P.. So, yes, that's basically right. They were aware that we just hit the place. There was no observations. There was some gang members out there hanging out. And we told them, "Hey, let's go hit it." We went and hit it. You know, some people kind of ran off.

Q BY SGT. THOMPSON: So, they were --

A They were definitely aware that the weapon was not up against the front door, up against the wall. They knew that the gun was actually recovered under a mattress in his bedroom.

Q Okay. But are they aware -- those officers aware of what was written in this report by yourself later on? Are they aware?

A I think they're aware by verbal, not necessarily by reading the report. I think they're more aware verbally what went down.

Q And when you say "verbal" meaning it's -- it's discussion that you and/or Durden had with them regarding this?

A Yes.

Q Okay. But you don't necessarily remember if they actually read the completed arrest report?

A That's correct.

Q BY SGT. COOK: Okay. But for clarification, these three officers recovered the rifle from underneath the bed?

A I think there's four. Are there four officers?

Q Stepp, Patel, Buchanon?

A Stepp, Patel, Buchanon and Tovar.

Q And Tovar?

A Yes.

Q These four officers recovered or had knowledge?

A They were in the apartment.

Q They had knowledge that the rifle was recovered under the bed?

A Yes, sir.

Q And Salvador was arrested for possession of the rifle?

A Yes, sir. Also, I think -- does it say that the weapon was loaded? Yes, it says that the weapon was loaded. The weapon was not loaded.

Q So, my point being, the officers knowing where they recovered it, if he was arrested for possession of this rifle, the officers would have known even if they didn't read the report, that the arrest was not valid because of the nature of how they found the rifle, right?

A Yes. Yes.

Q Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: Okay. That will conclude this interview. The time is now 1209.

(Changed to new tape.)

SGT. COOK: Today's date is November 5th, 1999. The time now is 1209 hours. Correction, 12- -- yeah, it's 1209 hours. We're interviewing Rafael Perez. Tape No. 222094, Side A. The arrest report we're going to look at is D.R. No. 96-02-21884. The arrestee is Santos Ayala. And the arrest date is June 2nd, 1996.

THE WITNESS: I'm sorry. I've asked for this report to be pulled to the side. My partner, Officer Duarte, and myself, were on this case. Everything in the report is, basically, correct, until you get to the second page of the arrest report about two-thirds of the way down, --

MR. MCKESSON: Under the "Observations"?

THE WITNESS: Under "Observations" yes. It talks about how "We asked the driver to get out of the vehicle in order to cite." He stated, 'Okay.' As he exited the vehicle, I noticed a small caliber semi-auto handgun on the driver's seat directly underneath the driver's right leg. Once I noticed the gun, the defendant was quickly detained and taken into custody. I recovered a loaded .22 caliber Beretta."

What actually happened here was he was asked to step out of the car. I was talking to him. While he was detained, I asked Duarte to go search the car. She searched the car, didn't find anything. Then, I told her to stay with the

defendant. I went and searched the car.

Inside the vehicle on the gearshift area, there's what you call one of those leather gearshift covers. If you guys know what I'm talking about. Inside that gearshift cover, -- inside was that small little handgun. So, I brought it to Raquel Duarte's attention that she really needs to concentrate when she's searching a vehicle. If she's gonna search, you might as well do a thorough search because you never know what you're gonna miss. So, I showed where exactly the handgun was inside that gearshift area.

Well, of course, when we wrote the report, we wrote that it was right there in plain view under his leg. When he got out, when he stepped out of the car, you could see it right under his leg. So, -- but, however, it was his gun and it was -- it wasn't planted.

Q BY SGT. COOK: Now, did you write the report, or Duarte?

A I wrote the report.

Q BY MR. ROSENTHAL: Would Duarte have known that, uh -- what the observations you wrote were?

A Yes.

Q So, she would have, obviously, been aware that this report contained false information?

A Yes.

Q BY SGT. THOMPSON: Did -- sorry -- did Duarte, in fact, review this report when it was completed?

A Yes.

Q BY SGT. COOK: Was there any discussion between you and Duarte as to how the report was going to be written, the fact that she missed the gun during her search, you went back and found it, and that you were going to, in fact, write in the report that it was underneath his leg?

A We discussed how she missed the gun. We discussed the importance of doing a thorough search. And then, we discussed how the report was going to be written. I explained to her how I was going to write it. She was aware.

Q BY SGT. THOMPSON: She offer any protest or indicate that she didn't want to go along with it?

A No, not on this occasion, no.

Q BY MR. ROSENTHAL: The person involved you say is a gang member?

A No. He, I think, he's a narcotics dealer. We didn't recover any narcotics or anything like that. But he was hanging out in a gang area -- Virgil and Normal -- which is the reason why we detained him, or we stopped him. Because he just looked, uh, suspicious. He was driving. He was parked over in a gang neighborhood. He looked suspicious, so we -- we stopped him to see what he was up to.

Q So, you stopped him for -- he did have an expired sticker?

A Yes.

Q And he was driving without a license?

A Right. That's correct.

Q And the reason for searching the vehicle was what?

MR. MCKESSON: The reason that they gave or --

MR. ROSENTHAL: The real reason.

THE WITNESS: We were just going to search the vehicle.

Q BY MR. ROSENTHAL: Okay. Were you planning to arrest the guy anyway, or was this a search incident to arrest, or --

A No, I mean, if -- if we found something, it's very easily justified that we were gonna be doing a -- a, uh, inventory search. We found the gun. But we were gonna search the car regardless. I mean, we always do, okay.

Q Yeah.

A He -- he already has no driver's license. So, we're gonna search the car one way or another. If we're gonna impound it or not impound it, or --

Q BY SGT. COOK: Okay. Just for clarification purposes, it's my understanding, based on all these interviews, that you proceed with the course of action and then, you later justify that course of action with what you're going to -- as to how you found the evidence or how you made the arrest?

A That's correct. If you deviate, you articulate. You just find it. And then, you articulate it later.

Q Mark?

SGT. THOMPSON: (No audible response.)

SGT. COOK: Okay. That concludes the interview. The time now is 1215 hours.

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1215 hours. We're interviewing Rafael Perez. We're on Tape No. 222095, Side A. The arrest report that we're looking at is D.R. No. 97-02-34265. The arrestee is Raul Calderon. The arrest date is October 11th, 1997.

Q BY MR. ROSENTHAL: And this involves a case filing BA157731.

A Okay. Uhm, I remember this. I had asked -- well, I had made a comment about this report. I have no personal knowledge about this one. But the report was pulled to the side and I can make a short comment on it, if you'd like. Or I will. On the second page of the arrest report under "Observations", under the second paragraph under "Observations", it says, "The group was illuminated by our vehicle headlights, and surrounding street and building lights. We began to pull our vehicle towards the curb to investigate further, at which time Officer Vinton and myself, the officer -- Vinton, V-i-n-t-o-n -- observed Defendant No. 1 reach into his right front pants' pocket and remove a blue steel semi-auto handgun.

The defendant then threw the handgun onto the porch of the residence behind him."

And the only -- what happened was I made a comment about this report. I don't know if you remember. On the very next paragraph, the officer writes, "Simultaneously, Subject

No. 2, who was standing to the rear of a blue 2-door Buick Regal, which was parked alongside the curb, began walking towards the passenger side of the vehicle.

And they observed the subject reach into his front waistband and remove a blue steel semi-auto handgun." And the reason I -- I made a comment about this report, because based on my knowledge, and based on what goes on, although I don't have direct knowledge, it was my opinion that this was probably -- there was some misconduct committed here.

I find it really hard to believe that officers can watch two people simultaneously, at the same time, watch one guy reaching into his waistband, pulling a gun out and throwing it behind him, now, they're gonna leave that observation to watch another guy pulling out another gun and removing it.

It is my experience that you watch somebody who is in front of you pulling a gun out, you're not gonna just now turn your attention to somebody else. The guy in front of you is pulling a gun out. I doubt that you're gonna, you know, now, turn your attention to somebody else, or another subject, or somebody else.

I mean, that's the only comment that I needed to say about this particular report. It was just something that I -- when I read it, I said, I know in -- based on my experience of what goes on, these observations are questionable.

Q BY SGT. COOK: And to give us more perspective, you've encountered a number of these arrest reports where you had

similar comments or had similar opinions about how the arrest was written, and how it, in fact, may have taken place?

A Yes.

Q So, this is just reflective of one of many reports?

A One of many where -- how it's written and -- and described is almost, uhm, you -- you can read it and tell that it's impossible that it actually occurred the way it was written.

Q Okay. In all fairness, I think it's one of the reports that you would have put aside, and we would have -- we would not have pursued it because you didn't have direct knowledge.

A Right. I think you just wanted to talk about it just --

Q Yeah.

A -- uh, there was nothing that I have direct knowledge of. But it was just something you wanted to talk about.

Q Okay. Mark?

SGT. THOMPSON: (No audible response.)

SGT. COOK: Okay. That concludes the interview. The time is now 1219 hours.

MR. ROSENTHAL: Okay. The next case we're going to talk about -- this one was not --

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999.

The time now is 1222 hours. We're interviewing Rafael Perez. We're on Tape No. 222096, Side A.

Q BY MR. ROSENTHAL: What I'm going to ask you about relates to a case prosecution against George Cantu, C-a-n-t-u. D.R. No. 97-02-05862. Case No. BA144361. This was a trial that was tried by Deputy D.A. Steve Giddzinski. G-i-d-d-z-i-n-s-k-i. This was actually turned over in discovery, uh, during our -- the case against you. I don't know if you read the report from Deputy D.A. Giddzinski.

What he said, though, is -- I'll read to you from his report, by reading his comments on this, and see if you remember it. Uh, he said he was the trial Deputy on the case. Uh, according to the police report, written by Officer Baskett, B-a-s-k-e-t-t, Officers Perez and Mora conducted a field show-up of four witnesses. The witnesses were identified as Monica Monard, M-o-n-a-r-d; Edwin Ramirez; uhm, Mira Monard; and Raomulo, R-a-o-m-u-l-o, Monard, aka, Junior.

The police report indicates that the witness identified the defendant as the person who committed the crime. According to the Deputy D.A., he interviewed the four witnesses together. And he said that one of the witnesses, Monica, said that after the victim's throat was cut, she -- she took the victim upstairs to the apartment she shares with her parents, and called 911.

Uh, after the paramedics left the scene, the mother of Monica instructed them all to remain in the apartment.

Raomulo never left the apartment again. Edwin and Mira went to Edwin's apartment across the street. And they did not identify anyone as a suspect of the crime.

So, basically, what he's saying is that they -- uh, they testified that there was no field show-up by you and Officer Mora.

A Can I ask you, before you go any further?

Q Sure.

A What's -- what is the serial numbers of Officer Mora and Officer Perez?

Q Oh, you're thinking it's not you?

A That ain't me.

Q Hold on.

A I never worked with an Officer Mora, that I can remember.

Q All right. Baskett was with Hewitt. Officer Perez, 30792.

A That's not me.

Q That's not you, no.

A No.

Q All right. Okay. We're done with this one.

SGT. COOK: That concludes this interview. The time now is 1225.

(Changed to new tape.)

SGT. COOK: Today's date is November 5th, 1999. The time now is 1225 hours. We're interviewing Rafael Perez on Tape No.

222097, Side A. We're going to discuss D.R. No. 96-02-20953. The arrestee is Emmanuel Chavez. The date of arrest is June 4th, 1996.

THE WITNESS: I've asked for this report to be pulled to the side. If we were to turn to Page 2 of the arrest report, second paragraph under "Observations" -- by the way, in this occasion, my partners were Officer Tovar and Officer Duarte. We were riding 3-deep.

On the report, it says that, "On June 4th, 1996, at approximately 2100 hours, we observed Subject No. 1, and Subject No. 2 standing at the southwest corner of Lockwood and Virgil. And they were standing next to a bicycle." It further says that "We parked our vehicle and we had a clear and unobstructed view of the two subjects over at the gas station across the street from where they were."

Further in the report, it says that "We observed Subject No. 2 reach into his waistband and remove a large handgun. The weapon appeared to be a sawed-off rifle. I observed Subject No. 2 hand Subject No. 1 the large weapon. Subject No. 1, then, placed the weapon in his front waistband. And both subjects mounted a bicycle and began peddling southbound on Virgil towards Burns."

And it further says that "We formulated a plan to deploy on the two subjects to take them down and recover the weapon." It says that -- that I ordered the defendant put his hands on his head. And I recovered the weapon from his front

waistband.

What actually occurred was we were traveling southbound on Virgil from -- towards Burns. We see a juv- -- two juveniles. One riding the bicycle and one sitting on the handlebars. As we're about to make a right turn, which would be a westbound turn, on Burns, the juveniles -- they both as they come off the sidewalk onto the street -- fall to the ground. And we're thinking, well, these guys are awfully hinky. Plus they're a tagger crew not from the gang that that area belonged to. That is a La Mirada Gang neighborhood. These guys were from a tagging crew called, uh, TSS -- Terrorist -- uh, Terrorist Street something. Not common to the Rampart area.

At any rate, we tell them, "Hey, get up. Get up against the wall." As I go to start searching one, I hear a clink. And it was still -- all I could see was about that much on the side of his shoe from underneath his -- you know, underneath his pants, uh, the barrel of a weapon.

Q BY MR. ROSENTHAL: So, you could see about two inches?

A Exactly. I advised my two partners. You know, I handcuff him. Then, I get the weapon out. And it's a sawed-off shotgun. The reason that we said that all these obs are -- other observations was we wanted to arrest both of them for the weapon.

So, under on our "Observations" we stated that we saw one juvenile hand it to the other juvenile. Then, they rode south. We detained them. We arrest both of them because at

one point or another, they were both in possession of the handgun, or the -- the rifle. That's actually what occurred.

Q Which one was the one that had the gun?

A The one that was described as having it when we detained him, -- the -- uh, Chavez. No, I'm sorry. Salcedo. The one that was actually detained and I said that it came out of his waistband -- Salcedo.

Q BY SGT. THOMPSON: Who -- who wrote this report, Ray?

A I did.

Q Okay.

Q BY SGT. COOK: Now, you're riding 3-deep. Was there any discussion between you, Tovar, and Duarte that the gun was going to be placed on both arrestees? Or did you just write the report that way?

A No, we definitely talked about it. You got to remember, too, I haven't said it on all the interviews, but when we have a caper like this, let's say we arrest somebody with a shotgun or whatever, the next morning at roll call, or not the next morning, but the next afternoon -- whenever it is we go back to work, the sergeant will go down, who had an arrest yesterday. You did, you did, okay. Tell us about your arrest.

So, you kind of debrief what you had and how you deployed on it tactically, or whatever you did or whatever you did wrong, or whatever you did right, you know, you talk about it.

Uhm, so, we always talk about what you're gonna write, because not only is it gonna come up later, but you don't

want to get caught off guard when the supervisors is asking you one thing, and you say one. And then, he asks me another, and I say a different thing.

So, we had discussed how we set up an O.P., and our observations. We had just definitely discussed it. And I'm pretty sure on this one that they had read this report.

Q Now, are you -- is that a consistent practice about discussing -- debriefing the following day of your arrest?

A Always.

Q Is it a consistent practice, then, to get with the officers involved in the arrest to make sure that everybody is on the same page?

A Definitely. I'm not going to write a report totally opposite of what actually happened without confronting or advising my two partners of the -- of what, you know, what I wrote -- or vice versa.

Q BY MR. ROSENTHAL: I thought with Duarte, you didn't really trust.

A We didn't.

Q So, why would you write a false report and advise Duarte of that?

A We were just seeing how far she would let it go, or at least I was. Same with the handgun and the car, you know, where she missed it and I came back and found it. It was just sort of a gradual thing. I would not trust -- or I would not ask her, hey, go put some dope on this person, or something

like that.

But if I told her, you know what, the best way to do this would be to say that we saw them appear. One guy handed the other guy the handgun. If she says, "Okay" or, "All right, yeah, that's -- that's cool. We'll do that," I know that she's -- she's okay accepting that. And I'll see how further she'll go later on as time goes. But, uh, this was just another step for her just to see, you know.

Eventually, she just left the unit. She -- she, obviously, either was uncomfortable with what was going on or just didn't want to be there any more. She only stayed maybe two months.

Q And remind me, Tovar was in the loop?

A Yes.

Q Okay.

Q BY SGT. COOK: So, in this particular arrest, did she ever tell you, or make it clear to you, that she would not go along with this particular arrest?

A No.

Q Okay.

A She was aware what -- of how it was being written. And she was -- she had knowledge. She knew what was going on.

Q BY MR. ROSENTHAL: Was it illegal to possess this particular weapon?

A I believe it was.

Q Or were these people on probation?

A I believe they might have been on juvenile probation anyway. But I believe --

Q Oh, this was the sawed-off shotgun.

A Right. Anything that's under 8 inches -- a barrel is under 8 inches, it's illegal. It's a different section. It's not the normal 12021 or 12025. I think it's a, uh, 120001.5.

Q Correct.

A Which is, uh, the barrel of a shotgun under 8 inches.

Q Now, you mentioned in here, though -- and I want to make sure I've got this right, as to which -- it's actually the juvenile -- which -- which minor possessed the shotgun?

A The juvenile --

Q In the report it says, uh, the first one that you observed, the one you observed reach into his waistband and remove the large handgun -- would be the gun -- was Subject 2, Chavez?

A Right.

Q Now, I have written down that it was -- in the search you found it on Salcedo.

A That's correct.

Q Okay. So, why did you put Subject Chavez as the first one who is possessing it?

A I put Salcedo as -- early on, you mean, before we detained them?

Q Right. Well, yes, exactly. It says --

A Because we wanted to say that he had it, at one point,

and then, handed it -- Chavez had it, handed it to Salcedo.

And then, when we detain him, Salcedo had the weapon.

Q Okay.

A But prior to that, uh, Chavez had it.

Q All right.

A That way we can also book him.

Q Okay.

Q BY SGT. THOMPSON: I have a question, Ray. It shows, in the front of this report, that, uhm, Sgt. Ortiz approved this report. Is that Sgt. Ortiz' --

A That is my handwriting.

Q That's your handwriting?

A That's my signature, yeah.

Q Okay. Did Sgt. Ortiz also give booking approval for this arrest?

A Uh, it was a computer-generated one. But, uh, it is his name under, uh, the booking information.

Q My question is, is -- was -- was Sgt. Ortiz aware, at the time of the arrest, that this, in fact, was a fabricated the way --

A No.

Q -- that you had described --

A It was -- it really was not necessary to tell him.

Q Okay.

A Okay. It was just, you know, we wrote it, and whatever we said was fine.

Q Okay.

Q BY SGT. COOK: Okay. That concludes the interview.
The time is now 1235 hours.

(Changed to new tape.)

SGT. COOK: Today's date is November 5th, 1999. The time now is 1236 hours. We're interviewing Rafael Perez on Tape No. 222098, Side A. We're going to review D.R. No. 97-02-24513. Arrestee Gomez -- Alfredo Gomez. The arrest date was July 8th, 1997.

Q BY MR. ROSENTHAL: And this looks like a multi-five arrest. And it actually did result in a number of filings. Two with the City Attorney, uh, one with the District Attorney -- BA153098, against Gomez, and then, a second one, a refiling against, uh, Gomez. Or, I'm sorry, just that one -- BA153098.

Q BY SGT. COOK: Do you want to take a break?

A Yeah.

Q Okay. We're going to take a short break. The time now is 1237 hours.

(Off the record at 12:37 p.m.)

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

Q BY SGT. COOK: Okay. We're back on tape. The time now is 1238 hours. After reviewing D.R. No. 97-02-24153, did you want to make a comment about this arrest report?

A The only reason I pulled this report to the side, just to make a quick comment on it. We had talked about how on a lot of parties, or you do some gang sweeps and you recover

four guns and it's -- it's, you know, you'll always have four bodies with four guns when they're recovered.

In other words, you break up a party and find three guns, you ain't just gonna have a property report. Uh, and I had brought that to the attention that, you know, on -- on a lot of these arrests, you'll see that, you know, a lot of guns were recovered. And there's always four guns and four bodies along with it, which, most of the time, is fabricated. I mean, especially at, you know, breaking up parties and groups like this.

Q Who are the officers on this report?

A Cohan and Brehm.

Q Okay. But you have no direct knowledge. This is just your opinion?

A Right. Another one. This is just one of the ones we pulled to the side just to comment on it. But nothing of personal knowledge.

Q Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: All right. That concludes this interview. The time now is 1239 hours.

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1240 hours. We're interviewing Rafael Perez. Tape No. 222099, Side A. We're going to review arrest report D.R. 96-11-00781. Arrestee is a Geovani Lopez. July 26th,

1996 is the arrest date.

Q BY MR. ROSENTHAL: And let me point out on this one. First of all, this is -- what's the date of arrest you have?

SGT. COOK: July 26th, 1996.

Q BY MR. ROSENTHAL: Okay. This is a rape case?

A Yes, sir.

Q All right. This case was filed as BA135759 against four defendants. And actually went to jury trial. Did you testify at the jury trial?

A Yes, sir.

Q All right. Why don't you tell us why you picked out this one?

A There was no misconduct. There was no falsifying of any information on this report, as far as the criminal case itself.

Q All right.

A The only thing I needed to talk about this case for is the injuries that were obtained, or suffered by Defendant Granillo, Antonio. And there is a photograph here depicting some of his injuries.

Q I'm sorry? By which defendant? Antonio Granillo?

A Yes, sir. Booking No. 4913370. Uhm, while at Rampart Station, Officer Hewitt was asked to monitor the gang members that were in custody while conducting some interviews and things like that.

Q I'm sorry? Which -- which officer?

A Hewitt.

Q All right.

A Hewitt, after this gentleman -- when this gentleman was taken into custody, I can tell you that he did not have these injuries. I took him into custody. He did not have these injuries. While at the station, and while trying to conduct interviews with the victims and witnesses, I saw the -- the subject, or Mr. Granillo, and I noticed his injuries, uh, like a rug burn and a black eye.

Uhm, Hewitt had told me that, uh, he tuned him up a little bit for, you know, -- for what he had did to the -- the -- the juvenile.

Uhm, he told me that the guy was handcuffed and he threw him. And I think it was in Rampart C.R.A.S.H. office, there's carpet. And the guy scraped his -- the side of his face and he also tuned him up . And I'm assuming that's giving him the black eye and some body punches and choking him out and things like that.

Uhm, but this -- the reason I pulled this report out, 'cause it stood out when I saw the -- the first thing I saw was the subject Granillo with all these injuries, uh, to his face. And on the report itself, it -- it talks about how he, supposedly, hit his face on a board as he was trying to get away from, uh -- from the scene when they first kidnapped the female.

Uh, all of that was put in there to sort of justify

his injuries now.

Q So, in that part, you actually did write a false report as to that defendant?

A In that part -- however, the mother of the victim did say that when he was leaving, it appeared that he had hit himself as he was leaving the porch area. So, that fit in perfectly with writing, you know, this information. In fact, that's where the idea came from that he hit himself somewhere on the porch area on a board or something like that.

But, when I took him into custody, he did not look like that. He did not have any of those injuries.

Q BY SGT. COOK: So, you wrote the statement in your arrest report based on the information that the mother had, but you used that information to justify his injuries?

A That's correct.

Q BY MR. ROSENTHAL: Where in the report? Why don't you direct our attention to the part of the report where you indicate that he was injured?

A It may not be in the report. It may be in her statements. And, let me -- Page No. 4., very last paragraph, Witness No. 2 statement.

Q All right.

A Witness No. 2 stated that Wit. 1 entered the residence and informed Wit. 2 of the incident. Wit. 2 exited her residence and observed Defendant No. 2 running from the residence. Wit. 2 observed Deft. No. 2 strike his head on a

piece of wood which was -- which crossed the entrance of their yard, and fall to the ground. Deft. No. 2 then got up and ran to a blue Toyota Corolla and entered the vehicle.

Q Okay.

SGT. COOK: Okay.

Q BY SGT. THOMPSON: Ray, were there other officers at Rampart Station that were present when this occurred with Hewitt and this particular subject -- to, uh --

A Yes, there were. I can't tell you who they were. But there were people there. There were several officers there, including Officer McNeil. There were several officers there. Uhm, whoever Hewitt's partner was. There were several officers from there because I remember it was kind a big thing. I mean, a lot of units responded, uh, from the time we took him into custody over at Kent and Coronado, Hewitt and all the other officers showed up. Uh, several other officers.

I can't remember whose partner Hewitt was. But from the time that he transported the defendants from Coronado and Kent to the station, while I talked to the victim and tried to gather more information, and bring her back to the station, he obtained those injuries. Hewitt told me how some of them were obtained. I'm assuming -- well, I'm pretty sure that there were other officers there when this occurred. Because his partner would have been there.

Q If you were to review logs at a later date, would that refresh your memory as to who actually was at the station

at that particular time?

A Right. Let me look in -- in my report and see when I requested assistance who responded. And it might be in there.

It's not in the report.

Q Let me ask you this question, Ray. Again, Sgt. Ortiz is the supervisor that is indicated having approved this report?

A Yes, sir.

Q Do you see that?

A Yes, sir.

Q Is that, in fact, if you know, Sgt. Ortiz' signature?

A That is my signature.

Q Okay. It also says that Sgt. Ortiz approved this booking. Was Sgt. Ortiz aware? Obviously, this -- according to the booking photo, it's a pretty obvious injury. Was Sgt. Ortiz aware of how this person obtained his injuries? If you know.

A I don't have any direct knowledge. It's very obvious when we had the four people in custody, and Sgt. Ortiz arrived there, he could see what they looked like. And when we got to the station, the person, obviously, looks different.

Q So, Sgt. Ortiz was at the arrest scene?

A Oh, yes, he was.

Q Okay. And was he later at the C.R.A.S.H. office?

A Yes, sir.

Q Okay.

Q BY SGT. COOK: So, you had specific -- specific

observations? Your observations that there was no injuries on him -- on Granillo?

A I do. I arrested the guy. I detained him. I was -- I took him into custody and handcuffed him. He was definitely -- uh, he didn't have those injuries.

Q And then, after you saw him at the Rampart Station, you observed the injuries. In addition, you also had a statement made by Hewitt --

A That's correct.

Q -- about tuning him up?

A Yes.

Q BY MR. ROSENTHAL: All right. And then, you've -- you've mentioned the injuries are clearly observable in the booking photograph and you give -- did you already give us that booking number?

A Yes, sir.

Q That's the one you read previously?

A I'll give it again. 4913370.

Q Okay.

Q BY SGT. COOK: Okay. That concludes the interview. The time now is 1249 hours.

(Changed to new tape.)

SGT. COOK: Okay. Today's November 5th, 1999. Time now is 1341 hours. We're interviewing Rafael Perez on Tape No. 222100, Side A. We're going to review arrest report D.R. 96-02-36976. The arrestee is Walfrido, that's W-a-l-f-r-i-d-o,

Lamotte, L-a-m-o-t-t-e. The arrest occurred on August 1st, 1996.

MR. ROSENTHAL: There's actually two arrestees. The second is Julio Hernandez. Uh, D.A.'s Office has no record on Lamotte. But does have a record of a juvenile filing on Hernandez.

Q Okay. You pulled this file. Why was that? Or this report.

A Uh, there's a couple -- couple of things I need to talk about. Firstly, before you get started -- before I forget -- uhm, all this information, uh, we write as though we observed it. And we, uhm, -- it was our observations. And all of this information actually came from an informant, [CI#6].

Q BY SGT. COOK: [CI#6] is the informant?

A Yes.

Q But you wrote the report?

A Yes, I wrote the report.

Q And you took the observations to be your own?

A Yes. Well, some of the observations are completely fabricated. Uhm, my partner on this case is Kulin Patel. Second page of the report, second paragraph, under "Observations", it says that "On August 1st, 1996, at approximately 2115 hours, my partner and I are travelling northbound on Dillon from 3rd Street. And we observed two Temple Street Gang members standing in front of 110 South Dillon."

That's incorrect. We were never there. We never saw

them. Everything after that, as far as using the binoculars, observing him place a gun, observing a gun, all of that is fabricated.

The information we got on the gun came from our informant. We knew the gun was in the house. We knew that Wilfrido Lamotte was in possession of a handgun that was in the house. What we also received from, uhm, the informant was that they were hanging out at a church on Waterloo and Kent, uh, driving a stolen vehicle. That is where we actually began, uh, waiting for these two people to leave the church parking lot.

While we were parked there, we finally see the car come out -- the car that is described to us by the informant. We began following it. We followed it all the way up to where we, eventually, uh, stopped it at Sunset and Silverlake. When we ran the vehicle, of course, -- when we, uh, eventually, uh, ran the vehicle, it comes back stolen. We request back-up and take them into custody.

I think it says, on the report that, at that point, we returned back to the location and get a Consent to Search from the residence at 110 North -- or I'm sorry, 110 South Dillon, and recover the gun. And we write that it's the same gun that we observed him holding outside in front of his house.

Now, that's correct. We do recover the gun at the house. But all the other observations that we see him holding the gun in front of the house and that we did an O.P. and followed him from in front of the house, all of that is

fabricated.

Q Did you actually get a Consent to Search?

A Uh, yes, they eventually gave us Consent to Search and we do have a copy of that Consent to Search in the report.

Yes. Q BY MR. ROSENTHAL: The observations with respect to the vehicle, the stolen vehicle, was that all true?

A Uhm, okay. Yes, uhm, well, it's true to the point where once you get them into custody. I think it says here we saw them drive off on Dillon. We actually saw them driving off from Kent and Waterloo.

Q Okay.

A And just followed them until we got our back-up and took them into custody at Sunset and Silverlake.

Q The, uh -- which one was it who was driving the car?

A Uh, I believe Mr. Hernandez, Julio was driving the car.

Q All right. What it appears, from the records, is that Hernandez did get charged with, uh, Grand Theft and Unlawful Driving of a Vehicle. And I don't see anything, at least as of now, of a charge of a gun.

But with respect to the, uh, driving a stolen vehicle, it is true that Hernandez was, in fact, doing that?

A Yes, I believe Mr. Lamotte was -- and you don't have that paper work -- he was also arrested -- the second guy with the gun.

Q Yes, there's no -- there's no record, though, that

anything happened to him.

A You know what, he may have been a juvenile. That's what it is.

Q He was a juvenile.

A He's a juvenile.

Q But there's no record in juvenile, uh, that it happened. Occasionally, probation will put somebody on a informal probation. And it will never go anywhere.

A Okay.

Q So, that may be -- may have been what happened there.

A Mr. -- yeah, Mr. Lamotte, well, I figure he may be in custody on another unrelated case.

Q I'm sorry?

A Uh, Wilfrido Lamotte.

Q Yes.

A He is in custody now?

Q You're saying he's in custody?

A Yeah, I believe he's still custody, but on a unrelated case.

Q Mmnh. All right. Any other questions?

Q BY SGT. THOMPSON: Ray, was there any other officers involved in this arrest that are not indicated in the report? I don't see anybody other than Sgt. Ortiz, who is mentioned in the third page, first paragraph.

A No, I think that was about it. Other than the people who responded to the back-up or the following. And I don't

remember who they were. They were some C.R.A.S.H. and some patrol units. But they had no -- no knowledge. I mean, it was -- it was -- the stolen was an actual stolen and everything else. The only thing that's fabricated, like I said, is the observations that, supposedly, we can see him out in front of the house with the gun.

Q Again, some of these questions might be kind of redundant, you know, case-to-case, but was Sgt. Ortiz aware of the fabrication of -- of this report at the time it was completed or --

A No.

Q Okay. This also indicated that Sgt. Ortiz was the supervisor approving. The first page, is that his signature, or is that someone else's, or do you know?

A That is Sgt. Ortiz' signature.

Q Okay. And, again, it's indicated that you are the author of this report. And indicated under "Source of Activity" again, did Officer Patel review this report upon it's completion and concur with what was written there?

A I believe so.

Q So, he had direct knowledge, as far as you know, that this report was false?

A Well, he not only had direct knowledge, as far as the report, we verbally talked about it first. We talked about what our observations were going to be, how we saw him down there, you know, in order to place the gun. We knew that there

was a gun in his gun. We wanted to place that gun on him. Uh, so that's why we had to come up with this observation, uh, that we saw him in front of the house with the gun, so, we can go back to the house and recover the gun.

Uh, but the actual information about the gun, actually came from the informant. 'Cause the informant had seen him with the gun.

Q So, Patel had both verbal and direct knowledge that the contents were -- were false?

A Yes.

Q BY SGT. COOK: Okay. That concludes the interview. The time now is 1350 hours.

(Changed to new tape.)

SGT. COOK: Okay. We're gonna talk about Benitez.

MR. ROSENTHAL: All right. Hold on a moment. Let's go off the record for a minute.

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

(On the record at 1:52 p.m.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1352 hours. Interviewing Rafael Perez on Tape No. 222102, Side A. We're going to review arrest report D.R. No. 97-02-07420. The arrestee is Jose Lara. Uh, the arrest date is --

MR. ROSENTHAL: February 2nd, 1997.

SGT. COOK: Yeah.

MR. ROSENTHAL: Uh, this also relates to Case No. BA145000.

Q And why did you pull this file?

A The reason I pulled this report out is because it is a fabricated report. It's, uh, -- the gun was planted on this person. Everything on the "Observations" is correct, up until the point where, uhm, we say we observed him drop a gun. We did stop him in the alley. We did see him run across the street and up into the alley.

I think the underlying, uh, -- and I don't have his rap sheet with me. I think I mentioned it to the detective before, one of the reasons we decided to, uhm, arrest him was he had -- if I remember correctly -- he had had a conviction on Assault on a Police Officer, or something like that.

And he had --

Q Right.

A -- gotten off light on the assault, because he was sort of bragging about it. And we decided, well, you're gonna go to jail now. And, uh, --

Q According -- according to the file -- the D.A.'s file, he was on misdemeanor probation for a 245(a)(2) is just a straight assault with a firearm.

And that was, uh, -- I can't tell when the incident occurred. But, all right.

A By the way, on this gun, uh, Durden, uh, obliterated the serial number.

Q The gun, -- do you know where the gun came from?

A It's just one of the guns we had. Where it came from

exactly, I don't remember.

Q Yes, this did have an obliterated serial number, according to the report.

A Yes.

Q All right. Let's just -- going through the report, you say you've, uh, observed -- looking under "Observations" on Page 2.

A Yes.

Q You say you observed a male Hispanic, Defendant Lara, uh, running northbound across the street in the north/south alley. So, that's true?

A Yes, sir.

Q Uh, you turned into the alleyway northbound in order to initiate a pedestrian stop for jaywalking?

A That's correct.

Q And, in fact, he was jaywalking?

A Yes.

Q Uh, he didn't -- it says he continued running northbound. And he did do that?

A Yes.

Q And the only part -- well, the significant part that didn't occur is, he did not drop a blue steel semi-automatic handgun to the ground?

A That's correct.

Q Okay. Uh, at some point, the defendant stopped -- did defendant stop of his accord, or do you guys force him to

stop?

A We asked him to stop.

Q Okay. So, he complied with your request or your order?

A Yes.

Q And what happened, at that point?

A Uh, we -- we asked him, uh, questions to fill out an F.I. Uh, questions like was he on probation? What was he on probation for? Uh, at that point, we decided to transport him to, uhm, Rampart Detectives, to a little bit further investigation.

Q When you stopped him, were you aware, at that point, that he was a gang member?

A Oh, yes.

Q Were you aware, at that point, that he was a gang member put on probation for the assault?

A He -- he was -- not bragging about it. We had asked him about what he's on probation for. And he had said something about it was an assault on a police officer, and -- but he only got -- he got off light. It was only a misdemeanor. Something like that.

Q So, it was when -- you didn't know that before you stopped him?

A That's correct.

Q So, you found that out while you were questioning him?

A Yes.

Q And it was, at that point, that you decided that he should, uh, go away?

A Yes.

Q Okay. Uhm, was there something about his attitude that caused you to do this?

A I think it was more the -- the way he was acting, though -- as though he got away with assault on a police officer, and light, you know, no time, or something like that. And, uh, it was a misdemeanor, or something like that.

And I think that was the determining factor for this arrest here. It wasn't just a -- you stop somebody and decided, okay, he goes. It was more, you know, we had this information that he gave us. And that, uh, we decided that he's gonna go to jail.

Q Okay.

Q BY SGT. THOMPSON: Uh, start from the front here. Uh, it indicates that Sgt. Peters approved this report?

A I wrote the, uh, -- I wrote Sgt. Peters' name. I signed it.

Q Is that at his, uh, direction, or --

A I don't remember. I know I signed it. I signed it for him.

Q Any other officers involved in this arrest, Ray that are not in the report?

A No, sir.

Q Okay. You indicated that, uh, the gun -- uh, one of the guns that you had picked up -- you and Durden had picked up at some unknown time; correct?

A Yes, sir.

Q Do you know how many days before this arrest, February the 2nd, 1997, it was that Durden removed the serial number from that gun?

A When he removed the serial number, it was that day. That same day. That day, yes.

Q Before or after the arrest?

A It was while we were at the station, at the Detectives.

Q Okay.

A And I know -- I'm sorry.

Q I'm -- at -- at Detectives?

A At Rampart Detectives he removed it.

Q Okay.

A We wanted to make it a felony.

Q I see.

A Uh, so, we had to remove the serial number.

Q Do you know if this gun was ever run by yourself or Durden prior to this arrest? And if so, how many days before?

A This I don't know. I don't remember if it was run or not.

Q And it -- is it also fair to say that this statement is attributed to, uh, Mr. Lara down an additional is also part

of the fabrication or the report, when you said -- you asked the defendant "Did you shave the serial number off the gun?" Do you see that part?

A That's absolute fabrication, yes.

Q BY MR. ROSENTHAL: The --

A And, uh, also the part that we read him his 1503, uh, Miranda Rights is also a fabrication.

Q The gun, when you -- when Officer Durden shaved off the serial number, was this before or after the arrest of Mr. Lara?

A After his detention.

Q So, were you present when this actually occurred?

A I was present for a short time.

Q And you said this happened in Rampart Detectives?

A Yes.

Q Where?

A In the, uhm, -- there's a, uh -- uh, what is it? Uh, a locker room. A bathroom/shower locker room area in the back side of -- on the back side of Rampart Station. We had what was called, uh, those electronic engravers. Uh, I think we've talked about it before. They're real loud. Anyway, it scratches off serial numbers and stuff like that.

Uh, and I think that's what he was using.

Q I'm sorry. Explain that to me again. What is that?

A They're electronic engravers. Uh, --

Q BY SGT. THOMPSON: Same things that you use to engrave

your serial number on handcuffs and --

A Exactly. I don't know what the technical name would be for them, other than engravers. But they're electronic. You plug them in and it's like a needle. And it scratches on metal. I mean, you can write on metal or anything else. And it'll wipe out, uh --

Q So, it -- it's --

A We had one of those in our office.

Q It's used for trophies -- engraving trophies, things like that?

A Not necessarily trophies. But we used it to engrave like let's say you wanted your serial number on the handcuffs.

SGT. THOMPSON: Flashlight.

THE WITNESS: Un, flashlight you can engrave on it. Anything you can -- you can -- you can engrave on metal with it. Q BY MR. ROSENTHAL: Was this owned by a particular officer, or just by the Department, or Division?

A It -- I think it just belonged to the Department. It was in our office. I don't know who the owner was.

SGT. THOMPSON: Yeah, I've seen them in other stations. I think -- I think normally every station has one.

THE WITNESS: Yeah.

MR. ROSENTHAL: All right. Okay. Any other questions?

SGT. COOK: Uh, one additional thing on, uh, John Peters.

Q I notice that there's no initials up there. Does that mean that, uh, -- would not receive his approval, or you

just would have signed his name?

A That just wasn't my practice. I know, uh, on some reports, my partner, Nino Durden, would put his initials above it. I just never did that. It just wasn't my practice.

Q Okay. So, if I'm sure that I got the okay from Sgt. Peters to sign his name?

A I mean, at some point, I -- I'm -- I'm sure that I talked to him about the -- the arrest. And either he went end of watch, you know, before we came back from the Jail Division with the face sheet. And I just signed his name for him.

Q Okay.

Q BY SGT. COOK: Okay. So, you would verbally give him your observations of the arrest?

A Yes.

Q And he would not have read the report?

A Yes, sir.

Q Okay.

Q BY DET. NALYWAIKO: I've got a question, Ray. Who were the, uh, detectives that, uh, handled the C.R.A.S.H. arrests, as far as the filings or any follow-up?

A All non-narcotics arrests would be handled by Martin, Arzate, Wessel, Williams, uh, everybody that works in Rampart C.R.A.S.H. Detectives. I can't think of all their names right now.

There's a couple more. Bo Arzate. There's a couple more. And I can't think of their names right now. Oh, uh,

Yvette Gonzalez. I mean, but each one handled different areas. Like each detective was like in charge of three different gangs. So, any arrests that were made in that gang area, that detective would handle it.

Q How often would you talk with the detectives about the arrests?

A Every day. Every day that we worked, we would come in and talk to the detectives and see if they had anything for us, anybody they were looking for, and things like that, if they were still in the office.

Q Did the detectives, to your knowledge ever interview any of the arrestees?

A Oh, I'm sure they interviewed arrestees.

Q Did they ever give you any information from interviewing the arrestees what the arrestees said or if the arrestee had a different version of what happened?

A You know, I do remember something like that, what they said was not what we said. But I couldn't tell you which case it was or who it was that told me about it. I remember someone telling me that they went and interviewed somebody. And their story was completely different, or something like that.

But very seldom did, you know, detectives come back to us and say, oh, he said, no, no, that's it wrong. And you planted it on him. I don't remember hearing too often.

Q Were any of the detectives that handled the

C.R.A.S.H. arrests, were they in the loop, out of the loop?

A If you ask me were they in the loop, they're not in the unit. But they were C.R.A.S.H. detectives. Now, these guys see every arrest we make. And, like you said, they go interview everybody that we arrest. If you ask me do they know, or did they know, -- Detective Wessel, did, uh, all of them at Rampart Detectives know what was going on? If you asked me that, I would say yes.

Were they in the loop, per se? They might have been. Uh, some of the officers that worked -- probably worked, you know, worked Rampart C.R.A.S.H. prior that are now working C.R.A.S.H. Detectives that were in the loop. But I can't tell you Yvette Gonzalez was in the loop. Yvette Gonzalez never worked Rampart C.R.A.S.H. But Yvette Gonzalez is always there when we're there. And she hears and sees little things. I am very sure that she knows what goes on.

Q Can you cite a specific incident where she knew that the report had been fabricated or wasn't true, and whether it's in this Lara case or any one of the other cases?

A Can I cite one just off the top of my head? Uhm, I can think of the one where there was a gentleman named Villanueva that was, uhm, arrested. And we used an Airship. And we used everybody from C.R.A.S.H. Detectives to assist us in a surveillance. And we used a Airship. We just hung back. The Airship made all the observations. They observed the trunk being opened, guns being placed in the trunk.

And when we were -- when I was writing the report, I was told by Detective Wessel that this is the way to write it. Otherwise, we're not gonna get a filing. So, I wrote it that I was parked across the street from the driveway where this person pulled up and we start -- recovered all the guns. We never mentioned the Air unit. We never mentioned anything. All we said was, "I observed that these people took these guns and put them in the trunk," when I really didn't.

You know, and everybody knew, because everybody was listening to the Airship telling us, okay, uh, I observed, -- I'm observing a male, uh, opening the trunk. I'm observing a male going into the -- and we're all laid back. And none of us are nowhere near -- because I mean, if you parked in front of the location, they're gonna look right at you.

And, so, obviously, they knew that we were fabricating stories.

Q BY SGT. COOK: But, in that case, not necessarily. I mean, for all they knew, you wrote the report.

A Right.

Q And you may have wrote the report the way the officers observations were presented by the Airship.

A No.

Q Did everyone read the report?

A Well, Detective Wessel read the report. And the officers that filed the case -- the C.R.A.S.H. detectives that filed the case. Everyone that was, uh, working C.R.A.S.H.

Detectives -- well, not everyone. We got everybody that was available, uh, to work with us on this, including Addler and some -- uh, other people that were there.

And, uh, -- and everybody knew that we had laid back. We were all laid back. And we knew that our own only observation was the Airship. And I -- you know, I can't say that everybody read the report. What I'm saying is if you -- if you tell me or if you ask me if Detective Wessel read the report, yes, he read the report.

The officers who filed the case, did they read the report? Of course, they read the report. Or did they know what really happened, of course, they know what really happened.

Q BY SGT. THOMPSON: I want to interject here. But we did pull that case that you're talking about. And I think it's coming up here shortly.

Q BY MR. ROSENTHAL: Well, actually, it won't be for a while. Let's -- why don't we pull it now. And let's address it since we've already -- well.

SGT. COOK: It's got to be a separate, uh --

MR. ROSENTHAL: All right. Well, we've already started discussing Villanueva. My suggestion is that we -- we've tapped into it, so, we can either stop on this tape, and you can start on a new one. But, uhm, I don't think we should wait another hour and-a-half before we get to it. I think we ought to take care of it now, unless there are any other questions on Jose Lara.

DET. NALYWAIKO: How about if we finish up, uh, Lara, if we have anything on -- else on that. And the next case we'll starting a new tape and Villanueva.

MR. ROSENTHAL: Right. Yeah, that's what I'm suggesting.

DET. NALYWAIKO: John, is that --

SGT. COOK: However you want to do it. It doesn't matter. Time now is 14- -- and that concludes this interview. The time now is 1407 hours.

(Changed to new tape.)

SGT. COOK: Okay. The time now is November 5th, 1999. Excuse me, the time is 1410 hours. Interviewing Rafael Perez. Tape No. 222118, Side A. We're gonna talk about D.R. No. 96-11-22181. The arrestee is Edward Villanueva, V-i-l-l-a-n-u-e-v-a. The arrest date was July 30th, 1996. Go ahead.

THE WITNESS: Uh, the reason I pulled this report, and, again, I'll start from the beginning. [*****

* ***** CI #6 information redacted

* ****].

[***** CI #6 information redacted *****

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* *****].

[*****

***** CI #6 information redacted *****

* *****].

Uhm, my partner in this case was Raquel Duarte. The officers involved in this case were Officer Richardson, Officer McNeil, Officer Lujan, Officer Veloz, Officer Moore, Officer Patel, Officer Hewitt, Officer Stepp, Officer Montoya, Officer Calcus, Officer Brehm, Officer Tovar, Officer Cardenas.

Uh, as well, as Officer Addler, Detective Wessel. And I didn't list the rest of them. But, uh -- uh, several other detectives from C.R.A.S.H. Detectives. Uhm, the reason why I pulled this report to the side is everything in this report is factual, other than some of the observations.

Under "Observations" Page 2 of the arrest report, second paragraph, it says, "I, Officer Perez, began my O.P. on the east side of College View facing westbound. I had a clear and unobstructed view of the driveway and garage."

It says that I used a pair of binoculars. And that -- that I observed a '88 Plymouth Horizon, License 3AFL079, uh,

pulling into the driveway.

We actually began the observation, or following these people, long before that. We had actually observed, uh, Mr. Sebastian and Mr. Munoz pick up this person at a hotel, uh, some -- some distance away. Uh, I was never, uh, positioned there. We were, uhm, utilizing a surveillance helicopter -- an L.A.P.D. surveillance helicopter to conduct this investigation.

The officers, uh, up in the surveillance helicopter were the ones that actually made the observations of the, uh, -- the defendant walking into a garage, uh, opening the trunk and removing weapons from inside the garage into the -- the trunk of the car.

Uhm, everything is pretty much consistent after that, that they were taken into custody by several officers. Uh, as they were driving away, and that we went and did a follow-up back to the house and I think we recovered some additional ammunition from the house. And that was about it.

Uhm, none of the weapons were planted or anything like that. The weapons recovered were actual weapons that they were about to purchase, or were purchasing and transporting back to the neighborhood.

Q BY MR. ROSENTHAL: And there is nothing in the report that indicates that the Air unit was used at all?

A No.

Q Why did you do that?

A If we were -- if we -- if we would have, you know,

our observations would have been that Air unit observed some male removing something and, you know, or the weapons from the trunk, it -- it would have -- it would have been a non-filing. Because they weren't on the ground. In other words, when I was speaking to the detectives about it, I needed to do it as though it was my observations. What I observed this person removing the weapons and putting it in the trunk. So, that's how it was written. They didn't want to --

Q Who told you?

A Detective Wessel.

Q So, you're saying Detective Wessel told you that if a report was written that the Air unit made these observations, it would have been a non-filing?

A Detective Wessel told me that if we wanted to get it filed, we needed to write it in this manner. I'll try to make that a little bit clearer. This is how we needed to write it in order to get a filing. I don't know what the problem was with using the Air unit. I think it was sort of done as a favor, or I'm not exactly sure. 'Cause we ended up getting that Air unit that night as a, hey, can you come down here and do this for us real quick. Uh, it's gonna go down right now. And they said, yeah, it just so happens that we have a few minutes and we can do it.

But, uhm, that's how that went down. But this is -- I wrote this report at Rampart Detectives while the detectives are there. And we discussed how we needed to write it. And

this is how it was written.

Q And Sgt. Ortiz, is that actually his, uh, signature on this? Did he approve it?

A That is his signature, yes.

Q Did Sgt. Ortiz had known what was going on on this particular case?

A Yes.

MR. MCKESSON: When you say "known", you mean, know about the fabrication?

Q BY MR. ROSENTHAL: Right. Know -- known that the report was fabricated?

A Yes.

Q BY SGT. THOMPSON: These other officers that you indicated that were there, Ray, it sounds like the entire C.R.A.S.H. unit; am I correct?

A Yes, sir.

Q Okay. Each of those -- did each of those officers have direct knowledge of the fact that this report was fabricated? Were they aware of that?

A I can't say that each one of those officers read this report.

Q Okay.

A I can't say that, no.

Q But were they there when, supposedly, you had this O.P. set up?

A Yeah.

Q I know the O.P. did not occur.

A Exactly. They were there -- they were there for the entire thing. [*****
***** CI #6 information redacted *****

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* *****].

[*****
***** CI #6 info redacted *****
*****]. So, we're already set up. We're -- we're all set up around Temple and Coronado area. Uh, as soon as the car leaves [***** CI #6 info redacted *****]. They go to a hotel on Beverly. Somewhere on Beverly they pick this gentleman up -- Mr. Villanueva. And they head up to Northeast Division.

Q Okay. Maybe perhaps a better question is, do you know of any officers that might have read this report directly and known that what's in the report was not actually how it occurred?

A The only officers that I believe have read this report, that I know have personal knowledge, would be Sgt.

Ortiz, Detective Wessel, and, uhm, -- uh, I'm pretty sure that some, uh, C.R.A.S.H. detectives. The officers that filed this case, I'm sure read the report.

Q And so, it could be these officers here that are listed under "Source of Activity". The C.R.A.S.H. officers had no knowledge how this report was -- was written?

A That's correct.

Q Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: Okay. That concludes the interview. The time now is 1418 hours.

(Changed to new tape.)

SGT. COOK: Today's date is November 5th, 1999. The time now is 1419 hours. Interviewing Rafael Perez on Tape No. 222103, Side A. We're going to discuss D.R. No. 97-02-10201. Arrestee is Omar Lizama, L-i-z-a-m-a. Uh, and Andrade Paz, P-a-z. Arrest date was February 25th, 1997.

MR. ROSENTHAL: And the D.A., uh, case filing, Case No. BA146324.

Q Now, why was this report pulled?

A I asked for this report to be pulled to the side because, uh, there is just one -- one technicality, or one issue that I needed to bring up. On the second page of the report, under "Observations", the second paragraph on "Observations" it says, "My partner and I directed our attention towards Defendant No. 2. And the chase unit detained the second additional

suspect in the vehicle.

As my partner and I walked up towards Defendant No. 2, we observed him holding a plastic baggie. As we got closer to the defendant, we observed him drop that baggie on the grass next -- on the next page -- to the bottom of the stairs. I, Officer Perez, recovered that baggie and noticed it to contain a large amount of off-white rocks, resembling rock cocaine."

Q And then, Defendant No. 2 is Mr. Lizama; correct?

A Uh, Mr. Lizama, that's correct, sir.

Q Okay.

A All of that is incorrect. What actually happened was we allowed Mr. Lizama to go up to 637 North Dillon, up to the door. [

***** CI #18 information redacted *****

** *****].

When the defendant, uh, was gonna knock on the door and then come back down, that's when we were gonna detain him ***** CI #18 info redacted *****
*****]. What happened was, as we were coming -- as he was coming back down the stairs, and saw us coming, somehow he got rid of the narcotics.

So, we took everybody -- we took him into custody. And the chase units took the other vehicle, uh, person in the vehicle into custody. We couldn't find the narcotics. So, we

spent probably a good 45 minutes -- we knew that he brought some narcotics with him. [**** CI #18 info redacted *****]. Uh, and we spent about 45 minutes looking for this narcotics and couldn't find it. And, then, finally, uh, Kulin Patel found the narcotics. And, you know, that is not what it says in the report.

What it says in the report is that we observed him, uhm, drop the baggie, and we recovered it and took him into custody.

Q BY SGT. COOK: How many officers were involved? You say it was a chase car?

A Uh, the officers working the chase car -- there were several officers. Sgt Ortiz was that scene, I know that. Kulin Patel was at the scene. Officer Stepp was at the scene. Obviously, Officer Durden was the scene. There were more officers at the scene. I would have to look at some, uh, DFAR's or logs to see, uh, who the additional officers that were there working as chase officers.

Q Now, did, uh, you say Sgt. Perez was there?

A Sgt. Perez?

Q He was there?

A Sgt. Ortiz?

Q Excuse me. Sgt. Ortiz.

A I believe Sgt. Ortiz, uh -- I'm sorry. Actually I thought it was Sgt. Guerrero. Let me see here. I said -- I did say Ortiz, didn't I? I think I said -- I think I said

Ortiz. Yeah, I think it was actually Guerrero. Guerrero and Peters.

Q They were there while you were spending the 45 minutes searching for narcotics?

A Yeah, Peters was there. Yes. Sgt. Peters was there. And --

Q BY MR. ROSENTHAL: Not Ortiz?

A No, not Ortiz. I'm sorry. I think I did say Ortiz. I meant, the sergeant was Sgt. Peters.

Q BY SGT. COOK: Sgt. Peters was there while you spent 45 minutes looking for the narcotics?

A Yes. We were all looking for the narcotics.

Q Okay. So, --

A We were all searching the front. There's a grassy area along the stairs. And then, another grassy area. And we spent at least 45 minutes looking for the narcotics and couldn't find it. And, finally, Kulin Patel, uh, found the narcotics.

Q So, when Kulin Patel found the narcotics, did you discuss what you were gonna to do with the narcotics?

A Uhm, Sgt. Peters were there, when we -- when Kulin found it, he goes, "Hey. Here it is." You know, and we all ran over to him. And we were happy to find the narcotics. And then, uhm, I wrote the report. And it went from there.

Q Well, wait a minute. Let's not jump to that yet.

A Okay.

Q Did you discuss what you were gonna do with the

narcotics after the narcotics -- the narcotics is found, --

A Okay.

Q -- did you discuss with the officers what you were gonna do with the narcotics? Obviously, no one saw him -- the arrestee -- drop the narcotics.

A Right.

Q Right?

A Yes, I mean, it was gonna be that I recovered it. That me and my partner recovered it. That was discussed. I mean, we didn't just specifically say and, uh, you know, we are not gonna write that we couldn't find it. The only thing that was mentioned was, okay, me and my partner recovered it. Yes.

Q BY MR. ROSENTHAL: Well, who would have been there when that was discussed?

A Uh, everybody.

Q BY SGT. COOK: Okay. Well, you're gonna have to do better than that -- than everybody.

A Okay.

Q Specifically.

A Like I said, I'm gonna need the logs. There's no mention of all the officers that were there, in the report. I know Sgt. Peters --

Q Okay. Go ahead.

A I know Sgt. Peters was in there, myself was there. Uh, Officer Durden was there. Kulin Patel was there. Uh, I believe Officer Stepp -- and I'm naming off names that I

remember definitely seeing their faces. Uh, Peters was there. Uh, Stepp was there. Patel. I mean, but there were more. And I would have to look at the, uh, -- uh, logs as to who the officers were.

Q BY MR. ROSENTHAL: Is this actually Sgt. Peters signature on the, uh, face sheet of the arrest report?

A No, that is my signature.

Q Uh, would Peters have actually read this report?

A Yes, I believe so.

Q BY SGT. COOK: Then, why would you sign it and he not sign it?

A Because I would -- what normally happened here is I sit at the office and I start writing my report. Uh, the last thing we do is, uh, either transport, and especially if it's something I just -- we may have had another officer transport for us or book the evidence for us, something like that. But one of the first things we do is I start writing the report. And what I would do is just print up the report and let him see it. And then, he would either -- you know, yeah, that's fine, or not. No, that's not fine. Or whatever.

But on something like this, most likely what happened was either he was already going end of watch, or -- or we were at Jail Division already and I just signed it for him, because we got to book the evidence. Or there's always a reason why you don't have a sergeant around. If he's out in the field, you can get him on the radio and he okays it.

Q Okay. Well, at the risk of being redundant here, and I just want to make sure that you're -- I understand what you're telling me.

A Yes.

Q Did Sgt. Peters have knowledge that you were going to fabricate the report?

A Sgt. Peters absolutely positively knew that this -- what was written on this report is inaccurate. He knew that Kulin Patel recovered that narcotics. So, there's -- there's no question on that.

Q BY SGT. THOMPSON: Maybe I missed something here. Okay. You said that Peters had direct knowledge of this report was not accurate?

MR. MCKESSON: Uh, he said fabricated.

SGT. THOMPSON: Fabricated. Sorry.

Q But you also said, I think, prior you explained why Sgt. Peters didn't sign this.

A I was naming off an array of reasons.

Q Right.

A Right.

Q So, how would he know exactly what was written in this report? I mean, you could have -- you could have verbalized to him, I'm gonna write this in the report. But if he didn't -- didn't actually see the completed product, he doesn't know.

A Some of the things I say, I understand that I -- I

sort of leave things out. One of the things that you do in Rampart C.R.A.S.H. on every arrest is make a copy of the report and put it on the sergeant's desk. 'Cause the sergeant has to do his sergeant's log. So, you always leave him a copy of the report on his desk.

He takes that report and looks at it and reads it, or whatever else. And then, he does his sergeant's log. That's every day. And I know I'm leaving that stuff out. But that is like clockwork every time. On every arrest we make, you make a copy of the report for the sergeant.

Q BY SGT. COOK: When you got the information from your informant, did you discuss that with Sgt. Peters?

A Of course.

Q Was Sgt. Guerrero there, too?

A At the scene?

Q When you got the information from your informant, and you were gathering the troops together to do this operation, did you discuss it with Sgt. Peters?

A Yes. I don't remember Sgt. Guerrero.

Q Okay.

A I know he was in the unit, at that time. But I don't remember him being, uh, there when we discussed this.

Q When you apprehended the suspect and you did not find the dope, Sgt. Peters was there?

A Yes.

Q Sgt. Peters knew, through your informant, that

narcotics was supposed to be there?

A Yes.

Q You spent the next 45 minutes looking for this narcotics?

A That's correct.

Q Patel finds it?

A Yes.

Q For all intents and purposes, you put the narcotics on your arrestee?

A Yes.

Q Your observations are false?

A Yes.

Q Sgt. Peters knew this?

A Yes.

Q Did you have a discussion with this involving Sgt. Peters and other officers, or perhaps just Sgt. Peters alone?

MR. MCKESSON: I don't understand the question, sir.

Q BY SGT. COOK: Did you -- did you discuss what you were going to write in the report with Sgt. Peters? Or did you have a discussion of the arrest with Sgt. Peters and the other officers?

A I think the only thing we discussed is that we recovered it, not whoever else recovered it. We recovered it.

Q Okay.

A And that's how it was gonna be written on the report.

Q Okay. This concludes the interview. The time now is

1431 hours.

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1441 hours. Interview of Rafael Perez on Tape No. 222104, Side A. We're going to review arrest report 97-02-12902. Trancito Luna. Trancito is T-r-a-n-c-i-t-o. The arrest date is March 20th, 1997.

THE WITNESS: All right. I asked this report to be pulled to the side because there is some issues that we need to talk about. Second page of the report, under "Observations" it talks about an informant that we used who was aware of a male Hispanic taxi driver who delivers rock cocaine in the Rampart area. That informant is, [***** CI #5 information redacted *****].

It is a fact that, uhm, the C.I. advises that [CI#5] can place a phone call to 661-7979, request a particular cab, and that that cab would, uh -- would meet with [CI#5] whatever designated area was convenient. That was done from, I believe, Rampart Station.

We set up a amount of narcotics to be purchased. We allowed the C.I. to go in and purchase the narcotics. Once CI#5 was inside the rear seat of the vehicle of the cab, once it showed up, at Virgil and Temple, we moved in and detained the vehicle. The driver of the vehicle was Francito Luna. The passenger of the vehicle was a female, uh, I believe to be Mr. Luna's wife.

When we walked -- or when we walk up to the vehicle and took them into custody, Mrs. -- or the wife -- the passenger Luna was in possession of a napkin that had rock cocaine in it.

However, it was, uh, the information given to us that it was the driver, Mr. Luna, who was actually the narcotics dealer.

At that point, he was just using his wife to help him do a narcotics transaction. We decided to arrest Mr. Luna instead of arresting the female. Whatever the report says that we recovered narcotics from him is incorrect.

Q BY MR. ROSENTHAL: And the -- and his wife's nowhere mentioned in the report?

A No, sir.

Q In fact, there's no indication there's anybody other than the defendant in the car?

A That's correct.

Q BY SGT. COOK: Now, when you used the -- [CI#5] to purchase narcotics, did you compensate [CI#5] in some way?

A We compensated -- what we normally would do is we would allow [CI#5] to keep the narcotics, as well as give [CI#5] some money later on.

Q What did you do, in this case?

A In this case, I believe [CI#5] had kept the narcotics. And I believe we gave [CI#5] some money back. We gave [CI#5] like \$20.

Q BY SGT. THOMPSON: It's indicated, Ray, that \$237.95

was recovered from Luna's pants pocket. Was there any money stolen during this incident?

A I don't believe so. Not to my knowledge. It was a small quantity of money and it wasn't --

Q BY MR. ROSENTHAL: Did Luna or his wife say anything to you about this? Did his wife thank you for not arresting her, or did he say anything?

A I think what probably happened was that I wanted some information from him and I told him we're not going to arrest his wife. Give me some information later. I'm give your wife a break. Something like that.

And that's probably what happened. But did they thank me directly or something? No.

Q Okay.

A This report is signed by Sgt. Peters himself.

Q Okay. But he wouldn't have know that there was anything wrong with this arrest; would he?

A That's correct.

SGT. COOK: Okay. That concludes the interview. The time is now 1446 hours.

(Changed to new tape.)

SGT. COOK: All right. Today's date is November 5th, 1999. The time now is 1452 hours. Interviewing Rafael Perez on Tape No. 222105, Side A. We're going to review D.R. No. 97-02-00669. The arrestee is Jose Madrid. There is a co-arrestee of Manuel Guardado, G-u-a-r-d-a-d-o.

Q BY MR. ROSENTHAL: Jose Madrid was filed on in Case No. BA150969. And Manuel Guardado was filed on in Case BA150892. All right. You pulled this report why?

A I pulled this report to the side because after reviewing it, and reading the report, the entire -- the entire thing is fabricated.

The second page of the report, second paragraph under "Observations" it talks about how when we arrived -- well, step back a little bit. There was a radio call that came out of a man with a gun at 2208 West 8th Street. That is true and correct. And that the male was a possible Hispanic gang member. That is correct.

When we arrived at the location, another unit arrived at the same time. And it was Unit 2X49. And I don't know who the officers were, but there was another patrol unit there.

Q BY SGT. COOK: 2X49?

A 2X49.

Q Patrol unit?

A Patrol unit. For this date, I'm sure just looking at the logs, you'd be able to find out, for May 25th, 1997. It states that me and my partner used some stairs on the east side of the building. And we observed two male Hispanics running towards the stairs. As we began to walk towards the suspects, both males turned around and began running away.

It states that me and my partner observed Defendant No. 1, Mr. Madrid, as he ran from -- or as he ran, drop a blue

steel semi-auto handgun. That is incorrect. That's falsified. The gun was planted on him.

My partner and I gave chase and detained the suspects. It says that my partner, uhm, -- or it states that I recovered that gun. Then, later states that my partner, while detaining Defendant No. 2, Mr. Guardado, observed a small plastic bindle in his hand. That was also planted on him.

Everything else is accurate. They were booked. One was booked. It was later -- uh, it was later revealed that both of them had -- or had a felony conviction. Mr. Madrid was booked for Ex-con With a Gun. Defendant No. 2 was booked for Possession of Rock Cocaine for Sale.

Q BY MR. ROSENTHAL: Where did the gun come from?

A It was in our possession. Again, this gun was -- uh, the serial number was obliterated. Yes, again, the serial number was obliterated. It came from us -- or Durden had it in his possession.

Q What about the cocaine?

A Again, we had it. Where did we have it? I don't remember where we got it from. But we had it. It was our narcotics.

Q Now, is it true that both the suspects, uh, saw you, turned around and began to run away?

A That's true.

Q And then you yell at them to stop, or you chased them down?

A Chased them. In fact, one thing I do remember, is when we -- we chased them, it was a short hallway distance chase. The patrol unit also showed up right there and watched us take them into custody. And I would assume that they didn't see anybody recover any nar- -- or any guns or narcotics, because none was recovered at that time.

So, you may want to talk to who the patrol officers were, because they were there when we were actually taking them into custody.

Q BY SGT. COOK: Did you have a discussion with the patrol units about what you had?

A No. We just told them that we were going to handle it, you know. They -- they said, "Okay. You guys got it?" "Yeah, we'll handle it from here. Don't worry about it."

Q So, it's quite possible they didn't know the circumstances of the arrest?

A Oh, it's very possible they don't know. I mean, we didn't tell them anything about the arrest. They don't -- they don't have no idea if these people were being arrested or not arrested. They don't know what was going on.

Q BY MR. ROSENTHAL: Why these two? Why did you decide to plant dope and guns on them?

A You know, if I remember correctly, we had gotten -- this is at the William Penn, uh, Hotel again.

Q Right.

A And it's notorious up there. And, we had, -- in fact,

one of the cases we just did a few minutes ago was at the William Penn also.

Q Right.

A We had been receiving information that there's people up there selling and then, gang members up there hanging out.

And the radio call that came out, I believe, had said there was a man up there with a -- with a gun. And we just decided this was probably him, and he's going to have to go.

Q BY SGT. THOMPSON: The gun, again, when -- or do you know when this serial number was removed?

A No, I don't remember on this one.

Q And who did that? Was that you or Durden that did that?

A If the serial number was removed, -- and if it was removed, it was by Durden.

Q Okay. You said you didn't know where this gun came from. It came during one of your sweeps?

A Right.

Q But do you know if this gun was ever run through the system by either yourself or Durden?

A I don't know. I don't remember. Like I said, we come across a lot of guns. And, you know, some we keep, and some we book. And I couldn't tell you where we recovered it and if we ran the serial number. I don't -- I don't remember.

Q BY SGT. COOK: And, again, Durden took off the numbers?

A The numbers -- the serial number was removed. I don't remember when and where it was removed, but if it -- the fact that it was removed, it had to be removed by Durden, because that was his little thing. That I can remember, I don't think I removed a serial number.

Q You just don't have specific knowledge?

A Exactly.

SGT. COOK: That concludes this interview. The time now is 15- -- 1459 hours.

(Changed to new tape.)

MR. ROSENTHAL: All right. I've shown Officer -- I've shown Mr. Perez D.R. No. 92-07-16501. This relates with a multi-four defendant arrest specifically involving a defendant by the name of Michael Neal. Received a letter on October 5th, or dated October 5th, 1999, where an attorney states that Mr. Neal believes his conviction in the above-referenced matter, Case No. BA056855, is the direct result of a falsified police report and/or testimony by Mr. Perez.

It looks like this was actually a guilty plea on all the following defendants. I've shown you a copy of the police report. The arrest occurred April 9th of 1992. Is there anything that you can recall that's wrong with this arrest or the work you did on this case?

MR. MCKESSON: If you remember. Can you ask him a foundational question. Do you have any independent recollection of this incident?

Q BY MR. ROSENTHAL: All right. Do you have any independent recollection of this case?

A I do not.

Q Okay. Now, you just briefly took a look at the report?

A I briefly took a look at the report. And I don't have any recollection of that arrest. But I can tell you that back, at that time, back in 1992 of April, I was not involved in any type of misconduct that would warrant, uh, me looking at this report and saying that something was done wrong.

Q All right. So, you have no reason to believe that, uh, there was anything wrong with this arrest or this prosecution or conviction?

A That's correct.

Q Okay. All right. Let's move on to the next case.

A This is another one of those where --

(Changed to new tape.)

SGT. COOK: Today's date is November 5th, 1999. The time is now 1504 hours. Rafael Perez is being interviewed on Tape No. 222106, Side A. We're going to review D.R. No. 97-02-24635. The arrestee is Joe Perez. Along with Marvin Estrada. The date of arrest was July 9th, 1997.

Q BY MR. ROSENTHAL: And this also relates to Case No. BA153128, which was filed against Joe Perez. Marvin Estrada appears to have been a juvenile.

A The reason I pulled this report over --

Q BY MR. MCKESSON: This guy was a juvenile?

A No, this was an adult.

Q Oh.

A The second one is the juvenile. The reason I pulled this report is not based on any direct knowledge. The reason I pulled this report over is based on my training, based on my expertise of the Temple Street gang. And I've working that gang. I worked that gang for about three and-a-half years.

I am aware of no narcotics arrests that have been made of the Temple Street Gang, that were not, uh -- narcotics that wasn't planted. Because I brought it to your attention another Temple Street Gang member that was arrested, but the narcotics was planted.

But since I've been working, uh, Narc- -- uh, Temple Street Gang, having informants in the gang that have direct knowledge as to what goes on, and I've spoken with that informant at length, Temple Street Gang members do not sell rock cocaine, standing at corners and then just sell narcotics. They do not do it. I have never seen it. The entire time that I've been there, I've never seen it.

Now, two weeks -- two --

Q BY MR. ROSENTHAL: Are you saying -- I'm sorry. Are you saying that they do not sell narcotics at all, or they don't do it on the street?

A They don't sell narcotics at all. Their practice is to let everybody else be just a regular Joe-citizen sell

narcotics. And they collect tax from them.

So, they get their revenue from letting everybody else sell, and then, they collect from them on a weekly basis. And like I said, I've worked this gang for a long time. Now, two weeks after I leave -- I leave Rampart C.R.A.S.H. to go to FES for six months, Officer Gomez and Officer Cardenas take over the gang while I'm gone.

And one of the first things they do, or one -- something they do is -- I notice is -- they arrested two Temple Street Gang members for rock cocaine standing on a corner, when I know -- and this is, again -- this is my opinion, and my opinion only, based on my experience and my training, with this gang -- they arrested them for Possession of Rock Cocaine for Sale.

And it's just been my -- my experience that -- and like I say, I've been working this gang, and have done -- have informants in this gang -- and they just do not sell rock cocaine.

Q BY SGT. THOMPSON: Do you know either of these individuals -- Joe Perez, Marvin Estrada -- personally?

A Yes, I do. This one is -- uh, goes by the moniker of Boxer. Mr. Estrada goes by the moniker of Boxer. I've arrested him in the past. And, uh, this -- this guy, uh, Mr. Perez, Joe, goes by the name of Shy Boy. I know them both.

Q BY MR. ROSENTHAL: How do you spell that?

A Perez?

Q No. Shy --

A Shy Boy?

Q Oh, Shy Boy?

A S-h-y, B-o-y.

Q Okay. What about Officers Cardenas and Gomez, were they working -- yeah, they were working Rampart C.R.A.S.H. at the time of the arrest?

A Yes, sir.

Q Uhm, I don't have a list in front of me. Is Officer Cardenas in the loop, so to speak?

A Gomez was in the loop. Cardenas was in the loop, but he's the one that got into that problem of mental instability. He had talked about wanting to commit suicide and things like that. But he was -- uh, he had a lot of knowledge. And he was in the loop, at some point.

But he was taken out of the unit because he was having marital problems. And he called to work one day and decided that he may end it all. So, they rushed down there and took his gun away and they made him work inside the office for awhile.

Q BY SGT. THOMPSON: Ray, did you ever come in contact with either of those two, uh, suspects after you returned from your loan to FES, and ever have any conversation with them that this might have been --

A I may have came in contact with them, but I never discussed this arrest with them.

Q Did you have knowledge of this arrest prior to reviewing this package whenever you first reviewed it?

A No, sir.

Q BY SGT. COOK: Ray?

A Yes, sir.

Q Are these long-time gang members here, or just associates?

A No, these are long-time Temple Street Gang members.

Q Temple Street Gang members?

A Oh, yes.

Q So, we're not talking about a situation where someone claims that he's a Temple Street Gang member?

A No.

Q But on the side, or he follows his own agenda by selling dope?

A No, these are bona fide, uh, admitted -- long-time admitted Temple Street Gang members. Not associates, not someone who just happened to be hanging out in the neighborhood that day. There is I-cards on both these guys that go back several years. I-cards mean identification cards. It's a card that we use to keep track and a profile on gang members.

Q So, prior to that date, if we went back and looked at their rap sheet, we would be hard-pressed to find any narcotic arrests for these two individuals?

A Yes. I can -- I'm talking about my experience from working Temple Street Gang. I can't tell you if these persons

were -- ten years ago was arrested for dope, or something like that. I don't have that -- that I remember, no. That I can remember for both these guys, I don't remember either one of them having any narcotics arrests.

But I would not say that this gang does not involve themselves in selling narcotics. I can tell you that based on my experience working the gang, having an informant in the gang, having an informant tell me how [*CI*] collects tax from the citizens that sell dope in the neighborhood, and how they just don't do it. That's not part of their thing. They do not sit out there and sell narcotics.

Q BY SGT. THOMPSON: Stan?

DET. NALYWAIKO: (No audible response.)

SGT. COOK: That concludes the interview. The time is 1511 hours.

(Changed to new tape.)

SGT. COOK: The next one is, uhm, Maurices Perez.

Today's date is November 5th, 1999. The time now is 1513 hours. Interviewing Rafael Perez on Tape No. 222107, Side A. We're going to review Arrest Report 97-02-32147. The arrestee is Maurices Perez. Second arrestee is Roberto Candido. That's, C-a-n-d-i-d-o. And this occurred on September 20th, 1997.

THE WITNESS: Okay. The only reason I asked for this -- or the only reason we pulled this report to the side, is not on any direct knowledge, but only based on an opinion that I might

have. And reviewing the report -- was there a photo the first time we looked at this?

SGT. THOMPSON: Uhm, any photo that we had would have been attached to that report.

THE WITNESS: Okay. I think my only opinion on this was the way the actual report was written, and nothing further. I mean, it was -- I think I was reading where, in the second or third paragraph, on Page 2 of the arrest report, how Officer Lujan, who wrote this report, described a male who was standing at a corner, observes him, and starts to walk away. Walks through a parking lot, and goes to a trash bin, and places a gun in the -- in a trash can.

And I think we had -- I had mentioned that that's just not consistent with how --

Q BY SGT. THOMPSON: Maybe I can refresh your memory on something, Ray. Because I'm looking at this upside down, and I think what we -- that you indicated to us is that there was a time that Buchanon came to you and Durden and asked for a gun.

A Mmhn-mmnh.

Q And you trying to correlate that with this report?

A Right. I saw that. But I think there was a couple we pulled to the side. I remember that there was -- I don't know if you remember, but there was at least two reports that I said I can't tell which one is which.

Q Right.

A Do you remember?

Q BY MR. ROSENTHAL: This was --

A This might be one of them. But there is no way I can -- I remember what you are talking about, me telling you that, but there is no way that I can say it's this one. Remember we had talked about it?

Q Right.

A There is no way that --

Q Perhaps now is the time, though, that you can discuss that aspect of it, how you indicated Buchanon came to you and Durden. And why don't you go into that?

A Right. Uhm, this arrest -- and one of the reasons I had mentioned to you that I believe this is one of them, was because when this arrest took place was September 20th, 1997. And me and Durden were working FES. And if you remember correctly, I had told you that Buchanon came to us at the trailer and had asked us for a gun.

Obviously, he wanted somebody to arrest -- or he needed to arrest somebody and wanted a gun. And Durden left the trailer and went and got it for him. But I can't say a hundred percent sure that this is the actual, uh, person who he arrested. But, yes, on an occasion, while me and Durden were working FES, Officer Buchanon did come to us and ask if we can give him a gun, yes.

Q Okay. And that this report here was --

A This report, because of the time frame, and the way

the evidence read, and I think also the type of gun -- I think I had mentioned what type of gun that it was -- to me, I felt like this could be the one. But I have no direct knowledge. I never saw the person who he actually arrested with the gun, so.

Q On that day that Buchanon asked you for that gun, do you recall who his partner was, or if his partner was present?

A No, I remember Officer Buchanon coming to the trailer and talking to us.

Q And clarify for me, was the gun given to him by either yourself or Durden?

A Officer Durden. You know what, Officer Durden, -- uhm, he had -- he had come to the trailer, asks for the gun. Officer Durden said he didn't have it with him. The next day, Officer Durden gave him the gun.

Q And what type of gun was it?

A Well, at the time, we had several guns, or Durden had several guns. And I'm not sure which one he gave him. I thought -- when I read the report, I think it was a .380 auto, or something like that. Or a blue steel .380 auto. And it was, in all likelihood, I, in my opinion, I thought that was possible. It's a chrome .380 auto.

And I remember having something -- you know, something like that. I talked about several different guns that we had. But I do remember, that, eventually, uh, Officer Durden did give him the gun, or gave him a gun. Was I present when he gave it to him? No. I was present when he was asking

for it. And then, I was present when Durden told me he gave it to him.

QQ Okay.

Q BY SGT. COOK: Okay. No specific knowledge about this one? It's just an opinion that you have?

A Yeah, this was just an opinion.

MR. ROSENTHAL: Okay.

SGT. COOK: Okay. That concludes this interview. The time is now 1518 hours.

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1519 hours. Interviewing Rafael Perez on Tape No. 222108, Side A. We're going to review arrest report D.R. No. 96-02-16585. Arrestee is Gerald Peters. Second arrestee is Pete Cordero. The arrest took place on April 27th, 1996.

Q BY MR. ROSENTHAL: Why was this one pulled? This involved Officers McNeil and Martinez, correct?

A Yes, sir.

Q Okay. Why did you pull this arrest report?

A On this report, I asked for it to be pulled to the side because I do have direct knowledge as to what occurred on this particular date. My partner, at that time, I believe, was Officer Tovar. We responded to this location based on information received from Officer Montoya that there was a party going on at this location. When we arrived at the location, all the gang members that were outside ran inside of their

apartment, which was 1070 West Kensington, Apartment No. 14.

When we decided to move in and go inside the apartment, everybody ran into this apartment. We didn't know whose apartment it was. However, we were all standing there, and we knew they ran in. We go to the door. We knock on it. And we ask people to step out. Mr. -- they all him Green Eyes. They call him Green Eyes, his moniker. Mr. Peters opened the first door and said, "Fuck you guys. I ain't coming out," and shuts the door back up. And there's multiple other people inside.

This is upsetting everybody in the C.R.A.S.H. unit, including Sgt. Ortiz. And we decide that we're gonna knock the door down and go get the ram and some other stuff. And we decide we're going to knock it down.

Q BY SGT. COOK: Excuse me, Ray. You said Montoya? This was information from Montoya or Martinez?

A Montoya.

Q Montoya?

A Yes. They had received a call to that location of a party. On this report, on Page 3, second paragraph, it describes Officer Martinez observed Defendant Peters to pull something out of his right front shorts pocket. Defendant then removed a black film canister out of his pocket and dropped it at the top of the staircase.

Defendant -- or Officer Martinez then recovered the aforementioned film canister. And inside in the container were

two off-white objects resembling rock cocaine. That is not true. That never occurred. That was something that we discussed afterwards, uh, trying to figure out what we're going to book this guy on.

Q BY MR. ROSENTHAL: So, you're saying this was a dope plant?

A Yes, sir.

Q BY SGT. THOMPSON: And what suspect was that? Was that Peters or --

A Peters.

Q Peters?

A Yes, sir. It doesn't mention it here on the face sheet, but for some reason I remember something like he may have been on parole or just got off of parole, uh, Mr. Peters. So, I don't know.

Q BY MR. ROSENTHAL: Peters?

A Yes, sir.

Q Peters plead guilty for a State prison sentence. And he had, yeah, prior felony prison convictions.

Q BY SGT. COOK: I'm sorry. Did I miss it? Did you plant a gun on Cordero?

A No. The fact that Mr. -- or the fact that Mr. Cordero showed up to the party, and I believe he was detained by Officer Montoya, that is actually a factual event. That actually occurred. He showed up to the party with a gun. And he was arrested. But that gun was on him. That was his gun.

Q BY MR. ROSENTHAL: So, you're saying that the arrest of Cordero was okay?

A Yes, sir.

Q BY SGT. COOK: Now, Ray, when you had this discussion, was Sgt. Peters -- or excuse me, Sgt. Ortiz part of this discussion --

A Yes.

Q -- amongst the officers?

A Yes.

Q Do you have an independent recollection of what officers, including yourself and Sgt. Ortiz, were present?

A There was a lot of officers present.

Q Well, were they all C.R.A.S.H. officers?

A All C.R.A.S.H. officers.

Q Patrol officers, were they included?

A No, C.R.A.S.H. officers. The only patrol officers that were there was Montoya. And he actually didn't even assist us in doing the search, going up the stairs to the guy's apartment, No. 14. He stayed out in front.

Q Was he part of your debriefing?

A Who?

Q Montoya.

A No. No, at that time, he wasn't working C.R.A.S.H. I know he's working C.R.A.S.H. now. Or he was working C.R.A.S.H. when I was there, at one point. But, at that point, he wasn't.

Q So, he was out of the loop, at that time?

A Yes.

Q BY MR. ROSENTHAL: All right. Explain to me how you know that Martinez planted the dope on this defendant.

A Because when we met up -- when Officer Montoya called for C.R.A.S.H. units to show up, we met up. We met up with, uh, Officer Montoya. He told us the location. He told us what was going on. And he wanted to go -- have us go over there and assist him to handle this type of a call. It was a gang call. When we deployed into the -- it's a open -- the center of the building is a open courtyard with apartments -- two-level apartments on both sides. And in the center is an open courtyard.

When we pulled -- when we walked into the open courtyard, most of the gang members are already in the apartment.

Q Okay.

A Including this person here. He was already in the apartment. They must have saw us coming long before we got in there. They were already inside. When we're trying to knock on the door -- if we would have actually saw him drop a rock of anything, we would have just, no question, knocked the door down. You know, we would have just said, uh, given the circumstances, uh, we would have went in.

We were there for a long time, probably an hour, before we finally got into the apartment, because this guy would

not open the door. And we decided, all right, fine, we're gonna knock it down.

Q All right. Do you know where the narcotics was obtained from?

A Oh, man. No, I don't know where it came from. I don't know who had it.

Q Martinez, uh, refresh my recollection, was he in the loop?

A Very much in the loop.

Q Okay. And any -- would McNeil have known about this report being false?

A Yes.

Q And that's because he was there. And he would, normally, have read the report, as far as you know?

A Yes.

Q BY SGT. COOK: Well, it's my understanding -- and correct me if I'm wrong -- all the C.R.A.S.H. officers, including Ortiz, gathered together.

A Yes.

Q And decided what they were -- how the arrest was going to be reported?

A Right.

Q Okay. Could any of the C.R.A.S.H. officers have been watching the arrestees and not have been in that discussion?

A Yes, it's possible. Well, yeah, let me make that a little more clearer.

Q Yeah. If you have an independent recollection of what officers were in that briefing with Ortiz.

A I can tell you there were multiple officers. Everyone I can't -- I couldn't tell you each one that was there. I know that of the officers that went upstairs to do this, uh, search and go knock on the door, were all C.R.A.S.H. officers. When we have the discussion with the sergeant and Liddy and Martinez and myself and McNeil and Tovar, we're all right there.

We -- okay, well, what is he gonna go for? Let's just book him for 11350. I mean, that was a clear -- I mean, that I remember easily. And, apparently, someone had some stuff, yeah, we can handle it. We can cover that. It was done.

Q But you remember it clearly who said, "We're gonna book him for 11350?"

That was Martinez. And Sgt. Ortiz was asking what are we gonna book him for. And that was a Martinez thing, "Yeah, we'll book him 11350. We'll handle it."

Q And, then, someone said, who had the stuff?

A No, I think it was more like, yeah, we can -- we can do that. In other words, we have that. We can do it.

Q Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: Okay. That concludes the interview. The time is now 1520 hours.

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999.

The time now is 1529 hours. Interviewing Rafael Perez on Tape No. 222109, Side A. The arrest report is D.R. No. 97-02-11132. The arrestee is Ruben Rojas. And the arrest date was March 5th, 1997.

Q BY MR. ROSENTHAL: Now, this is a -- relates to D.A. File BA146732. And the defendant appears as though he would be currently incarcerated in State prison. Is there a reason, in particular, that you chose this file to be discussed?

A Yes. I reviewed this report and asked for it to be pulled to the side based on several issues, including the planting of evidence. Before I start with that, again, I'm going to mention [* CI #6 *].

[*** CI #6 info redacted] gave me a call and talked to me about Ruben Rojas. [CI#6] advised me that Ruben Rojas had just gotten out of prison. [

***** CI #6 info redacted

*** *****].

[

***** CI #6 information redacted *****

**

**

*****].

[

***** CI #6 information redacted *****

*****].

So, when my informant called me, [*** CI #6 ***] called me, and told me about Little -- Little Boy, uh, Ruben Rojas, I had told [CI#6], in fact, I think I guaranteed [CI#6], that Mr. Rojas would be gone within the week.

Uh, we received information from my informant where Mr. Rojas was living on, uh, Vendome. 603 Vendome. We went to the location, detained Mr. Rojas, arrested Mr. Rojas, and fabricated this entire report.

Q What gang was he in -- Rojas?

A Temple Street Gang.

Q Now, you previously mentioned Temple Street Gang didn't do narcotics?

A That's correct.

Q All right. So, this one was obviously arrested for

Possession for Sale of Cocaine Base.

A Yes, that's correct.

Q Why didn't you put a gun on him instead?

A I don't know why we didn't put a gun on him. But we decided to put narcotics on him.

Q Were there any other cases you can remember where you planted narcotics on a Temple Street Gang member?

A I have made a total of, I believe, three narcotics arrests in the Temple Street Gang. All of them were planted.

Q Is this one --

A The other one was Ruben, or Mr. -- D.A. Kraut handled, uh, --

Q Ubaldo Gutierrez.

A Ubaldo Gutierrez. That was also a plant.

Q Right.

A And do you remember who the third one would have been?

Q Guebara on, uh, Waterloo.

Q Have we talked about that one?

A We have that report.

SGT. THOMPSON: We pulled it.

THE WITNESS: It should be coming up.

SGT. THOMPSON: Yeah.

THE WITNESS: It's another, uh, Temple Street Gang member. Also a plant of narcotics.

Q BY MR. ROSENTHAL: Hold on one second.

A I think in the three years that I worked, uh, Temple

Street, I think there was only three -- on three arrests -- narcotics arrests that I've made there.

Q Guebara.

SGT. THOMPSON: I think that was --

MR. ROSENTHAL: Guebara?

SGT. THOMPSON: I think that was one of the more recent ones that might not be on your list. Because we just recently got it, I think.

THE WITNESS: No, I think that one's been around for a for awhile.

SGT. THOMPSON: Really.

MR. ROSENTHAL: There is a Jose Guebara, a Rampart FES seizure of cocaine. And that's the one where [CI #2] was the C.I.

THE WITNESS: No.

Q BY SGT. COOK: We talked about that report.

A This is a multi-three with -- Ubaldo Gutierrez was also there.

Q Right.

A Uh, we arrest him for brandishing. But Mr. Guebara -- is it Guevara?

Q Yeah. We talked about that one.

A Did we?

Q BY MR. ROSENTHAL: Why don't we go off the record for a minute and let me see if I can find that one?

SGT. COOK: Okay. The time now is 1534 hours.

(Off the record at 3:34 p.m.)

(Back on the record at 3:34 p.m.)

SGT. COOK: Okay. We're back on the record. It's 1534 hours.

Q BY MR. ROSENTHAL: All right. Yes. I found the file. This is Mauricio Guevara. Uh, you have previously told us this was a narcotics plant by Durden on Defendant Guevara.

A Yes.

Q And that was Case No. BA136787. Okay. So, let's get back to Ruben Rojas. So, what -- what exactly did happen when you located Mr. Rojas?

A We went to his location, took him out of his home, arrested him, and fabricated this entire report. His -- he was at home. His mother and father were next door visiting with someone. When they saw us leaving with him, they came out. And they were very upset. What's going on? You know, what has my son done? What has my son -- what has he done? Uh, we explained to them that, uh, we observed him selling narcotics.

Uh, and he was just transported to the station and this report was fabricated. Officer -- by the way, Officer Durden wrote this report.

Q All right.

A And this report was signed by Sgt. Guerrero himself. He did not have any knowledge of any wrongdoing, though.

Q There is a preliminary hearing transcript in here. It indicates Nino Durden -- looks like he was the primary

witness. But Rafael Perez was also called. Hang on.

Do you remember testifying in this case? Do you have any recollection of that?

A I remember going to court. I remember him taking a lengthy deal. I think he pled. I don't know if he actually -- I don't think it went to trial -- to prelim. I remember him being offered a particular deal. And it was a lengthy deal. And I don't remember whether I testified or not. I don't know if he just took the deal at prelim or not.

Q Oh, I see. Uh, you -- no. Oh, it's my mistake. The People's witnesses, R. Rafel. Not Rafael Perez. So, yes, it was just Nino Durden testifying at the preliminary hearing. And then, a plea taken in Superior Court. So, you did not testify in the case.

A No.

Q All right.

Q BY SGT. THOMPSON: Ray, under -- on Page 3, under "Observations continued" --

A Page 3?

Q Yeah. It talks about Stepp and Buchanon.

A Yes.

MR. MCKESSON: Where is that?

Q BY SGT. THOMPSON: Now, did -- what knowledge did Stepp and Buchanon, if any, did they have regarding this?

A They just went with us to locate him. I don't -- I personally don't remember telling them we were planting dope on

this guy. I didn't.

Q Okay. So, that was my next question. It goes into some detail regarding how they -- you advised them of the location, they detain this defendant.

A That's why I made -- I just said this entire report is fabricated.

Q Right. So, that part also --

A I'm sorry.

Q -- that part also was fabricated?

A The entire report is fabricated. We went directly to his house, took him out of his house, and left with him. The rest of this entire report is fabricated.

Q BY MR. ROSENTHAL: Were Stepp and Buchanon actually there?

A Yes, they were there.

Q So, they assisted you in taking him out of the house?

A Yes.

Q BY SGT. THOMPSON: Explain to us, this whole thing is fabricated?

A Yes, sir.

Q Why was it necessary to include Stepp and Buchanon as having direct contact with this -- this individual? You see what I'm saying?

A Because when you're doing an observation, you want to keep a constant -- in other words, if you're doing an O.P., you don't want to say you left your O.P. and then, went and found

them. Because you don't want -- number 1, you don't want to -- supposedly, when you go to court, you don't want to give up your O.P. You don't want to say where you were exactly.

Number 2, it looks better when you say that you were conducting an O.P. and you had a chase unit come in, detain the guy, and then, narcotics was recovered. That's just the way we always -- I mean, if you notice, a lot of these arrests there's always a chase car that came in and detained the person for you. Q Okay.

Q BY MR. ROSENTHAL: Was this an O.P.?

A And I know we had, uh, Stepp and Buchanon come with us just in case there may be five or six other gang members at the house, any way. So, when we went to go find him at his house, we just went straight to his house.

Q BY SGT. THOMPSON: And, again, just so it's clear in my mind, it seems -- and I know that you didn't write the report, that Durden wrote the report.

A Durden wrote this report, yes.

Q Do you know why he went to this elaborate report -- description of the report? I mean, is it -- if you're going to plant dope on somebody, it just seems to me you get the guy and you can say dope came from -- the dope came from whatever location you want.

A Mmnh-mmnh.

Q Why did Durden go into this thing about O.P.'s and chase cars, and all this other stuff, when you just went there

to arrest the guy and put dope on him, say he -- we grabbed him and whatever, he had dope on him? Do you know why that was done?

A You should probably ask Officer Durden. I really -- it was his report. He said he'd write it. So, there's few that he wrote. So, this is one of them, so. This is the way he wanted to write it. And that's what he did.

Q BY MR. ROSENTHAL: Just one quick look at the report. No, that seems to answer it.

SGT. COOK: Okay.

THE WITNESS: On the booking recommendation, I actually signed Sgt. Guerrero's name.

Q BY MR. ROSENTHAL: Would the sergeant be aware this was a bad arrest?

A No.

SGT. COOK: That concludes the interview. The time now is 1541 hours.

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

(Off the record at 3:41 p.m.)

(Back on the record at 3:43 p.m.)

SGT. COOK: Today's date is November 5th, 1999. The time now is 1543 hours. We're interviewing Rafael Perez on Tape No. 222110, Side A. We're going to review D.R. No. 95-02-39806. Arrestees Carlos Romero and Leonardo Espinoza. The arrest was on October 26th, 1995.

Q BY SGT. THOMPSON: Go ahead, Ray. Tell us why you

pulled this report to the side.

A The reason I had this report pulled to the side is there was some -- some inconsistencies with the report that I wanted to bring up. I wrote this report.

Q BY MR. ROSENTHAL: Let me just point out that this does relate to Case NO. BA122808.

A I wrote this report back in October -- October 26th, of 1995. I was working with Officer Collard and Officer Fong at Rampart C.R.A.S.H. On the second page of the arrest report, second paragraph, where it goes "Observations", it states that on October 26th, 1995, at about 2330 hours, we observed Defendant No. 1 and Defendant No. 2 standing in front of 608 South Westlake.

We write "The two gentleman appeared to be hanging out and had no, uh, particular agenda, and were just constantly looking up and down the street." That is incorrect.

It states that, uh, we decided to park our vehicle in the position that we had a clear and unobstructed view of the two defendants. That is incorrect.

It states that we observed several males walk up to Defendant No. 1 and hold a short conversation. And it appeared that an exchange would take place. That is incorrect.

Where it states, on the third page of the arrest report, under "Observations Continued", it stated that after an exchange would take place, Defendant No. 1 would walk over to Defendant No. 2, and he would place something in his, uh, left

front pants pocket, that being Defendant No. 2. That is incorrect.

What actually occurred on this, uh, we were driving, as I remember, northbound on Westlake, when we observed a -- a, uh, catering truck. We observed the two defendants standing there. We walked out and were gonna make contact with them, and get field interviews, and see what they were doing in the area.

As we searched the area, we found a tissue with some rock cocaine in it. Uh, based on the fact that these two gang members were standing there, and they were in such close proximity to the narcotics, they went to jail. Uhm, let's see here. The rest of the report on "Observations Continued" further down, all of that is fabricated.

Q Would Collard and Fong know you wrote a false report?

A Of course, they were my partners. We were together the whole time. We -- we talked about it before we went to the station. And I don't have any direct knowledge whether they read this report or not. But I'm assuming they did.

Q BY SGT. COOK: Would you have direct knowledge that you discussed -- you discussed the fabrication of the report to them?

A Yes, I did. And the one thing that I remember Collard telling me, is "Well, you're the dope guy, you work Narcotics, you write it." And I remember writing this report. This is one of the few times that I worked with Collard.

In fact, I'm not even sure if I ever worked with him

again, you know, together three-deep. Uhm, but I do remember this. I remember, uh, this arrest. Sgt. Navarro signed this report. And that appears to be Sgt. Navarro's, uh, signature.

Sgt. Navarro would have no knowledge as to what occurred in this arrest. And it appears that Sgt. Roller signed the booking recommendation. Actually Sgt. Roller signed one and Sgt. Navarro signed the other one. And they had no knowledge as to what occurred.

Q BY SGT. THOMPSON: Was Fong -- was he part of the loop?

A Yes.

SGT. COOK: Okay. That's it. That concludes the interview. The time now is 1547.

(Changed to new tape.)

MR. ROSENTHAL: Oh, yeah, I'm just -- for our record, the last name is spelled S-a-h-a-g-u-n. First name Blanca. Okay.

SGT. COOK: Okay. Back on tape. It's 1548 hours.

THE WITNESS: Uh, I think left off where Sgt. Peters --

SGT. COOK: Okay.

Today's date is November 5th, 1999. Time now is 1548 hours. Interview of Rafael Perez on Tape No. 222111, Side A. We're going to review arrest report, D.R. No. 97-02-12030. The arrestee is Carlos Carranza and Blanca Sahagun, S-a-h-a-g-u-n. Carranza, C-a-r-r-a-n-z-a.

Q BY MR. ROSENTHAL: And this relates to Case No. BA147177. Do you want the date of arrest?

A March 12th, 1997.

Q Okay. Why was this report pulled?

A I asked for this report to be pulled -- actually reading some of the "Observations" on the report. And it is refreshing my memory. I recall. And I'm trying to find it in the report here, that, uhm, we knew we had the first defendant, the female, delivering the narcotics. But we also wanted to book the second defendant, Mr. Carranza. And I believe Durden, uhm, -- we decided that Durden was going to find some balloons of heroin in his sock, which is what we did.

The third page under "Additional" it says, Officer Durden recovered, or while conducting a pre-booking search, recovered seven balloons from the defendant's -- in his right sock. It appears that -- or I believe that we were gonna book him.

Actually let me back up a little bit. Let me go through the observations here. The C.I. in this information is [CI#19]. And I think we know who [CI#19] is. [CI#19] is the informant that we have talked about in the past. Another informant. As far as that goes, everything is correct. As far as everything with Miss Blanca Sahagun is correct. All of that is correct.

The only thing that -- that is not correct, is the fact that seven balloons of heroin were recovered from his right sock.

Q BY MR. MCKESSON: How much?

A Seven balloons. And I think that was to make sure we got a filing on him.

Q BY MR. ROSENTHAL: Where did that heroin come from?

A It was their heroin. It wasn't planted. It was there. But we just --

Q Okay. The Defendant 2, the one who you are saying got set up, Carlos Carranza, uh, what was his involvement in this?

A He was the driver of the vehicle. He drove the female Blanca Sahagun to the locations.

Q So, you were concerned that that would not be sufficient to get a filing, due to the fact that he was merely driving her. So, you couldn't establish that you knew that was her purpose?

A That's correct.

Q Everything relating to the first defendant, Blanca Sahagun is correct?

A Yes, sir.

(Off the record to check tape recorder at 3:51 p.m.)

(Back on the record at 3:52 p.m.)

SGT. COOK: Back on tape. It's 1552 hours. I think I left off where Sgt. Peters did not sign this report. This report was signed by Officer Durden. Officer Durden initialed about Sgt. Peters signature, "N.D." indicating that he signed it for Sgt. Peters.

Q Sgt. Peters didn't have any knowledge?

A No. As well as the property report. As well as the booking recommendation, all of those. Oh, wait a minute.

Q We're back on -- we're back on record. The time now is 1555 hours.

MR. MCKESSON: John, when you said Peters have knowledge of it, knowledge of the fabrication?

Q BY SGT. COOK: Knowledge of fabrication, misconduct.

A No, he would not.

Q And Peters did know Durden signed Peters name?

A Yes, but I did notice that on there, two booking recommendations. One booking recommendation is signed by Durden. But the last one, the one on Carlos Carranza, I believe that is actually signed by Sgt. Peters. I don't know why he signed one and not the other, but --

Q But Peters would have signed the booking recommendation based on your verbal articulation of the operation of the arrest?

A That's correct.

Q BY SGT. THOMPSON: Let me just clarify something, Ray. Uhm, according to the property report, there was -- Item No. 1 is fifty narco -- I'm assuming that's fifty, uh, balloons of heroin; correct?

A Yes.

Q Second one, Item No. 2, was seven?

A Yes.

Q Okay. So, my understanding is from this maroon baggie

--

A Right.

Q -- there was a total of 57 balloons of heroin in that baggie, but when the report was written, you indicated the seven were taken -- or were in the sock of Carranza. Is that --

A Right.

Q Okay. Got you.

A We just wanted to make sure that we would get a filing on him.

Q Okay. Got you.

SGT. COOK: Okay. That concludes the interview. The time now is 1557 hours.

(Changed to new tape.)

MR. ROSENTHAL: Paul Thompson. We did not have the arrest report on this yet. It still has to be obtained from R&I. But we do have a letter from an inmate named Paul Thompson. Uh, he, apparently, was arrested. All I've got are some, uh, D.A. printouts, computer printouts. He was, apparently, arrested by you and Officer Duarte. The charge was 12021.

Let me just read to you what he says. And tell me -
- MR. MCKESSON: What's the date of the arrest?

MR. ROSENTHAL: I -- I don't even have a date of the arrest. Although, I do have a date of the filing, which would be June 25th, '96. So, the arrest would have been shortly before that.

THE WITNESS: Excuse me. Can I see the recap book?

SGT. COOK: Go ahead.

MR. ROSENTHAL: Okay. What he writes, is that, uh, he says "My conviction was based strictly on the alleged eyewitness testimony of Officer Rafael Perez. And, as I stated during my trial on September 4th, 1997, uh, Officer Perez was lying in his testimony. I still contend and insist that he perjured himself."

Uh, so this case actually would have gone to trial. And I do -- unfortunately, the D.A. file, I've been unable to locate it.

A You said the arrest date was when? Or the trial date or prelim? The filing date?

Q The filing date shows June 25th, of '96. So, the arrest would have been shortly before that.

Q BY SGT. THOMPSON: And just for --

A Did you say Paul Thompson?

Q BY MR. ROSENTHAL: Yes.

A Blackbird?

Q Oh, you remember this guy?

A Yes. Let me find it in the book just to be a hundred percent sure. This was in '96?

Q Yes.

Q BY SGT. THOMPSON: And just for clarification, according to my records, uh, Ray reviewed this report during one of our case reviews and did not set it aside.

Q BY MR. ROSENTHAL: Oh, so, are you saying we actually

do have a case envelope on this? Or --

SGT. THOMPSON: No, what I'm saying is we -- when we presented it to him, he looked at it, said there nothing was wrong with it. And we did not set it aside.

MR. ROSENTHAL: All right.

THE WITNESS: Paul Thompson. The D.R. number is 96-02-

SGT. COOK: But Perez has already reviewed it.

THE WITNESS: -- 22881?

MR. ROSENTHAL: That's correct.

THE WITNESS: The Booking No. 4874328. Date of arrest 6/22/96. Parkview and Coronado. Detained by myself and Officer Duarte, we recovered a .380 auto Browning chrome handgun. There was nothing, uh, that was done inappropriate in that arrest.

Uh, Mr. Thompson, uh, when we were approaching the alley, was holding up a bicycle. He sees me. He reaches into his waistband, removes the weapon, throws it behind him. The weapon hits the wall behind him. I can clearly here the, uh, -- the noise being made as it drops to the ground. I take him into custody, find the gun, recover the gun, and he's arrested.

Uhm, yeah, he made a big stink about it wasn't his and all this other stuff. I can tell you that it was his gun. It was his. There is nothing wrong with that arrest.

Q BY MR. ROSENTHAL: And do you remember testifying at trial -- at this trial?

A Oh, yes, I remember testifying at the sentencing. I went all the way through on that case.

Q Okay.

A He was a third-striker. And the judge struck a robbery and didn't make it a third strike either.

SGT. COOK: I remember him discussing that case.

THE WITNESS: But we're not on the record. I mean, this was a --

MR. ROSENTHAL: We are on the record.

THE WITNESS: Oh, we are on the record. This was a third-striker case, a good candidate for a third-striker. Uh, several convictions of robbery. And this was his third strike. And the judge struck the strike and I think gave him six years.

Q BY MR. ROSENTHAL: He received a six-year State prison term.

A Yeah, I remember.

Q Yes.

A That was the maximum he could have gotten with the two strikes. Yeah, three years for each one.

Q Sgt. Cook, when you say you've discussed this before --

SGT. COOK: I remember him discussing the fact that, uh, -- uh, about the guy throwing the gun and it hitting up against the wall and he could hear the clank.

SGT. THOMPSON: And I think the reason it came into the discussion, we were doing a case review. So, there was a photo there. And Ray really keyed on this guy because of the things he just articulated. And, so, yeah, there was -- but there was

nothing wrong with it, so we didn't set it aside.

SGT. COOK: And, as I recall, he used the moniker Blackbird. He used that moniker Blackbird then.

MR. ROSENTHAL: Okay. I'm still going to need a copy of the arrest report --

SGT. COOK: Sure.

SGT. THOMPSON: Yeah.

MR. ROSENTHAL: -- as soon as I can. But, all right. That takes care of that one then.

SGT. THOMPSON: All right.

MR. ROSENTHAL: We can move on to the next one, which is George Toscano.

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1602 hours. We're interviewing Rafael Perez on Tape No. 222112, Side A. We're going to review arrest report 97-02-17418. The arrestee is George Toscano, T-o-s-c-a-n-o.

The arrest was on March -- correction, May 2nd, 1997.

Q BY MR. ROSENTHAL: And this relates to D.A. Case file BA149735. Okay. Why was this file pulled, or this report?

A The reason I pulled this report to the side is because, uh, it's a fabricated report. There was a reason why this person was arrested. We had received some information from an informant. I can't remember. On the report, it indicates under "Source of Activity" that we had received some information from a confidential informant.

I don't recall who the confidential informant was. I remember that we received some information about this person. He is a gang member. Something he did, uhm, and the informant told us. We went and -- I think, in the report, it states that he was walking through the alley holding a bag or something. And there was a rifle in it.

"We observed the male looking out the alley, down into the alley. He checked up and down the alley. The male was carrying a blue backpack. From that pack, we observed what appeared to be the barrel of a rifle. In our opinion, my partner and I believe that was the suspect the C.I. was talking about."

That weapon -- I can tell you right now -- that weapon was planted on him.

Q Do you remember where you got the gun?

A You know, something just entered my mind. Something just refreshed my memory on this arrest. This person, we got him out of his house. This person was with his girlfriend or something in the apartment.

If I remember correctly, she showed up to court or something like that, saying, how could he have been in the alley with a rifle when he was in the house with me?

And I don't know why that just entered my mind. But I just remember that -- a young female that was with him. It was something that this person did. And I don't remember what it was. I don't even remember who the informant was. I know

that we wanted to arrest him, and we planted that gun on him.

But I can't remember what exactly it was that he did or why we were -- uh, our attention was directed to him, and who the informant was. I don't -- I don't remember what it was. I know we had him targeted. We knew it was him. And we wanted to go pick him up.

Q BY SGT. COOK: Was this a gun that Durden carried, or --

A This was a gun that we had. Uh, yes, Durden was carrying it in his, uh -- in his car.

Q Do you have any independent knowledge if that gun was run prior to it begin planted?

A No, I do not.

Q BY MR. ROSENTHAL: I'm sorry. I may have missed. Can you tell us where you got the gun from, or if you remember where this gun came from?

A No.

Q Why -- why did you plant? I'm sorry.

A Give me a second here. This weapon was a rifle. It's a carbine, a .30 caliber carbine. [* CI#6 *], I believe, gave us one, uh, at one point. I'm not sure if it's the same one. But let me look at the date on this. It's possible that this may have been one of the ones that [CI#6] gave us.

Q Why this defendant? Why George Toscano?

A There was something. I've never -- uh, before this, I had never even met this person before. We were told something

about him by an informant. He was doing something or did something or robbed somebody. He did something that an informant told us about. And we went and targeted him and went and found him.

And, I -- I, unfortunately, I cannot remember what it was. I can't even remember who the informant was that gave us this information. Because, before this, I never met this person before, uh, ever.

Q The, uh, girlfriend, her -- her name's nowhere -- identification's nowhere in the report?

A I don't think so. I, for some reason, I remember her being a little bit irate about how can he have -- you know, how are you gonna arrest him? And he didn't do anything wrong.

Q So, here -- here we go. Take a look on Page 3, at the very end. First paragraph, you say "The defendant stated one of my home boys asked me to hold it for him. The defendant advised he lived in Apartment 211 with his girlfriend."

You say you knocked on the door of Apartment 211 and spoke with the female who stated the defendant was her boyfriend. Okay.

A No name? I didn't write her name?

Q You did not write her name because you didn't want her as a potential witness? Or for some other reason?

A That's probably why I didn't write it. Unfortunately, that's probably why I didn't write it, at that point, yeah. But she was irate. I mean, they were like --

when we went to his house, he was sleeping. Uh, he was in the house asleep with her.

In fact, if I remember correctly, they were sleeping on the floor, you know, with a comforter and sheets on the floor. And they were sleeping on the floor. Uh, on the floor.

Q Okay.

A I don't know why I remember that. But I do.

Q Okay.

SGT. COOK: Okay.

SGT. THOMPSON: Okay. Can I ask just one question?

SGT. COOK: Sure.

Q BY SGT. THOMPSON: Under "Source of Activity", Ray, you wrote that, uhm, --

MR. MCKESSON: What paragraph?

SGT. THOMPSON: I'm sorry. Uh, "Source of Activity" third paragraph.

Q The, uh -- a friend of the C.I., defendant who lives there, offered to sell the C.I. an M-1 carbine rifle. Did that have anything to do with why this guy was targeted, or was that part of the fabrication?

A No. I think that was just tying in the -- the weapon that was recovered.

Q Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: All right. That concludes the interview. The time now is 1609. The next one is Velasquez and Medina.

THE WITNESS: Give me a second to review this one.

SGT. COOK: Sure.

(Changed to new tape.)

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 15- -- excuse me, 1618 hours. We're interviewing Rafael Perez on Tape No. 222113, Side A. We're going to review Arrest Report 96-02-36455. The arrestee is Eliseo, E-l-i-s-e-o, Velasquez, V-e-l-a-s-q-u-e-z. And also Francisca Medina. The date of arrest was October 23rd, 1996.

MR. ROSENTHAL: And this relates to a filing BA140232.

Q Why was this report pulled?

A Okay. The only reason I've asked for this report to be set aside is just a -- what I would consider a minor issue. Uhm, after reviewing the report, and going to the very end of the report, I noticed that there was a search warrant written. And the search warrant is signed by me as the affiant, and my serial number.

I believe there was a Judge Okie from Citrus Court, who, uh, -- who by fax, signed the report, or signed this search warrant. The report on the -- the first page of the search warrant, or actually it would be the third page, uh, it says here, "Affiant, Officer Rafael Perez." And then, it continues with the search warrant.

Actually this search warrant was written by Officer Reyes from FES. He wrote it. I was in the office, but he wrote it as though it was me, uhm, because it was my arrest.

Q BY MR. ROSENTHAL: And there's nothing wrong with that?

A No. No, no, I was there.

Q Right.

A That's not what --

Q What the problem is?

A No. The -- and really I don't -- here's what I noticed when I was reading it. And I remember it, uh, when I -- after I read the report. After we had, uh, taken down the house, we returned back to Rampart FES to write the search warrant to go back to the residence.

We had already took the residence down to secure it. When we went back to FES, me and Officer Reyes, uh, while writing the report, we kept receiving calls back of a lot of narcotics being recovered.

And instead of stopping the searches, we kept getting calls back saying, "We are finding a bunch of dope." And, of course, all this dope was placed back. And then, once the search warrant was done, it was said it was recovered here. But in actuality, a lot of this dope -- the only problem was that the narcotics -- in other words, we left with the intention of going to write a search warrant, get it signed, come back with it and serve it, you know. Although the place was already secured, uh, until we got back.

But what happened was the officers that were there had already began to search. And they were, basically, telling

us there's like a kilo in one bag. There's like another half key in -- in a thing underneath the kitchen sink.

In other words, a lot of this stuff was already being recovered before it was supposed to be recovered.

Q BY SGT. COOK: And you put that in the -- and you put that in your search warrant?

A I think some of it is. And then, some of it isn't. Some of it is to -- in order to -- in order to give us more probable cause in the search warrant itself, we put some of it in there. But a lot of it is not in there.

In other words -- how do I explain this correctly?

Q BY MR. ROSENTHAL: Well, you know what we have to do, I think, is let's go through the warrant, if that will help?

A Let me explain it one more time so that we're clear. We arrive at the location. We do observe some narcotics in plain view -- some. We leave. While we're gone, and they're sitting there waiting, what officers do is start poking around and start looking. And start, you know, looking here and there.

So, a lot more narcotics is being recovered. That was not, you know, placed in the -- in the search warrant. Some -- a lot of that, and a lot of narcotics that was recovered was recovered before the search warrant was signed. But we would get a call back at the office saying, "We're finding a lot of dope. A lot. I mean, there's dope everywhere. There's a lot of dope."

But a lot of that was recovered before the actual

search warrant was even written.

Q BY SGT. COOK: Before it was written, signed, and served?

A Right.

Q So, the dope was recovered? Right?

A The dope was recovered?

Q Well, the dope was discovered or found?

MR. ROSENTHAL: All right. The only part of this search warrant that seems to talk in terms of something that might have been found in the residence, prior to the search warrant, was on Page 3. Go down towards the bottom. It says, --

SGT. COOK: We don't have a Page 3.

THE WITNESS: Are you sure it's Page 3?

MR. ROSENTHAL: I'll look. Four and three might be, uh, in bad order.

SGT. THOMPSON: Yeah. Look after 4. There's 3 after 4.

THE WITNESS: Oh, okay.

MR. ROSENTHAL: On Page 3, it says, while securing the residence --

MR. MCKESSON: What line is this? What line?

MR. ROSENTHAL: We're, uh, going down towards the bottom.

MR. MCKESSON: What line? 18?

MR. ROSENTHAL: Oh, I'm sorry. It's Line 21.

THE WITNESS: Okay.

Q BY MR. ROSENTHAL: It says "While securing the residence, Detective Goldberg observed a plastic container

containing approximately a half pound of off-white rock-like objects. The scrappings atop a table in the storage room located in the southeast portion of the house."

So, basically, what he's saying is they're securing the residence and he observed a half pound of rock in plain view?

A Right. And that was a Tupperware thing with the, you know, the shavings. All the -- they were collecting all the shavings.

Q All right. And, as far as you know, that's correct and there's -- that -- that, in fact, did occur?

A Yes.

Q And it was in plain view. Uh, and it was seen while Detective Goldberg was securing the house?

A Yes.

Q All right. "In the same room Goldberg also observed twelve off-white rock-like objects atop the television."

A That's actually -- okay. I'm sorry.

Q All right. So, that's the same thing, in plain view, while the officer's securing the location. So, there's no problem with that; right?

A No.

Q All right. "Officer Montoya observed plastic baggies containing off-white rock substances inside the toilet of the residence." Mmnh, that doesn't seem like plain view. But it is in the warrant. Is it correct?

A It's in the warrant, yes.

Q Okay. And there's nothing about it where the magistrate is mislead, and was no -- that's not false in any way or such?

A No. No.

Q All right. And then, you just asked for the warrant to be granted. So, it does not appear that there is anything in the warrant that -- that, in order to obtain the probable cause, you gave information that was obtained from conducting an illegal search before securing the warrant; right?

A That's correct.

Q Okay. It's possible there's an argument that looking in the toilet is not in plain view. But if that's taken out, it does not, frankly, harm the probable cause at all. And the magistrate is not mislead. So, if -- and correct me if I'm wrong here -- what it appears is though that what you're saying is, in essence, there is an administrative wrong committed because the officers are conducting the search before the warrant's obtained. But the warrant is obtained with legitimate lawful evidence. And once the warrant was obtained, they have the right to search and seize and obtain the evidence that was located.

A Exactly.

MR. MCKESSON: No harm. No foul.

THE WITNESS: Okay.

MR. ROSENTHAL: We're saying administrative misconduct.

THE WITNESS: There is a lot -- a lot of -- a lot of cocaine recovered here. And the only one we mentioned is what we saw in plain view. But before -- while we were at the station and we get -- I mean, we're getting call after call, we just found this and we found that. I mean, so, in other words, the search was going on before the actual search warrant was even written.

MR. MCKESSON: Well, I think what Richard is saying is that you would have gotten the warrant anyway, --

THE WITNESS: Yeah.

MR. MCKESSON: -- and eventually, recovered all the stuff anyway.

THE WITNESS: Yes. That's what I was trying to make clear, that we had all the probable cause. What I'm saying was that the searches were being conducted before the warrant was written.

MR. ROSENTHAL: Okay. Let's -- let's go on to another one. DET. NALYWAIKO: I just had one question.

Q Who was calling you and telling you?

A Uh, the detectives. Uh, Goldberg and Ruffin. They kept calling back to the trailer, where -- where we were at, and letting us know what they were finding.

Q I'm sorry. Goldberg and who?

A I think it was Ruffin. They were the detectives, the supervising detectives for FES. Yeah, Goldberg, Ruffin, and Compton.

Q BY MR. ROSENTHAL: And who -- I'm sorry?

A Compton.

Q Compton. Okay.

SGT. COOK: That concludes the interview. The time now is 1627 hours.

The next one is Vergara, is the true name?

MR. ROSENTHAL: Uh, yes. Actually, the true name is Henry Martinez.

SGT. COOK: Is that his true name?

MR. ROSENTHAL: Oh, no, no, no. I'm sorry. Henry Martinez is the false name. And Vergara is the true name. Yeah.

THE WITNESS: Give me a second before we start on this one.

SGT. COOK: Sure.

(Changed to new tape.)

SGT. COOK: Today's date is November 5th, 1999. The time now is 1629 hours. We're interviewing Rafael Perez on Tape No. 222114, Side A. We're going to review arrest report 97-02-21086. The arrestee is Medrano, M-e-d-r-a-n-o, Vergara, V-e-r-g-a-r-a. Arrest date is June 5th, 1996.

THE WITNESS: Okay. The reason I've asked this report to be pulled over -- uh, put to the side, is there were a couple of issues that I needed to discuss that are incorrect and fabricated in this report. This report was written by Officer Lujan and his partner, Officer Veloz. I remember this incident.

I won't go through the entire observations, 'cause

most of the observations is correct. That is actually what occurred. But when we get to Page No. 3 of the arrest report --

Q BY MR. MCKESSON: Under what section?

A The very top. You'll see my serial number. My name is the last name used on Page 2. And then, you'll see my serial number. And it says, "I, then, formulated a tactical plan to take the defendant into custody." Uh, during this time --

Q BY MR. ROSENTHAL: I'm sorry. This is where?

A Page 3 at the very top.

Q Page 3. Yes, I've got it. All right.

A On the second line, it says, "During this time, the defendant was still refusing to comply with officers commands and was observed reaching between the front seat -- between the front seats towards the back seat, as though to get something." By the way, this is Officer Lujan writing this report and him speaking.

"Upon illuminating the interior of the defendant's vehicle with my flashlight, we could see, in plain view, two semi-auto pistols laying on the back seat of his vehicle. I, immediately, alerted involved-officers, at which time Officer Harper took a covering position on the defendant. Due to the residential area, it became imperative to remove the defendant -- the defendant's opportunity to arm himself. We then, executed our plan. And I smashed the front driver's window with my baton."

MR. MCKESSON: Use of Force.

THE WITNESS: Uh, if I remember correctly -- and I can look at the use of force. And really none of it really -- it's -- all of that was used and more. But there's something in particular about the use of force that I remember. And I don't know if it's in here or not.

But for some reason, I remember this -- this person's elbow being knocked out of place. Or his -- uh, I don't know if it's in the further use of force. And I haven't read it -- read it here. But something about this person's elbow being snapped out of place or something. And that was done by Officer Lujan. I remember something like that.

Again, going back to the top of Page 3. All of this is fabricated. There was no gun sitting in plain view on the seats -- uh, in the back seat of the car. Those guns were recovered by me. I had to use a knife to cut into -- there's a center console in the back seat. Those kind of center consoles that come down. And it has sort of like a leather flap over it. I has to cut that open and look in there because we felt there was something hard in there. And we recovered the -- I recovered the guns from inside that center console.

At no time, was the guns in any plain view or anything like that.

Q All right. Now, he was only -- he was not actually charged with the gun charge?

A I think there might have been a request for additional

filing for it. It says that Officer Perez recovered a .9 millimeter and .45 caliber pistol from the vehicle. I don't know if he was charged with that. I'm sure that the charge that he was charged with was assault with a vehicle on a P.O.

Q Right.

A ADW. Uhm, --

Q So, the -- so, the false -- there's a false -- a false report by Lujan relating to where the guns were?

A Yes, sir.

Q And what about -- anything else about the report that you know is false or you have reason to believe is false?

A Uh, no. Uhm, everything else is pretty much right on. This guy was kind of crazy. He was ramming police cars back and forth.

Q Did you have reason to believe that Lujan used excessive force on him, at some point in time? Is that where the --

A I would -- you know, I don't have the guy's photo here. And I -- I remember this real well. And give me a second here. There is something about this arrest that I remember.

For some reason, I remember the guy's elbow being snapped. And I don't -- and I remember Officer Lujan doing it. But I'm not a hundred percent sure. And like I said, I didn't read it anywhere in here. In fact, I didn't even read the use of force report.

MR. MCKESSON: Well, Ray, just because the guy's elbow was

snapped, doesn't necessarily mean the force was excessive. You said the guy was a nut, he was ramming police cars.

THE WITNESS: Right. Uhm, but there's ways in which you take someone down and put their hands behind their back that you snap their elbows.

Q BY SGT. THOMPSON: Ray, if you look under the heading "Injuries", I think the last line there, it says, "And diagnosed defendant with a dislocated left elbow."

A There is?

Q BY MR. ROSENTHAL: It's the very last line of Page 3.

A Okay. I had a better memory than I thought. If I remember correctly, that elbow -- he was face down on the ground. I think he had been maced, too. Did he say he was maced?

SGT. THOMPSON: I'll look under "Use of Force" on the first line. Officer Buchanan.

MR. MCKESSON: Yeah, pepper spray.

THE WITNESS: Okay. Yeah, O.C. -- pepper spray. Uhm, when we was taken out -- we smashed a window. He was sprayed. In fact, I punched him once. I remember punching him once, uh, just to distract him. I punched him in the face once. And then, we were pulling him out.

Once he was down, he was on the ground, then, several of us were, uh, over him. But I remember Lujan doing one of these things where you put the -- the arm right here and you grab the arm, or the wrist, and then, just torque it. And you

just -- you're gonna break somebody's elbow. You're gonna just -- and I remember him doing that. He just -- I remember this guy screaming in pain of the -- it was -- you can see him just -- you know, how you could almost see the jerk where the guy's elbow is now in the wrong direction.

Yeah, I remember that. For some reason, I remember that.

Q BY SGT. THOMPSON: But let me ask you a question regarding that. Given the circumstances, how you described this, was that an unauthorized or unnecessary use of force by Lujan?

A I think that went beyond what needed to be done. There was five of us -- at least five of us there. We're on top of him. All we needed to do was put his hands behind his back and cuff him. Lujan -- you know, -- and this is sort of one of Lujan's, you know, things. He's kind of very -- he has a tendency to do a lot of -- you know, commit a lot of uses of force, and go a little bit, uh, above the -- you know, excessive uses of force.

He'll go beyond. This is just -- he wanted to do something to him. You can tell whether you want to put somebody's arm behind their back or you want to injure them.

Q BY SGT. COOK: So, there was five of you on his back?

A Right.

Q And you -- you believe that Lujan excessively torqued his arm causing the dislocation?

A Yeah. You don't just put someone's hands behind their back and dislocate their elbow. You have to do something to do it. And that's what he did. He had placed his arm, lifted his wrist, and just took his elbow out of place.

Q Now, when you recovered the two handguns, by cutting through the interior there, were the other officers that were involved, were they aware of the fact that you had to cut the guns out from the interior?

A Yes. As a matter of fact, when we opened the trunk, we were looking for weapons, looking around. As I was looking in the interior of the car, I felt several hard objects. And I remember Sgt. Ortiz telling everybody to step away from the vehicle, because we didn't want it to be some type of booby trap type thing.

 And so, that's why we cut. We didn't want to start just digging in there. We cut the actual -- in the vehicle, the leather cover that covers that little section of the center console. We cut it with a knife. We cut it open. And that's where we recovered the weapons from.

MR. ROSENTHAL: Okay.

SGT. COOK: All right. Okay. That concludes the interview. The time now is 1637 hours.

MR. ROSENTHAL: Okay. The last one in the group that I've got. Off the record for just a second.

 (Off the record at 4:37 p.m.)

 (Back on the record at 4:40 p.m.)

MR. ROSENTHAL: Rene Vriones a short report.

SGT. COOK: Okay. Today's date is November 5th, 1999. The time now is 1640 hours. Interviewing Rafael Perez, Tape No. 222115, Side A. We're going to discuss Arrest Report 96-02-21209. Rene Vriones, V-r-i-o-n-e-s. Date of arrest is 6-- June 7th, '96.

MR. ROSENTHAL: Okay. This relates to Case No. BA133329.

Q Why was this report pulled?

A This report was pulled because, after reading it, I -- it refreshed my memory on a couple of things. Okay. Going to Page No. 3 of the arrest report. This -- on this particular date, Officer Duarte -- Raquel Duarte -- was my partner. On the 3rd page of the arrest report --

Q BY MR. MCKESSON: Under what section?

A Under "Observations continued". I write that I asked the defendant. I detained -- we detained the defendant on the northwest corner of 8th and Westlake. I asked -- we stopped and we asked the defendant if I could talk -- I asked him if we could talk to him for a minute. At which time, the defendant said, "Yeah. What's up?"

I asked the defendant his name, at which time, I noticed he had some problem talking. I asked the defendant to repeat his name, when I observed the defendant reach into his mouth and remove several off-white objects.

The defendant quickly dropped the small white objects to the ground and began walking towards me. I, Officer Perez,

picked up the small white objects and noticed that they were small off-white objects resembling rock cocaine.

The defendant was taken into custody for Possession of a Controlled Substance.

Q BY SGT. COOK: Is that accurate?

A No. What actually occurred was -- uh, the initial stop was correct. And the initial, uh, asking him his name and he appears to have some problem speaking, is correct. He had some rocks. He did have some rocks in his mouth.

Uh, when we notice it, I grab him and tell him to spit it out. I started to try to choke him out to get it out. He swallows them all. He -- he chews it. Or he starts chewing on them and swallowing them. He's not spitting them out.

In fact, we go to the ground. He lays in the on the ground, and I'm on top of him. And I'm telling him, "Listen. Spit them out and I'll give you a break. If you don't spit them out, you're going to jail." He doesn't spit them out.

At that point, I said, "Fine. Go ahead and eat the rocks. No problem." We hook him up. And I place him in the car. And I tell Duarte, "We're gonna just book him 11350." And she goes -- she tells me, "How are we gonna book him 11350 when we don't got any dope?"

And I said, "Well, we'll handle it. Don't worry about it." I tell her something to that effect. When we get back to the station, I start, you know, trying to feel her out. I tell her, you know what, I'm just gonna -- you know he had rocks in

his mouth, so, I'm going to book him 11350. I'm gonna book him for -- for some dope.

And that's what we did. We booked him for Possession of Rock Cocaine. Not for Sale. But I think just Possession of Rock Cocaine.

Q BY MR. ROSENTHAL: Yes. It's straight possession. Where did the dope come from?

A I had the dope. I think it was ten rocks that I -- it says ten rocks.

Q Yeah, on the front page it says 1.8 grams. Gross grams. Ten off-white wafers.

A That was planted by me. Or I didn't necessarily plant it on him. But I produced that narcotics.

Q BY SGT. COOK: Did Duarte do the property report?

A Yes, she did.

Q And she booked the narcotics in?

A It is her handwriting in the combined evidence report. It says "Quantity, or Item 1, ten off-white rocks," uh, the weight. And, again, in parentheses, ten off-white wafers resembling rock cocaine."

Q So, she --

A Yeah.

Q I'm sorry.

A That is her handwriting. Uh, that is her, uh, her doing or filling out that property report.

Q BY MR. ROSENTHAL: So, she knew?

A Yes.

SGT. COOK: Okay.

MR. ROSENTHAL: Okay.

SGT. COOK: Okay. That concludes the interview. The time now is 1644 hours.

MR. ROSENTHAL: Okay. Detective Nalywaiko, you've said you have got one you want to discuss

DET. NALYWAIKO: Mmnh-mmnh.

MR. ROSENTHAL: -- before we finish up for the day.

(Changed to new tape.)

SGT. COOK: Okay. November 5th, 1999. The time now is 1646 hours. We're interviewing Rafael Perez on Tape No. 222116, Side A.

Q BY DET. NALYWAIKO: Ray, on this last week, it came to our attention, we received a letter in the office that was -- the complainant on it was an individual by the name of Dennis Henderson.

Uh, Henderson, initially, had complained that he had been, uh, kidnapped by a couple of officers. There was an Officer Argomanas (phonetic) named in the -- was named. I'm sorry. That's Officer Archuleta was named in an old complaint.

Mr. Henderson was claiming that he was, uh, physically assaulted by this officer. After -- at some point in time, Mr. Henderson contacted the Department and stated that you and other officers had kidnapped him on a couple of different occasions. And one of them being December 12th, 1997.

And, again, on January 13th, 1998.

Uh, there's no other information I can give you, at this time, about it. But I wanted to show you a picture of Mr. Henderson that I obtained this morning. It's a faxed copy of a driver's license photo. And I just wanted you to take a look at it and see if anything there at all rings a bell with you, if you have any recollection regarding that individual, and have you ever had any contact with that individual?

A This guy actually looks familiar. I don't know from where. But that face looks real familiar.

MR. MCKESSON: Now, is this hair, or is this a hat? I can't tell.

DET. NALYWAIKO: I believe that's his hair. I believe that was his hair. It appears to me that's his hair.

THE WITNESS: His face looks familiar to me. I just don't know from where.

DET. NALYWAIKO: Okay. Also going to show you a Xerox copy of a photo display folder. And it has the numeric handwritten notation No. 10 in the upper right-hand corner. So, tell me if you recognize anybody in this photographic line-up.

THE WITNESS: That almost looks like a police officer that worked Rampart, a senior lead officer.

Q BY DET. NALYWAIKO: And, Ray, what position is that?

MR. MCKESSON: No. 1.

THE WITNESS: No. 1. He looks like the senior lead. In

fact, he was married to a clerk that worked at Rampart as well. He looks like a -- I can't remember his name right now, but a senior lead officer that works Rampart Division.

Q Mmnh-mmnh.

A If you told me a name, I'd say it. Uh, but I don't know if you know. I don't even know if it's him. It's kind of a dark picture. But it looks like him. The rest of them just look like everyday guys, you know.

Q Okay. As far as that driver's license -- correct me if I'm wrong -- but that individual looks familiar to you, but you don't remember from where?

A I don't know from where. But he does look -- he looks familiar from somewhere. But I just don't know where.

Q Okay. I don't have any other information available, at this time. But we may have to revisit this issue, at some -- at some point in time.

A Okay.

Q BY MR. ROSENTHAL: Okay. And just for the record, to make sure I understand this correctly, uh, Detective Nalywaiko did give me four case packages, two of which we've actually already discussed, uhm, involving Gutierrez, and then --

A Ubaldo Gutierrez?

Q Yes. The one involving the trial.

A Oh, okay.

Q As well --

A I thought we did that one already.

Q Yeah, we already did that one. And we also did one more, which is Israel Jaramillo, J-a-r-a-m-i-l-l-o. Mancinas and Juan Jaramillo.

A I thought we did that.

Q We did.

A Oh.

Q No, those -- those are ones we already did. The new ones I'm going to have to pull the D.A. files. And we'll have to discuss them the next time we meet are Luis Arechiga, A-r-e-c-h-i-g-a, and Ernesto Diaz.

A All right.

Q Which looks like it has not been discussed before. So, it is now five minutes to 5:00. And we're off the record. And we will continue the interviews at a next appropriate time.

(Off the record at 4:55 p.m.)

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