

No. S270723

In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Respondent,
v.
ANDRES QUINONEZ REYES,
Defendant and Appellant.

Fourth Appellate District, Division Three, Case No. G059251
Orange County Superior Court, Case No. 04CF2780
The Honorable Richard M. King, Judge

**EXHIBIT A PART 1 OF 2 IN SUPPORT OF RESPONDENT'S
REQUEST FOR JUDICIAL NOTICE**

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**COURT OF APPEAL – FOURTH DISTRICT
DIVISION THREE
STATE OF CALIFORNIA**

THE PEOPLE OF THE STATE OF CALIFORNIA

vs.

NO. 04CF2780

REYES, ANDREWS QUINONEZ

**APPEAL FROM THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

HONORABLE CARLA M SINGER
JUDGE

CLERK'S TRANSCRIPT

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SEP 16 2004

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ALAN SLATER, Clerk of the Court
C. URINSCO, DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA,) FELONY COMPLAINT
Plaintiff,) WARRANT

vs.

No. 04CF2780
SAPD 04-34206
"SPECIAL
CIRCUMSTANCES"

FRANCISCO JOSE LOPEZ 12/11/83)
D3037418)
ISRAEL LOPEZ 02/14/83)
X5180732)
ANDRES QUINONEZ REYES 01/14/89)
AKA ANDY REYES)

Defendant(s))

The Orange County District Attorney charges that in Orange County, California, the law was violated as follows:

COUNT 1: On or about August 10, 2004, in violation of Section 187(a) of the Penal Code (MURDER), a FELONY, FRANCISCO JOSE LOPEZ, ISRAEL LOPEZ and ANDRES QUINONEZ REYES did unlawfully and with malice aforethought murder PEDRO JAVIER, a human being.

It is further alleged pursuant to Penal Code section 190.2(a) (22) (MURDER COMMITTED FOR CRIMINAL STREET GANG PURPOSE), that defendants FRANCISCO JOSE LOPEZ, ISRAEL LOPEZ and ANDRES QUINONEZ REYES intentionally murdered PEDRO JAVIER while the defendant was an active participant in F-TROOP, a criminal street gang, and the murder was carried out to further the activities of that criminal street gang.

FELONY COMPLAINT WARRANT

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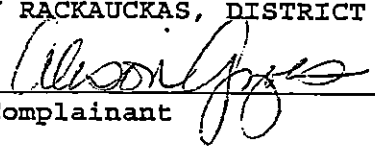
2.3

1 As to Count(s) 1, it is further alleged pursuant to Penal Code
2 sections 12022.53(d) and (e) (1) (GANG MEMBER VICARIOUS DISCHARGE
3 FIREARM CAUSING GREAT BODILY INJURY), and within the meaning of
4 Penal Code sections 1192.7 and 667.5 defendants ISRAEL LOPEZ
5 and ANDRES QUINONEZ REYES was a principal in the commission of a
6 felony, which the defendants committed for the benefit of, at
7 the direction of, and in association with a criminal street
8 gang, with the specific intent to promote, further, and assist
9 in criminal conduct by gang members, within the meaning of Penal
Code section 186.22(b), and that during the commission and
attempted commission of the above offense, another principal
intentionally discharged a firearm causing great bodily injury
and death to PEDRO JAVIER, who was not an accomplice.

10 I declare under penalty of perjury, on information and belief,
11 that the foregoing is true and correct.

12 Dated 09/15/04 at Orange County, California.
13 MG/SC 04F10373

14
15 TONY RACKAUCKAS, DISTRICT ATTORNEY

16 by  Deputy
17 Complainant

18 RESTITUTION CLAIMED

19 [] None
20 [] \$ _____
21 [X] To be determined

22 NOTICE TO DEFENDANT AND ATTORNEYS FOR THE DEFENSE:

23 The People request that defendant and counsel disclose, within
24 15 days, all of the materials and information described in Penal
25 Code Section 1054.3, and continue to provide and later-acquired
26 materials and information subject to disclosure, promptly, and
27 without further request or order.
28

FELONY COMPLAINT WARRANT

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|-------------------|
| 1. Docket Date Range | : Date filter |
| 2. Sequence Number Range | : Sequence filter |
| 3. Docket Category | : Category filter |

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
9/23/2004	1	Hearing held on 09/23/2004 at 08:30:00 AM in Department C55 for Arraignment.
	2	Officiating Judge: M. Marc Kelly, Judge
	3	Clerk: L. Lipton
	4	Bailiff: Present
	5	Court Reporter: Lisa Wood
	6	Defendant present in Court with counsel DiGiacomo, Frank, Retained Attorney.
	7	People represented by Keith Bogardus, Deputy District Attorney, present.
	8	Warrant issued on 09/16/2004 ordered recalled for defendant.
	9	Defendant advised of legal and constitutional rights.
	10	Defendant is formally arraigned and informed of the charges.
	11	Court finds that the defendant understands the nature of the charges.
	12	Copy of Complaint, Record of Arrest and Prosecution Sheet given to Defense Counsel.
	13	Arraignment set on 10/13/2004 at 08:30 AM in Department C55.
	14	Defendant waives the right to be arraigned today.
	15	Defendant waives statutory time for Arraignment.
	16	Counsel joins in waivers.
	17	Fingerprint card is received and filed.
	18	Court orders bail set at NO BAIL.
	19	Defendant remanded to the custody of the Sheriff.
	20	Notice to Sheriff issued.
	21	Minutes entered by S Herrera.
	22	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|-------------------|
| 1. Docket Date Range | : Date filter |
| 2. Sequence Number Range | : Sequence filter |
| 3. Docket Category | : Category filter |

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
10/13/2004	1	Hearing held on 10/13/2004 at 08:30:00 AM in Department C55 for Arraignment.
	2	Officiating Judge: M. Marc Kelly, Judge
	3	Clerk: L. Lipton
	4	Bailiff: Present
	5	Court Reporter: Jeanette Gillick
	6	Defendant present in Court with counsel DiGiacomo, Frank, Retained Attorney.
	7	Tracy Rinauro made a special appearance for District Attorney Mark Geller.
	8	Defendant waives reading and advisements of legal and constitutional rights.
	9	Defendant waives reading and advisement of the Original Complaint.
	10	To the Original Complaint defendant pleads NOT GUILTY to all counts.
	11	Defendant denies all enhancements.
	12	Defense reserves all motions.
	13	Pre Trial set on 11/05/2004 at 08:30 AM in Department C55.
	14	Preliminary Hearing set on 12/03/2004 at 08:30 AM in Department C55.
	15	Court finds the defendant understandingly, knowingly, and voluntarily waives the right to a Preliminary Hearing within 10 court days of arraignment.
	16	Counsel joins in waivers.
	17	Defendant ordered to appear.
	18	Current bail set for defendant to remain.
	19	Defendant remanded to the custody of the Sheriff.
	20	Notice to Sheriff issued.
	21	Minutes entered by C. Anderson.

1 TONY RACKAUCKAS, DISTRICT ATTORNEY
2 COUNTY OF ORANGE, STATE OF CALIFORNIA
3 BY: MARK GELLER,
4 Deputy District Attorney
5 State Bar Number 181119
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9 Attorneys for Plaintiff

10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

12 THE PEOPLE OF THE STATE OF
13 CALIFORNIA,

14 Plaintiff,

15 vs.

16 FRANCISCO LOPEZ
17 ISRAEL LOPEZ
18 ANDRES REYES
19 SEVERO DELARIVA
20 LOUIS PEREZ

21 Defendant(s),

22 CASE NO. 04CF2720
23 CASE NO. 04CF2780

24 MOTION TO
25 CONSOLIDATE

26 Please take notice that the People will ask the court to consolidate the
27 above listed cases based on the facts and legal authorities recited below.

28 **FACTS**

Procedural Background

On September 10, 2004 and then on September 15, 2004, the People filed both of these cases alleging amongst other things murder and gang allegations against all five defendants. The cases are presently set for pretrial on November 5, 2004, for four of the five defendants with Francisco Lopez still at bench warrant status.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

NOV 03 2004

CLERK OF THE COURT

by: CAROL ANDERSON
DEPUTY CLERK

Factual Background

1 The People are seeking to join the two cases because, as the allegations in
2 both cases now reflect, the People believe all five defendants are members of the
3 F-Troop street gang in Santa Ana and they all acted together in shooting and
4 killing Pedro Rosario. The crimes charged arise out of the same transaction and
5 occurrence and the evidence presented in a single trial would be nearly identical
6 to that presented in separate trials. That evidence would include eyewitness
7 testimony, physical evidence, and gang expert opinion testimony.
8

POINTS AND AUTHORITIES

JOINDER IS PROPER UNDER CALIFORNIA PENAL CODE SECTION 954

11 Section 954 of the Penal Code sets forth the requirements for joinder of
12 criminal charges. It provides in pertinent part:

13 "An accusatory pleading may charge two or more different offenses
14 connected together in their commission, or different statements of
15 the same offense or two or more different offenses of the same class
16 of crimes or offenses, under separate counts, and if two or more
17 accusatory pleadings are filed in such cases in the same court, the
18 court may order them to be consolidated . . . [Provided, that the court
19 in which a case is triable, in the interests of justice and for good
20 cause shown, may in its discretion order that the different offenses or
21 counts set forth in the accusatory pleading be tried separately or
22 divided into two or more groups and each of said groups tried
23 separately." *Penal Code* ' 954.

24 "Offenses connected together in their commission" has been defined as
25 those offenses in which:

26 "there was a common element of substantial importance in their
27 commission, even though the offenses charged did not relate to the
28 same transaction and were committed at different times and places
and against different victims." *Aydelott v. Superior Court* (1970) 7
Cal.App.3d 718, 722, emphasis added, citations omitted.

Another court has held "connected together in their commission" to include
offenses that share a common element, such as the use of the defendant's home

1 to commit crimes against several male juveniles. These offenses were found to
2 be connected even though the offenses charged did not relate to the same
3 transaction and were committed at different times and against different victims.
4 People v. Leney (1989) 213 Cal.App.3d 265; accord People v. Windham (1987)
5 194 Cal.App.3d 1580 [holding joinder of robbery and stolen property charges
6 proper because common element of intent and items recovered after defendant's
7 arrest for vehicle theft].

8 Crimes have been found to be of the same "class", under Penal Code sec.
9 654, when they possess common attributes, such as lewd conduct toward female
10 minors, or when all the crimes involve assaultive conduct towards a person.
11 Leney, supra, at p. 269. In People v. Marquez (1992) 1 Cal.4th 553, habeas
12 corpus granted in part, 1 Cal.4th 584, the court held the statutory requirements
13 for joinder were met in that two murder charges were of the same class of crimes.
14 Further the court held the defendant had to predicate error from the denial of his
15 motion to sever charges on a clear showing of potential prejudice. Accord People
16 v. Poggi (1988) 45 Cal.3d 306, cert. denied, 492 U.S. 925 [rape and kidnapping
17 charges on one victim properly joined with rape, robbery, and murder charges on
18 second victim because offenses of same class, i.e. assaults on a person]; People
19 v. Thomas (1990) 219 Cal.App.3d 134 [attempt murder and ex-felon in
20 possession of firearm properly joined because same class of crime, being
21 assaultive against the person].

22 The California Supreme Court in Kellett v. Superior Court (1966) 63 Cal.2d
23 822, explained it was the Legislature's intent to join related offenses into a single
24 prosecution. At page 826 it said:

25 "By a series of amendments to section 954 that have greatly
26 expanded the scope of permissible joinder, the Legislature has
27 demonstrated its purpose to require joinder of related offenses
28 in a single prosecution." (emphasis included)

1 Thus, it is not only proper but preferable to consolidate two or more different
2 offenses if they are "of the same class of crimes or offenses."

3 A second basis for the joining or consolidation of cases is the prevention of
4 repetition of evidence and the accompanying waste of judicial resources. The
5 court in Walker v. Superior Court (1974) 37 Cal.App.3d 938, 941, explained:

6 A joinder of different offenses is permissible "even though they
7 do not relate to the same transaction or event, if there is a common
8 element of substantial importance in their commission, for the
joinder prevents repetition of evidence and saves time and expense
to the state as well as to the defendant."

9 Thus, the court should take into account whether the evidence in the cases to be
10 consolidated would be cross-admissible or would be presented in both cases if
11 tried separately.

12 Many of the cases dealing with the issue of consolidation relate to whether
13 a denial by a trial court of a defense severance motion was proper. If the
14 statutory grounds for joinder are met, the defendant has the burden of showing
15 prejudice from the denial of severance. (People v. Ruiz (1988) 44 Cal.3d 589,
16 605; People v. Balderas (1985) 41 Cal.3d 144, 173; People v. Moore (1986) 185
17 Cal.App.3d 1005, 1013¹)

18 Prejudice however, must be proved; a bald assertion of prejudice is not
19 enough. (Balderas, supra, at p. 171.) When the denial of severance is asserted
20 as error on appeal, the claim must be evaluated in light of the facts known at the
21 time the motion was made. (Balderas, supra, at p. 171.)

22 The Supreme Court stated that, if the requirements for joinder are met,
23 "'the difficulty of showing prejudice from denial of severance is so great that the
24 courts almost invariably reject the claim of abuse of discretion.'" (People v.

25 ¹Note that the court in Ratliff stated the failure of trial counsel to move to sever did
26 not constitute ineffective assistance of counsel where evidence of burglary charges
27 relevant to charges of robbery and murder, and neither burglary charge nor
28 robbery/murder charges were particularly weak. (People v. Ratliff (1986) 41 Cal.3d
675; accord People v. Grant (1988) 45 Cal.3d 829, 865-866.)

1 Matson (1974) 13 Cal.3d 35, 39 [quoting Witkin, Cal. Criminal Procedure, at p.
2 288].) As the court explained in Williams:

3 "[The judge's discretion in refusing severance is broader than his
4 discretion in admitting evidence of uncharged offenses . . . In both
5 cases the probative value of considering one alleged offense in
6 light of another must be weighed against the prejudicial effect, but
7 additional factors favor joinder. "Joinder of unrelated charges . . .
8 ordinarily avoids needless harassment of the defendant and the
9 waste of public funds which may result if the same general facts
10 were to be tried in two or more separate trials." [Citations omitted]
11 Under Matson, a ruling on a motion to sever is based on a weighing
12 of the probative value as against the prejudicial effect, but in the
13 weighing process the beneficial results from joinder are added to the
14 probative value side. This requires the defendant to make an even
15 stronger showing of prejudicial effect than would be required in
16 determining whether to admit other -crimes evidence in a severed
17 trial."

18 The Court in Williams noted the determination of prejudice is a highly
19 individualized one and depends on the facts and circumstances surrounding the
20 particular case. The Court did, however, adopt the analysis laid out in Coleman
21 v. Superior Court (1981) 116 Cal.App.3d 129, cert. denied, 451 U.S. 988. The
22 court in Coleman set out four factors to examine in determining if the denial of a
23 motion to sever constitutes an abuse of discretion: (1) the cross-admissibility of
24 the evidence of defendant's various offenses; (2) the danger that the
25 inflammatory nature of one charge could lead the jury to conclude the defendant
26 is guilty on the other charge; (3) the danger of a "spillover" effect when a weak
27 evidentiary case is joined with a strong one; and (4), if a capital case is joined
28 with a non-capital case, the severance issue must be analyzed with a higher
degree of scrutiny than is applied if both charges are non-capital offenses. (Id., at
pp. 137-140; see also Williams, supra, at pp. 452-454; Sully, supra, at p. 1222;
People v. Bean (1988) 46 Cal.3d 1195, cert. denied, 494 U.S. 1038; People v.
McLain (1988) 46 Cal.#d 97, cert. denied, 489 U.S. 1072 [death penalty case];
People v. Odle (1988) 45 Cal.3d 386, cert. denied, 488 U.S. 917, habeas corpus

1 denied, 754 F.Supp. 749 [no error in joining two murder counts, even where one
2 murder particularly brutal and arguably inflammatory].)

3 Several cases have adopted the Coleman test in evaluating the denial of a
4 motion to sever. For example, in Verzi v. Superior Court (1986) 183 Cal.App.3d
5 382, the Fourth District Court of Appeal held charges of rape and burglary of two
6 victims and rape, forcible oral copulation, and burglary of another victim were
7 properly joined. The court reasoned the evidence in the two cases had sufficient
8 commonality to permit cross-admissibility, the charges were not such that they
9 were likely to inflame the jury, the cases were of relatively equal strength and did
10 not involve a danger of "spillover" effect, and no charge involved the death
11 penalty. Thus, severance was not justified in this case. (Id., at pp. 388-389; see
12 also Ruiz, supra, at pp. 606-607; Frank, supra, at p. 641.)

13 In Newman v. Superior Court (1986) 179 Cal.App.3d 377, the court found
14 severance was not required in the joinder of two rape charges, in spite of the fact
15 the evidence was not cross-admissible. The court determined the facts of the
16 cases were not difficult, the fact that the evidence was not duplicative lessened
17 the danger that the jury might aggregate the evidence, and defendant's argument
18 that joinder would prevent him from testifying as to one incident without testifying
19 as to both was speculative at best. (Id. at pp. 383-384.)

20 In People v. Jackson (1985) 164 Cal.App.3d 224 the court found that it was
21 proper to deny the severance of 26 counts ranging from rape, oral copulation,
22 robbery and use of a deadly weapon from eight separate events. The defense to
23 three of the events was consent and five of the events was misidentification.

24 Under pre-Proposition 115 law, any inference of prejudice from joinder of
25 charges is ordinarily dispelled, where evidence in each case is shown to be
26 cross-admissible in the other. (People v. Sully (1991) 53 Cal.3d 1195, cert.
27 denied, 112 S.Ct. 1494.) However, cross-admissibility is not necessary for
28

joinder, after passage of Proposition 115.² Under Proposition 115, the California Constitution is not to be construed to prohibit joinder as authorized by statute. (See Tapia v. Superior Court (1991) 53 Cal.3d 282.)

Proposition 115 effectively abrogates the rule established by the Supreme Court in Williams. The Court in Williams held examination of the cross-admissibility of evidence is the first step in review of a motion to sever. (Williams, supra, at p. 448.) Proposition 115 codifies the rule laid down in later cases that "cross-admissibility is only one of the factors to be considered." (Frank v. Superior Court (1989) 48 Cal.3d 641; accord People v. Miller (1990) 50 Cal.3d 954, 987, cert. denied, 111 S.Ct. 713; People v. Marquez (1992) 1 Cal.4th 553, 572; People v. Mason (1991) 52 Cal.3d 909, cert. denied, 112 S.Ct. 628; People v. Price (1991) 1 Cal.4th 324, cert. denied, 113 S.Ct. 152 [pre-Proposition 115 cases].)

DISCUSSION

THE FACTS OF THE PRESENT CASES JUSTIFY THEIR JOINDER

Using the factors set out by Williams and subsequent case law, the facts of these cases clearly justify their joinder. Since all five defendants are charged with identical offenses and the crime was a single occurrence where all five were involved and present all of the prongs of the Williams case are met.

²See People v. Armstrong (1992) 8 Cal.App.4th 1060. Proposition 115, the "Crime Victim's Justice Reform Initiative," added Penal Code section 954.1, which provides:

"In cases in which two or more different offenses of the same class of crimes or offenses have been charged together in the same accusatory pleading, or where two or more accusatory pleadings charging offenses of the same class of crimes or offenses have been consolidated, evidence concerning one offense or offenses need not be admissible as to the other offense or offenses before the jointly charged offense may be tried together before the same trier of fact." (Penal Code 954.1.)

CONCLUSION

The People believe there is sufficient evidence and legal basis to consolidate the above listed cases, and respectfully request the court grant the People's motion.

DATED: November 5, 2004

Respectfully submitted,

TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF
CALIFORNIA

BY:



MARK GELLER
DEPUTY DISTRICT ATTORNEY

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|-------------------|
| 1. Docket Date Range | : Date filter |
| 2. Sequence Number Range | : Sequence filter |
| 3. Docket Category | : Category filter |

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
11/5/2004	1	Hearing held on 11/05/2004 at 08:30:00 AM in Department C55 for Pre Trial.
	2	Officiating Judge: Dan Mc Nerney, Judge
	3	Clerk: C. A. Anderson
	4	Bailiff: Present
	5	Court Reporter: Lisa Wood
	6	Elliott Guterson, Retained Attorney, makes a special appearance for Frank DiGiacomo. Defendant present.
	7	Wendy Brough made a special appearance for District Attorney Mark Geller.
	8	Pre Trial continued to 11/16/2004 at 08:30 AM in Department C55 at request of Defense.
	9	Motion set on 11/16/2004 at 08:30 AM in Department C55.
	10	Preliminary Hearing for 12/03/2004 08:30 AM in C55 to remain.
	11	Defendant ordered to appear.
	12	Current bail set for defendant to remain.
	13	Defendant remanded to the custody of the Sheriff.
	14	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
11/16/2004	1	Hearing held on 11/16/2004 at 08:30:00 AM in Department C55 for Pre Trial.
	2	Hearing held on 11/16/2004 at 08:30:00 AM in Department C55 for Motion.
	3	Officiating Judge: Dan Mc Nerney, Judge
	4	Clerk: D. Brown
	5	Bailiff: Present
	6	Court Reporter: Lisa Wood
	7	Defendant present in Court with counsel DiGiacomo, Frank, Retained Attorney.
	8	Wendy Brough made a special appearance for District Attorney Mark Geller.
	9	**Special Circumstances case**.
	10	Pre Trial continued to 11/19/2004 at 08:30 AM in Department C55 at request of Defense.
	11	This defendant only.
	12	Preliminary Hearing for 12/03/2004 08:30 AM in C55 to remain.
	13	Defendant ordered to return.
	14	Current bail set for defendant to remain.
	15	Defendant remanded to the custody of the Sheriff.
	16	Notice to Sheriff issued.
	17	Minutes entered by C. Anderson.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|-------------------|
| 1. Docket Date Range | : Date filter |
| 2. Sequence Number Range | : Sequence filter |
| 3. Docket Category | : Category filter |

Docket Dt Seq Text

11/19/2004	1	Hearing held on 11/19/2004 at 08:30:00 AM in Department C55 for Pre Trial.
	2	Officiating Judge: John Conley, Judge
	3	Clerk: D. Brown
	4	Bailiff: Present
	5	Court Reporter: Jeanette Gillick
	6	Defendant not present in court.
	7	Defendant not transported.
	8	Elliott Guterson, Retained Attorney, makes a special appearance for Frank DiGiacomo. Defendant not present.
	9	People represented by Wendy Brough, Deputy District Attorney, present.
	10	Motion by People to Consolidate.
	11	Motion denied.
	12	Preliminary Hearing for 12/03/2004 08:30 AM in C55 to remain.
	13	Current bail set for defendant to remain.
	14	Defendant remanded to the custody of the Sheriff.
	15	Notice to Sheriff issued.
	16	Minutes entered by R. Burns.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
12/3/2004	1	Hearing held on 12/03/2004 at 08:30:00 AM in Department C55 for Preliminary Hearing.
	2	Hearing held on 12/03/2004 at 08:30:00 AM in Department C55 for Motion Continuance.
	3	Officiating Judge: Cheryl L. Leininger, Commissioner
	4	Clerk: D. Brown
	5	Bailiff: Present
	6	Court Reporter: Lisa Wood
	7	Kenneth Reed makes a special appearance for Frank DiGiacomo, Retained Attorney. Defendant present.
	8	Wendy Brough made a special appearance for District Attorney Mark Geller.
	9	Preliminary Hearing set on 02/04/2005 at 08:30 AM in Department C55.
	10	Court finds the defendant understandingly, knowingly, and voluntarily waives the right to a Preliminary Hearing within 60 calendar days of arraignment.
	11	Defendant agrees 02/04/2005 is within a reasonable time for Preliminary Hearing.
	12	Current bail set for defendant to remain.
	13	Defendant remanded to the custody of the Sheriff.
	14	Notice to Sheriff issued.
	15	Minutes entered by C. Anderson.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|-------------------|
| 1. Docket Date Range | : Date filter |
| 2. Sequence Number Range | : Sequence filter |
| 3. Docket Category | : Category filter |

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
2/4/2005	1	Hearing held on 02/04/2005 at 08:30:00 AM in Department C55 for Preliminary Hearing.
	2	Officiating Judge: Cheryl L. Leininger, Commissioner
	3	Clerk: D. Brown
	4	Bailiff: Present
	5	Court Reporter: Lisa Wood
	6	Defendant present in Court with counsel Digiacomio, Frank, Retained Attorney.
	7	People represented by Wendy Brough, Deputy District Attorney, present.
	8	Special Circumstances case.
	9	People's motion to consolidate case(s) 04CF2720 into this case for all purposes is granted. Original complaints/informations and all supporting documents are incorporated into this case.
	10	Preliminary Hearing continued to 04/25/2005 at 08:30 AM in Department C55 at request of Defense.
	11	Defendant agrees 04/25/2005 is within a reasonable period of time.
	12	Counsel joins in waivers.
	13	Defendant ordered to appear.
	14	Current bail set for defendant to remain.
	15	Defendant remanded to the custody of the Sheriff.
	16	Notice to Sheriff issued.
	17	Minutes entered by C. Anderson.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

COUNTY OF ORANGE, CENTRAL JUSTICE CENTER MAY 06 2005

ORIGINAL

BY: T. GARCIA

DEFENDANTS.

) TRANSCRIPT OF
)
) PRELIMINARY EXAMINATION
)
) HON. BYRON K. MC MILLAN
)
) JUDGE PRESIDING
)
) CASE NO. 04CF2780

APRIL 25, 2005
VOLUME 1 OF 2

HEIDI K. STEWART, OFFICIAL COURT REPORTER, C.S.R.
NO. 6058.

6/14

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1 SANTA ANA, CALIFORNIA - MONDAY, APRIL 25, 2005

2 MORNING SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
4 COURT:)

5 THE COURT: FRANCISCO LOPEZ.

6 MR. HARLEY: HE IS SECOND FROM THE LEFT. ROB
7 HARLEY APPEARING FOR HIM.

8 THE COURT: ISREAL LOPEZ.

9 MR. LAZ: GOOD MORNING, CREIGHTON LAZ FOR ISREAL
10 LOPEZ. HE IS TO YOUR LEFT IN THE JURY BOX.

11 THE COURT: ANDRES QUINONEZ REYES?

12 MR. DI GIACOMO: FRANK DI GIACOMO. I'M HIS
13 ATTORNEY.

14 THE COURT: THANK YOU.

15 SEVERO DE LA RIVA?

16 MR. BAILEY: JULIAN BAILEY REPRESENTING HIM. HE IS
17 ON THE END.

18 THE COURT: AND LOUIS PEREZ?

19 MR. REED: KENNETH REED ON BEHALF OF HIM. HE IS IN
20 THE MIDDLE IN THE ORANGE.

21 THE COURT: OKAY. I TAKE IT EVERYBODY IS READY?

22 MR. GELLER: MARK GELLER, DEPUTY D.A., APPEARING
23 FOR THE PEOPLE.

24 THE COURT: THANK YOU. LET IT HAPPEN.

25 MR. GELLER: YOUR HONOR, WITH THE COURT'S
26 PERMISSION, WE'D LIKE TO NAME INVESTIGATOR HERTER AS OUR

1 INVESTIGATING OFFICER. ASK THAT HE REMAIN IN THE
2 COURTROOM. I DON'T KNOW, THERE'S A NUMBER OF PEOPLE IN THE
3 COURTROOM. I WOULD MAKE A MOTION TO EXCLUDE ANY POTENTIAL
4 WITNESSES.

5 THE COURT: OKAY. ANYBODY EXPECTING TO TESTIFY IN
6 THE CASE IS ORDERED EXCLUDED, EXCEPT WHEN YOU'RE ON THE
7 STAND. AND COUNSEL CAN POLICE IT, PLEASE.

8 MR. GELLER: WITH THE COURT'S PERMISSION, THE
9 PEOPLE CALL INVESTIGATOR DAVE RONDOU.

10 THE BAILIFF: FACE THE CLERK AND RAISE YOUR RIGHT
11 HAND TO BE SWORN.

12 #DAVID RONDOU,
13 CALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN
14 FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

15 THE BAILIFF: PLEASE STATE YOUR ENTIRE NAME, AND
16 SPELL YOUR LAST NAME FOR THE RECORD.

17 THE WITNESS: DAVID RONDOU, R-O-N-D-O-U.

18 THE BAILIFF: THANK YOU.

19 #DIRECT EXAMINATION

20 BY MR. GELLER: Q GOOD MORNING, INVESTIGATOR
21 RONDOU. HOW LONG HAVE YOU BEEN A SANTA ANA POLICE OFFICER?

22 A I'VE BEEN A POLICE OFFICER FOR ABOUT 12
23 YEARS.

24 Q HOW LONG IN SANTA ANA?

25 A ABOUT FIVE YEARS.

26 Q PRESENTLY ASSIGNED TO THE GANG UNIT?

1 A GANG HOMICIDE.

2 Q WHAT IS YOUR -- BRIEFLY, WHAT DO YOU DO?

3 A INVESTIGATE GANG-RELATED HOMICIDES.

4 Q WERE YOU WORKING ON SEPTEMBER 9TH OF 2004?

5 A I WAS.

6 Q AS A GANG HOMICIDE INVESTIGATOR?

7 A YES.

8 Q WERE YOU INVOLVED IN THE INVESTIGATION OF,

9 ASSOCIATED WITH THE CASE THAT'S BEFORE THIS COURT?

10 A YES.

11 Q DID YOU HAVE AN OPPORTUNITY TO INTERVIEW A

12 COUPLE WITNESSES?

13 A YES.

14 Q DID YOU SPEAK WITH SOMEBODY BY THE NAME OF

15 LOUIS PEREZ?

16 A I DID.

17 Q IS THAT PERSON IN COURT RIGHT NOW?

18 A HE IS.

19 Q COULD YOU POINT HIM OUT, PLEASE?

20 A HE IS THE MIDDLE ORANGE JUMPSUIT.

21 MR. GELLER: IT WOULD BE THE SECOND ONE.

22 THE COURT: SECOND ONE TO MY LEFT, SITTING IN THE

23 MIDDLE -- THERE'S THREE ORANGE JUMPSUITS, HE IS IN THE

24 MIDDLE.

25 MR. GELLER: INDICATING MR. PEREZ, YOUR HONOR.

26 THE COURT: YES.

1 BY MR. GELLER: Q WHERE DID THAT INTERVIEW TAKE
2 PLACE?

3 A AT THE SANTA ANA POLICE DEPARTMENT.

4 Q AT THE TIME PRIOR TO SPEAKING WITH MR. PEREZ
5 ABOUT THIS CASE, DID YOU HAVE AN OPPORTUNITY TO MIRANDIZE
6 HIM?

7 A YES.

8 Q AND DID YOU DO THAT?

9 A YES.

10 Q AND HOW DID YOU DO THAT?

11 A HE WAS READ THE SANTA ANA POLICE DEPARTMENT
12 MIRANDA ADVISEMENT, WHICH HE STATED HE UNDERSTOOD AND
13 ULTIMATELY SIGNED.

14 Q AND THEN DID YOU SPEAK WITH MR. PEREZ?

15 A YES.

16 Q DID YOU TALK TO HIM FIRST ABOUT HIS
17 INVOLVEMENT WITH THE F-TROOP STREET GANG?

18 A YES.

19 Q WHAT DID YOU TALK TO HIM ABOUT?

20 A HIS INVOLVEMENT WITH THE F-TROOP STREET
21 GANG.

22 Q SPECIFICALLY, PLEASE, SIR.

23 A HE BASICALLY TOLD US THAT HE HAD BEEN
24 KICKING BACK WITH F-TROOP, THE ARTESIA FACTION OF F-TROOP
25 FOR ABOUT A YEAR, AND THAT HE HAD A NICKNAME OF LITTLE
26 SOLDIER.

1 Q DID HE INDICATE TO YOU THAT HE WAS
2 INVOLVED -- OR I TAKE THAT BACK.

3 DID HE TALK TO YOU ABOUT HIS PRESENCE AT EL
4 SALVADOR PARK PRIOR TO A SHOOTING?

5 A YES.

6 Q AND DID HE TELL YOU WHAT TIME HE GOT TO THE
7 PARK?

8 A I KNOW IT WAS A LITTLE BIT BEFORE THE
9 SHOOTING. AND I DON'T REMEMBER IF HE TOLD US THE EXACT
10 TIME OR NOT.

11 Q DID HE TELL YOU WHO HE WAS IN THE PARK WITH?

12 A YES.

13 Q DID HE TELL YOU WHO HE WAS IN THE PARK WITH?

14 A HE SAID HE WAS WITH BAM BAM, CHEWY, BOUNCER,
15 AND ANDY, I BELIEVE THAT'S IT. AND HIMSELF.

16 Q OKAY. DID YOU GO THROUGH ANY SORT OF
17 PHOTOGRAPHIC PROCESS WITH MR. PEREZ SO THAT YOU COULD BE AT
18 LEAST CONFIRMED IN YOUR OWN MIND WHO HE WAS TALKING ABOUT
19 WHEN HE SAID HE WAS PRESENT AT THE PARK WITH THESE
20 INDIVIDUALS?

21 A YES.

22 Q WHAT DID YOU DO?

23 A WE SHOWED HIM PHOTOGRAPHS.

24 Q OKAY. DID YOU SHOW HIM A PHOTOGRAPH OF ANDY
25 REYES?

26 A YES.

1 Q AND WHAT DID MR. PEREZ DO, IF ANYTHING, WHEN
2 HE WAS SHOWN THE PHOTO OF ANDY REYES?
3 A THAT WAS ANDY, AND HE WAS IN THE PARK.
4 Q DID HE LIKE MENTION HIM BY NAME, OR BY
5 MONIKER?
6 A I BELIEVE HE WAS CALLING ANDY REYES. ANDY.
7 Q IS MR. REYES PRESENT IN COURT?
8 A YES, SIR.
9 Q WHICH ONE IS HE?
10 A THE THIRD JUMPSUIT TO MY LEFT, FAR LEFT
11 ORANGE JUMPSUIT.
12 Q THE ONE IN THE MIDDLE OF THE FIVE?
13 A THE ONE IN THE MIDDLE OF THE FIVE.
14 Q THANK YOU. DID YOU TALK TO MR. PEREZ AS FAR
15 AS IDENTIFYING WHO ISREAL LOPEZ WAS?
16 A YES.
17 Q THE SAME PROCESS YOU SHOWED HIM A PHOTO?
18 A CORRECT.
19 Q AND IS MR. LOPEZ, AT LEAST THE PERSON THAT
20 YOU SHOWED -- WELL, IS MR. LOPEZ HERE IN COURT, ISREAL
21 LOPEZ?
22 A YES.
23 Q WHO IS HE?
24 A THE FAR LEFT IN THE DIFFERENT COLORED ORANGE
25 JUMPSUIT.
26 Q CLOSEST TO YOU?

1 A CLOSEST TO ME WITH THE GLASSES.

2 Q DID YOU TALK TO HIM -- OKAY, YOU MENTIONED
3 JESUS LOPEZ. JESUS LOPEZ IS NOT PRESENT IN THE COURT; IS
4 THAT CORRECT?

5 A HE IS NOT.

6 Q BUT DID YOU IDENTIFY JESUS LOPEZ
7 PHOTOGRAPHICALLY WITH MR. PEREZ?

8 A YES.

9 Q AND ALSO SEVERO DE LA RIVA?

10 A CORRECT.

11 Q DID YOU GO THROUGH THE IDENTIFICATION
12 PROCESS WITH RESPECT TO MR. DE LA RIVA?

13 A YES.

14 Q THE SAME PROCEDURE?

15 A THE SAME PROCESS.

16 Q AND IS MR. DE LA RIVA HERE IN COURT?

17 A YES.

18 Q WHO IS HE?

19 A FAR, FARTHEST FROM ME, ORANGE JUMPSUIT.

20 Q VERY WELL. AND THEN FINALLY FRANK LOPEZ,
21 DID YOU DO THE SAME PHOTOGRAPHIC PROCESS WITH MR. LOPEZ?

22 A YES.

23 Q AND WHO IS HE?

24 A HE IS SECOND FROM MY LEFT, DIFFERENT COLORED
25 ORANGE JUMPSUIT.

26 Q DID MR. PEREZ INDICATE TO YOU WHETHER OR NOT

1 HE KNEW ALL OF THESE INDIVIDUALS, KNOWN THEM FOR AWHILE OR
2 HOW DID THAT COME --

3 A YEAH, HE KNEW THEM ALL.

4 Q DID HE, MR. PEREZ, CONSIDER HIMSELF FRIENDS
5 WITH THESE INDIVIDUALS?

6 A YES.

7 Q DID MR. LOUIS PEREZ INDICATE TO YOU HOW LONG
8 HE WAS AT EL SALVADOR PARK PRIOR TO HE AND OTHERS LEAVING?

9 A AGAIN, I KNOW WE TALKED TIME. I DON'T
10 RECALL OFF THE TOP OF MY HEAD EXACTLY HOW LONG HE SAID THEY
11 WERE AT THE PARK.

12 Q DID HE TELL YOU WHETHER OR NOT HE SAW ANY
13 GUNS AT THE PARK?

14 A YES.

15 Q WHAT DID HE TELL YOU?

16 A HE SAID THAT FRANK LOPEZ HAD A GUN IN HIS
17 WAISTBAND. HE DESCRIBED IT AS A BLACK REVOLVER, AND THAT
18 HE SHOWED IT TO THE GROUP. THAT THE WHOLE GROUP SAW THE
19 GUN.

20 Q OKAY. DID MR. LOUIS PEREZ INDICATE TO YOU
21 THAT HE WAS PRESENT WHEN MR. PEREZ WAS, I GUESS, SHOWING
22 THE GUN AROUND?

23 A YES.

24 Q DID MR. PEREZ, LOUIS PEREZ, INDICATE TO YOU
25 WHERE THE GROUP WENT AFTER THEY LEFT THE PARK?

26 A HE SAID THAT THEY WERE GOING TO GO DOWN AND

1 VISIT CROW, WHO IS ANOTHER F-TROOP GANG MEMBER. AND THEY
2 GOT ON BIKES AND STARTED RIDING DOWN THERE.

3 Q DID MR. LOUIS PEREZ INDICATE TO YOU WHAT, IF
4 ANYTHING, HAPPENED IMMEDIATELY PRIOR TO A SHOOTING, IF A
5 SHOOTING, IN FACT, OCCURRED?

6 A YES.

7 Q AND WHAT DID HE TELL YOU?

8 A HE SAID THAT THEY WENT TO CROW'S HOUSE.
9 CROW WASN'T HOME. THAT'S RUBIN SALGADO. THEY BEGAN RIDING
10 ON SULLIVAN STREET BACK NORTHBOUND. HE SAID HE SAW A GUY
11 WITH TATS ON HIS NECK DRIVING IN A CAR SOUTHBOUND ON
12 SULLIVAN. HE DESCRIBED THAT HE WAS ON THE CORNER OF
13 SULLIVAN AND WILLITS. IT WAS IN THIS INTERSECTION. HE
14 DESCRIBED THAT FRANK LOPEZ WAS STRADDLING HIS BIKE WITHIN
15 THE CROSSWALK, WHICH WOULD RUN EAST AND WEST ACROSS
16 SULLIVAN. THE WILLITS STREET CROSSWALK. STRADDLED HIS
17 BIKE, PULLED OUT THE GUN, AND FIRED AT THE CAR AS THE CAR
18 WAS GOING THROUGH THE INTERSECTION.

19 Q DID LOUIS PEREZ INDICATE TO YOU WHETHER OR
20 NOT MR. FRANK LOPEZ SAID ANYTHING TO THE INDIVIDUAL IN THE
21 CAR PRIOR TO THE SHOOTING?

22 A HE HEARD FRANK HIT THE GUY UP AS TO WHERE HE
23 WAS FROM. HE SAID THAT THE GUY IN THE CAR WHO WAS BY
24 HIMSELF RESPONDED, BUT HE COULDN'T TELL WHAT THE GUY SAID.
25 AND THAT'S WHEN THE SHOOTING HAPPENED.

26 Q DID LOUIS PEREZ INDICATE TO YOU HOW FAR HE

1 WAS FROM THE ACTUAL -- FROM FRANK LOPEZ AT THE TIME OF THE
2 SHOOTING?

3 A I BELIEVE HE SAID HE WAS ABOUT 20 FEET AWAY.

4 Q AND DID MR. PEREZ INDICATE TO YOU -- THE
5 ACTUAL LOCATION OF HIS OTHER FRIENDS THAT WE'VE ALREADY
6 SPOKE OF IN RELATIONSHIP TO FRANK LOPEZ AT THE TIME OF THE
7 SHOOTING?

8 A YES.

9 Q WHAT DID HE TELL YOU?

10 A HE DESCRIBED THAT BAM BAM, OR ISREAL LOPEZ,
11 WAS ON THE SAME SIDE OF THE STREET WITH HIM. I BELIEVE HE
12 WAS ON THE -- THAT LOUIS PEREZ SAID HE WAS ON THE NORTHWEST
13 CORNER OF WILLITS AND SULLIVAN. HE DESCRIBED BAM BAM, OR
14 ISREAL, AS BEING JUST A LITTLE BIT NORTH OF HIM, ON THE
15 SAME SIDE OF THE STREET. HE DESCRIBED ANDY REYES AS BEING
16 CLOSEST TO THE VICTIM CAR AT THE TIME OF THE SHOOTING. AND
17 HE WAS ON THE SOUTHEAST CORNER OF WILLITS AND SULLIVAN.
18 AND THAT -- I DON'T RECALL WHERE HE SAID BOUNCER WAS AT
19 THIS POINT, OR CHEWY. I BELIEVE THEY WERE LINED UP DOWN
20 THE STREET, BUT I DON'T REMEMBER OFF THE TOP OF MY HEAD
21 WHERE THEY WERE.

22 Q OKAY. AND DID HE INDICATE TO YOU THAT THOSE
23 TWO OTHER INDIVIDUALS WERE ALSO PRESENT AT THE -- AT THAT
24 SCENE?

25 A YES.

26 Q DID HE INDICATE TO YOU WHETHER OR NOT THEY

1 WERE ALL ON BICYCLES, OR WERE THEY WALKING, WERE THEY IN A
2 VEHICLE AT THE TIME?

3 A ALL ON BIKES. NO ONE WAS RIDING DOUBLE.
4 EVERYBODY HAD THEIR OWN BIKE.

5 Q AND DID LOUIS PEREZ INDICATE TO YOU THAT HE
6 WAS, HIMSELF, AN F-TROOP GANG MEMBER?

7 A YES.

8 Q DID HE INDICATE TO YOU WHETHER THE OTHER
9 INDIVIDUALS THAT YOU'VE ALREADY TALKED ABOUT WERE F-TROOP
10 GANG MEMBERS?

11 A YES. THAT THEY WERE.

12 MR. GELLER: ALL RIGHT. THANK YOU. I HAVE NOTHING
13 FURTHER.

14 ACTUALLY I DO, I'M SORRY, YOUR HONOR.

15 BY MR. GELLER: Q THE SCENE OF THIS CRIME
16 OCCURRED IN ORANGE COUNTY?

17 A IN THE CITY OF SANTA ANA, IN THE COUNTY OF
18 ORANGE.

19 MR. GELLER: THANK YOU. NOTHING FURTHER.

20 THE COURT: WHO IS UP?

21 MR. BAILEY: WE SORT OF DECIDED WE'D LET MR. LAZ GO
22 FIRST BECAUSE HE MIGHT ASK ALL THE QUESTIONS WE WERE GOING
23 TO ASK AND THEN SOME. IF THAT'S ALL RIGHT.

24 THE COURT: I'M SURE HE WILL.

25 #CROSS-EXAMINATION

26 BY MR. LAZ: Q WHO WAS WITH YOU WHEN YOU DID THE

1 INTERVIEW OF FRANK LOPEZ -- OR MR. PEREZ?

2 A DETECTIVE ZEPEDA.

3 Q ANYONE ELSE?

4 A NO.

5 Q WAS THERE ANY CONVERSATION ABOUT WHAT
6 HAPPENED THAT NIGHT BEFORE YOU WENT ON TAPE?

7 A NO, NOT THAT I RECALL.

8 Q ANY CONVERSATION ABOUT WHAT HAPPENED THAT
9 NIGHT AFTER YOU WENT OFF TAPE?

10 A NO.

11 Q AND WAS THIS THE ONLY INTERVIEW?

12 A I BELIEVE SO.

13 Q DID MR. PEREZ SAY HOW MANY PEOPLE WERE
14 NORTHBOUND SPECIFICALLY?

15 A I DON'T KNOW IF WE TALKED NUMBERS. HE WAS
16 TALKING NAMES. SO, HE GAVE NAMES OF WHO WAS ALL THERE.

17 Q DID HE INDICATE WHETHER OR NOT ANYONE LEFT
18 THAT GROUP OR JOINED THAT GROUP?

19 A ON BIKES?

20 Q YES.

21 A I DON'T BELIEVE SO.

22 Q DO YOU KNOW WHERE CROW LIVES?

23 A 2302 WEST MARK.

24 Q HOW FAR AWAY FROM CROW'S WERE THEY WHEN THE
25 SHOOTING TOOK PLACE?

26 A IN FEET? OR I'M NOT REAL GOOD AT FEET,

1 MR. LAZ.

2 Q. WHATEVER YOU FEEL COMFORTABLE.

3 A CROW'S HOUSE IS EAST OF THEM, MAYBE A BLOCK
4 OR TWO.

5 Q AND WERE THEY TRAVELING IN THAT DIRECTION?

6 A NO, THEY WERE GOING -- THEY WERE GOING
7 NORTH. SO, IF THEY WOULD HAVE COME OFF OF MARK, WHAT WOULD
8 BE WESTBOUND ON SULLIVAN, AND THEN START NORTHBOUND.

9 Q IS THIS A LOGICAL PATH TO TAKE TO HIS HOUSE,
10 THE ONE THEY WERE ON?

11 MR. GELLER: OBJECTION. VAGUE.

12 BY MR. LAZ: Q WELL, THERE ARE DIFFERENT WAYS TO
13 GET TO CROW'S HOUSE, RIGHT?

14 A YES.

15 Q IS THIS ONE OF THE WAYS TO GET TO CROW'S
16 HOUSE?

17 A I BELIEVE THEY WERE LEAVING CROW'S. THEY
18 HAD STOPPED, AND HE WASN'T HOME. AND THEY WERE HEADING
19 BACK NORTH, WHICH WOULD BE LOGICAL TO HEAD BACK TO F-TROOP
20 TERRITORY.

21 Q DID THEY SAY SPECIFICALLY WHERE THEY WERE
22 GOING ON THE WAY BACK?

23 A I DON'T KNOW ABOUT THEM. IF WE'RE JUST
24 TALKING ABOUT MR. PEREZ, I DON'T RECALL IF HE SAID WHERE
25 HE -- THEY WERE HEADING OR NOT.

26 Q YOU HAD MR. PEREZ DO A DIAGRAM; IS THAT

1 CORRECT?

2 A I BELIEVE DETECTIVE ZEPEDA DREW OUT THE
3 CRIME SCENE, AND THEN MR. PEREZ USED IT AS REFERENCE TO
4 WHERE PEOPLE WERE.

5 Q AND YOU WERE THERE WHEN HE DID THAT?

6 A YES.

7 MR. LAZ: COULD I APPROACH?

8 THE COURT: SURE.

9 BY MR. LAZ: Q I'M GOING TO SHOW YOU WHAT LOOKS
10 LIKE A MAP, AND IT HAS 208 ON THE BOTTOM RIGHT BATES
11 NUMBER. IF YOU COULD TAKE A LOOK AT THAT.

12 A IT'S GOT MY PARTNER'S INITIALS AT THE
13 BOTTOM. I THINK HE DREW IT AND THEN MR. PEREZ UTILIZED IT
14 TO DESCRIBE WHERE EVERYBODY WAS.

15 Q IN LOOKING AT THAT PARTICULAR DIAGRAM, WHICH
16 I GUESS I WOULD ASK TO BE MARKED.

17 THE COURT: DEFENDANT'S A.

18 MR. LAZ: YEAH, THANK YOU, YOUR HONOR. FOR
19 IDENTIFICATION.

20 (WHEREUPON, DEFENDANT'S EXHIBIT NO. A,
21 DIAGRAM, WAS MARKED FOR IDENTIFICATION.)

22 BY MR. LAZ: Q IT SHOWS THE NAME SULLIVAN WITH A
23 RECTANGLE NEXT TO IT; IS THAT THE PARK?

24 A YES.

25 Q CAN YOU TELL ME ON THE COPY WHERE MR. PEREZ
26 SAID THAT MR. LOPEZ WAS, ISREAL LOPEZ?

1 A YOU SEE WHERE THE "B" IS, THERE'S AN "X" ON
2 THE WEST SIDE OF SULLIVAN JUST NORTH OF WILLITS. THAT'S
3 WHERE HE WAS. AND THE "B" FOR BAM BAM IS WHERE BAM BAM
4 WAS, OR ISREAL LOPEZ AT THE TIME OF THE SHOOTING.

5 Q AND THERE'S AN "F" IN THE MIDDLE OF THE
6 INTERSECTION?

7 A "F" FOR FRANK LOPEZ, AND THEN "A" ON THE
8 NORTH -- OR THE SOUTHEAST CORNER FOR ANDY REYES. AND I
9 DON'T KNOW WHAT THAT IS THERE. I CAN'T TELL WHAT THAT
10 INITIAL IS.

11 Q AND YOU'RE TALKING --

12 A THE ONE NEXT TO THE SCHOOL. SOMEBODY ELSE'S
13 INITIAL.

14 Q THANK YOU. WAS THERE ANY CONVERSATION ABOUT
15 WHERE MR. LOPEZ WAS WHEN MR. -- WELL, WHEN ISREAL, WHERE
16 ISREAL LOPEZ WAS WHEN FRANK LOPEZ TALKED TO THE PERSON IN
17 THE CAR?

18 A I DON'T KNOW SPECIFIC. WE TALKED ABOUT
19 WHERE EVERYBODY WAS. AND, AGAIN, HE PUT A "B" ON THERE --
20 THE TALKING IN THE CAR AND THE SHOOTING ALL HAPPENED WITHIN
21 SECONDS. SO, I'M ASSUMING THAT ISREAL LOPEZ WAS PRETTY
22 CLOSE TO WHERE LOUIS PEREZ SAID HE WAS AT THE TIME OF THE
23 SHOOTING.

24 Q BUT THERE WASN'T A SPECIFIC BREAKDOWN
25 BETWEEN LOCATIONS AT THE TIME OF THE TALK AND AT THE TIME
26 THE SHOT WAS FIRED?

1 A THERE MAY HAVE BEEN. I DON'T RECALL AT THE
2 TIME. BUT THE HIT-UP AND THE SHOOTING HAPPENED WITHIN
3 SECONDS, THE WAY IT WAS DESCRIBED. SO, HE COULDN'T HAVE
4 BEEN FAR FROM WHERE HE PUT HIM AT THE TIME OF THE SHOOTING.

5 Q WHAT DIRECTION DOES SULLIVAN STREET RUN?

6 A NORTH AND SOUTH.

7 Q AND THE SCHOOL IS ON WHAT THEN, THE
8 NORTHEAST CORNER?

9 A YES, SIR.

10 Q AND THE PEOPLE ON THE BIKES ARE NORTHBOUND?

11 A THEY'RE HEADING NORTHBOUND.

12 Q AND THE CAR WAS HEADING SOUTHBOUND?

13 A YES.

14 Q SO, MR. LOPEZ, ISREAL LOPEZ HAS GONE THROUGH
15 THE INTERSECTION, PAST THE INTERSECTION AND IS GENERALLY
16 TRAVELING AWAY FROM THE INTERSECTION?

17 A CORRECT.

18 Q AND THE CAR IS GOING SOUTH THROUGH THE
19 INTERSECTION, AND ALSO HEADING AWAY FROM THE INTERSECTION?

20 A HE IS IN THE INTERSECTION AT THE TIME OF THE
21 SHOOTING. AND I THINK HE IS JUST ON THE SOUTH PORTION OF
22 THE INTERSECTION WHEN THE SHOOTING HAPPENS. BUT HE IS
23 HEADING OUT OF THE INTERSECTION.

24 Q IS THIS A GANG TERRITORY, THIS
25 INTERSECTION?

26 A IT'S -- THERE'S A LOT OF GANGS THAT ARE

1 RIGHT THERE. I THINK ANYBODY WITHIN THAT AREA COULD
2 PROBABLY -- MOST OF THOSE GANGS WOULD PROBABLY WANT TO SAY
3 IT'S THEIR'S.

4 Q WHAT GANGS THAT ARE -- WOULD THAT BE?

5 MR. GELLER: OBJECTION. BEYOND THE SCOPE OF DIRECT
6 EXAMINATION.

7 THE COURT: SUSTAINED.

8 MR. LAZ: NO FURTHER QUESTIONS.

9 THE COURT: ANYONE ELSE?

10 MR. DI GIACOMO: I HAVE NO QUESTIONS. MY NAME IS
11 FRANK DI GIACOMO.

12 MR. BAILEY: NO QUESTIONS.

13 MR. HARLEY: I HAVE A COUPLE.

14 THE COURT: DO IT.

15 MR. HARLEY: THANKS, YOUR HONOR.

16 #CROSS-EXAMINATION

17 BY MR. HARLEY: Q ON THURSDAY, SEPTEMBER 9TH,
18 2004, LOUIS PEREZ ENDED UP IN INTERVIEW ROOM NUMBER 6,
19 RIGHT?

20 A YES.

21 Q DO YOU KNOW HOW HE GOT THERE?

22 A WE DID A, WHEN I SAY "WE," MEMBERS OF OUR
23 DEPARTMENT AND SOME OTHER DEPARTMENTS DID A MULTI-HOUSE
24 SEARCH WARRANT. MR. PEREZ'S HOUSE WAS ONE OF THEM. HE WAS
25 LOCATED AT HIS HOUSE AND TRANSPORTED TO THE SANTA ANA
26 POLICE DEPARTMENT TO BE INTERVIEWED.

1 Q AND WAS THAT ON SEPTEMBER 9TH, 2004, OR WAS
2 THAT SOME EARLIER POINT IN TIME?

3 A NO, IT WAS THE SAME DAY.

4 Q DO YOU REMEMBER APPROXIMATELY WHAT TIME THIS
5 MULTI-HOME SEARCH WARRANT WAS EXECUTED?

6 A I BELIEVE SOMEWHERE AROUND 7:00 A.M.

7 Q SO YOUR KNOWLEDGE HE WAS IN CUSTODY FROM
8 7:00 A.M. UNTIL HE SHOWED UP IN YOUR HOUSE 0940; IS THAT
9 CORRECT?

10 A TILL WE INTERVIEWED HIM, YES, ROUGHLY.

11 Q WAS THIS THE ONLY PERSON THAT YOU
12 INTERVIEWED ON SEPTEMBER 9TH IN CONNECTION WITH THIS
13 PARTICULAR SHOOTING?

14 A ME PERSONALLY?

15 Q YES.

16 A NO.

17 Q SO WAS THIS THE FIRST PERSON YOU INTERVIEWED
18 THAT DAY?

19 A I BELIEVE SO.

20 Q NOW, HAD YOU EVER COME IN CONTACT WITH LOUIS
21 PEREZ PRIOR TO SEPTEMBER 9TH, 2004?

22 A YES.

23 Q AND HAD YOU ESTABLISHED SOME SORT OF
24 RELATIONSHIP PRIOR TO THAT DATE WITH LOUIS PEREZ?

25 MR. GELLER: OBJECTION. VAGUE.

26 THE WITNESS: I DIDN'T HAVE HIM OVER FOR DINNER,

1 BUT I KNEW WHO HE WAS.

2 BY MR. HARLEY: Q WELL, YOU SAID YOU HAD PRIOR
3 CONTACT. WHAT TYPE OF CONTACT?

4 A HE WAS SHOT A WEEK OR TWO PRIOR TO THE
5 HOMICIDE, AND I --

6 Q YOU SAY THE "HOMICIDE," YOU'RE TALKING ABOUT
7 THIS HOMICIDE?

8 A ABOUT THIS CASE HERE. I THINK IT WAS WITHIN
9 A WEEK OR TWO OF THIS CASE, AND I WAS AT HIS HOUSE AND
10 TALKED TO HIM ABOUT THAT.

11 Q ALL RIGHT. BUT THAT SHOOTING HAD NO
12 CONNECTION WITH THIS PARTICULAR HOMICIDE THAT WE'RE DEALING
13 WITH TODAY, CORRECT?

14 A I DON'T WANT TO GO THAT FAR, I DON'T KNOW.

15 Q WELL, DO YOU HAVE ANY INFORMATION SAYING IT
16 IS?

17 A NO.

18 Q NOW, OTHER THAN THAT CONTACT YOU HAD WITH
19 LOUIS PEREZ ONE WEEK BEFORE THE SHOOTING IN THIS CASE,
20 APPROXIMATELY ONE WEEK?

21 A THANK YOU.

22 Q ANY OTHER CONTACT YOU HAD WITH HIM?

23 A NOT THAT I RECALL.

24 Q YOUR CONTACT WITH HIM ON THAT OCCASION WAS
25 TREATING HIM AS A VICTIM, AS OPPOSED TO A SUSPECT?

26 A CORRECT.

1 Q AND HOW LONG DID THIS INTERVIEW LAST?

2 A WHICH ONE?

3 Q I'M SORRY, I'M TALKING ABOUT THE INTERVIEW
4 YOU HAD ON THURSDAY, SEPTEMBER 9TH, AT ABOUT 0940 HOURS.

5 A IF I CAN REFER. I DON'T KNOW IF ZEPEDA
6 WROTE AN ENDING TIME OR NOT. THERE'S NO ENDING TIME. I
7 DON'T KNOW HOW LONG IT LASTED. I DON'T BELIEVE IT WAS THAT
8 LONG.

9 Q OKAY. AND YOU TESTIFIED THAT EVERYTHING YOU
10 SAID TO MR. PEREZ WAS CAPTURED ON TAPE; IS THAT CORRECT?

11 A THAT'S CORRECT.

12 Q IN OTHER WORDS, THERE WASN'T ANY DIALOGUE
13 GOING ON BETWEEN YOU AND ZEPEDA AND MR. PEREZ BEFORE THE
14 TAPE WAS TURNED ON, AND THERE WAS NOTHING SAID BY THE
15 PARTIES INVOLVED AFTER THE TAPE WAS TURNED OFF; IS THAT
16 CORRECT?

17 A CORRECT.

18 Q HAD YOU HAD AN OPPORTUNITY TO REVIEW THIS
19 TAPE?

20 A NO.

21 Q DID YOU USE THIS TAPE -- STRIKE THAT.

22 IT WAS ZEPEDA WHO PREPARED THIS NARRATIVE;
23 IS THAT CORRECT?

24 A YES, SIR.

25 Q DO YOU KNOW WHETHER OR NOT HE USED THE TAPE
26 IN ORDER TO ASSIST HIM PREPARING A NARRATIVE?

1 A I DON'T KNOW.

2 Q AND YOU REFERRED TO A POLICE REPORT TO HELP
3 YOU REMEMBER WHAT HAPPENED; IS THAT CORRECT?

4 A YES, SIR.

5 Q AND THE POLICE REPORT YOU REFERRED TO TO
6 HELP YOU REMEMBER, IS ZEPEDA'S POLICE REPORT; IS THAT
7 CORRECT?

8 A THAT'S CORRECT.

9 MR. HARLEY: I HAVE NOTHING FURTHER.

10 THE COURT: MR. REED?

11 #CROSS-EXAMINATION

12 BY MR. REED: Q DETECTIVE RONDOU, WHEN YOU TALKED
13 TO -- LET ME BACK UP A SECOND.

14 INVESTIGATOR CASTILLO IS THE PERSON THAT
15 BROUGHT MR. PEREZ TO THE POLICE DEPARTMENT; IS THAT YOUR
16 UNDERSTANDING?

17 A I KNOW CASTILLO CAME TO PEREZ'S HOUSE. I
18 DON'T KNOW -- I DIDN'T SEE WHO TOOK HIM AWAY. SO, I CAN'T
19 SAY FOR SURE IT WAS CASTILLO.

20 Q ASSUMING FOR THE SAKE OF ARGUMENT THAT HE
21 WROTE A RECORD THAT SAID HE DOES?

22 A IF HE WROTE IT AND SAID HE DID, I'M SURE HE
23 DID.

24 Q AND THAT HAPPENED ABOUT 8:00 IN THE MORNING,
25 AN HOUR AND A HALF LATER OR AN HOUR AND 40 MINUTES LATER
26 YOU AND ZEPEDA INTERVIEWED MR. PEREZ; FAIR STATEMENT?

1 A FAIR.

2 Q WHEN YOU TALKED TO MR. PEREZ AND HE TOLD YOU
3 THAT WORDS WERE EXCHANGED PRIOR TO THE SHOOTING, DID YOU
4 GET INTO THAT ANY FURTHER WITH HIM?

5 A I BELIEVE WE DID.

6 Q OKAY. AND WAS THE EXTENT OF THE WORDS BEING
7 EXCHANGED WHAT YOU CONSIDERED THE HIT-UP?

8 A YES.

9 Q WHAT YOU CALLED IT IN THE REPORT?

10 A CORRECT.

11 Q I HAVEN'T LISTENED TO A TAPE, BUT WAS WORDS
12 BEING EXCHANGED, INVESTIGATOR ZEPEDA'S JUST HIS CONCLUSION
13 OF WHAT WAS SAID, OR MY CLIENT ACTUALLY USED THE TERM THERE
14 WAS SOME WORDS EXCHANGED, AND THEN THERE WAS A SHOOTING?

15 A FROM WHAT I RECALL I BELIEVE LOUIS DESCRIBED
16 A HIT-UP. THAT FRANK HIT THE GUY UP.

17 AND THE FOLLOW-UP QUESTION WAS WHAT DO YOU
18 MEAN.

19 HE SAID WHERE ARE YOU FROM? AND HE COULDN'T
20 HEAR THE RESPONSE FROM THE GUY IN THE CAR.

21 Q AND THE GUY IN THE CAR GOT 20 FEET AWAY
22 PRIOR TO THE SHOOTING HAPPENING?

23 A ROUGHLY.

24 Q OKAY. WHICH IS, I DON'T KNOW, IS THAT FAR
25 ENOUGH TO THE -- BASICALLY THE BACK WALL?

26 A OH, I THINK THAT'S FARTHER THAN 20 FEET.

1 I'M NOT REAL GOOD AT FEET, BUT --

2 MR. REED: YOUR HONOR, DOES THE COURT HAVE AN
3 INDICATION, ONE OF THOSE LITTLE MAPS IN THE COURTROOM?

4 THE COURT: I DON'T.

5 BY MR. REED: Q DID MR. PEREZ TELL YOU, OR DID YOU
6 GET AN UNDERSTANDING OF HOW FAR -- I'M GOING TO CALL HIM
7 THE BICYCLE GUYS, OKAY?

8 A OKAY.

9 Q HOW FAR SPREAD OUT THE BICYCLE GUYS WERE,
10 SUCH AS WHERE MR. PEREZ WAS IN RELATION TO WHERE MR. LOPEZ
11 ALLEGEDLY WAS BEFORE HE FIRED THE WEAPON?

12 A LOUIS DESCRIBED THAT HE WAS ON THE CORNER,
13 ROUGHLY THE CORNER, WHAT WOULD BE THE NORTHWEST CORNER OF
14 WILLITS AND SULLIVAN. AND THAT FRANK LOPEZ, WHO FIRED THE
15 GUN, WAS STRADDLING HIS BIKE IN THE CROSSWALK OF WILLITS
16 AND SULLIVAN. THE EAST/WEST CROSSWALK OF WILLITS AND
17 SULLIVAN.

18 Q AND THE PERSON IN THE CAR WAS ALONE?

19 A ALONE.

20 Q DID HE SAY HEY, THE GUY YELLED OUT HEY,
21 WHERE YOU FROM, AND THE GUY FLIPS HIM OFF OR SAYS SOMETHING
22 BACK TO HIM, OR THAT'S --

23 A I DON'T REMEMBER IF HE SAID ANYTHING ABOUT
24 FLIPPING OFF OR ANY SORT OF HAND SIGNS. HE SAID HE HEARD
25 THE GUY SAY SOMETHING, BUT HE COULDN'T HEAR THE RESPONSE.
26 AND THAT'S WHEN FRANK PULLED OUT THE GUN AND SHOT.

1 Q DID HE INDICATE WHETHER OR NOT MR. LOPEZ
2 WAS -- MR. LOPEZ DID ANYTHING TO INDICATE THAT HE
3 UNDERSTOOD THE RESPONSE?

4 A ARE YOU TALKING FRANK LOPEZ?

5 Q YES.

6 A I DON'T RECALL IF HE SAID FRANK DID ANYTHING
7 OTHER THAN AFTER THE RESPONSE, PULLING OUT THE GUN AND
8 SHOOTING.

9 Q BUT MR. PEREZ TOLD YOU HE COULDN'T
10 UNDERSTAND THE RESPONSE?

11 A HE HEARD SOMETHING, BUT COULDN'T SAY WHAT IT
12 WAS SAID.

13 MR. REED: THANK YOU, I HAVE NO FURTHER QUESTIONS.

14 THE COURT: THANK YOU, OFFICER. PEOPLE'S NEXT?

15 MR. GELLER: WITH THE COURT'S PERMISSION, THE
16 PEOPLE CALL INVESTIGATOR --

17 MR. LAZ: YOUR HONOR, COULD I ASK THAT
18 INVESTIGATOR RONDOU STAY SUBJECT TO RECALL?

19 THE COURT: OKAY.

20 THE WITNESS: I SHOULD STAY IN THE BUILDING, OR CAN
21 I BE ON CALL?

22 THE COURT: NO, JUST BE WHERE YOU CAN RESPOND ON
23 CALL.

24 THE WITNESS: I'M WORKING, BASICALLY.

25 THE COURT: THANK YOU.

26 #RICHARD A. ASHBY,

1 CALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN
2 FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

3 THE BAILIFF: PLEASE TAKE A SEAT IN THE WITNESS
4 STAND.

5 PLEASE STATE YOUR ENTIRE NAME, AND SPELL
6 YOUR LAST NAME FOR THE RECORD.

7 THE WITNESS: RICHARD A. ASHBY, A-S-H-B-Y.

8 #DIRECT EXAMINATION

9 BY MR. GELLER: Q CORPORAL ASHBY, HOW LONG HAVE
10 YOU BEEN A SANTA ANA POLICE OFFICER?

11 A 19 YEARS.

12 Q PRESENTLY ASSIGNED TO THE GANG UNIT; IS THAT
13 CORRECT?

14 A YES.

15 Q ARE YOU INVOLVED IN THE INVESTIGATION OF THE
16 SHOOTING THAT OCCURRED ON -- IN THIS CASE?

17 A YES.

18 Q DID YOU HAVE AN OPPORTUNITY TO INTERVIEW
19 SOME WITNESSES IN THIS CASE?

20 A YES.

21 Q LET'S FIRST TALK ABOUT SOMEONE BY THE NAME
22 OF EDDIE REYES. DO YOU RECALL THAT INTERVIEW THAT OCCURRED
23 ON AUGUST 12TH OF 2004?

24 A YES.

25 Q WHERE DID THAT INTERVIEW TAKE PLACE?

26 A IN THE POLICE DEPARTMENT, THIRD FLOOR

1 INVESTIGATION BUREAU.

2 Q AND HOW OLD WAS MR. REYES AT THE TIME, IF
3 YOU KNOW?

4 A I THINK HE WAS 11 OR 12.

5 Q DID YOU SPEAK WITH MR. REYES ABOUT HIS
6 BROTHER, ANDY?

7 A YES.

8 Q IS HIS BROTHER SEATED IN COURT HERE?

9 A YES.

10 Q WHICH ONE IS HE?

11 A THE INDIVIDUAL IN THE ORANGE SHIRT, SITTING
12 IN THE MIDDLE.

13 Q THE MIDDLE OF THE FIVE?

14 A YES.

15 Q ALL RIGHT. DID YOU TALK TO MR. REYES
16 ABOUT -- JUST A MOMENT, YOUR HONOR, IF I MAY.

17 DID YOU TALK TO MR. EDDIE REYES ABOUT HIS
18 OBSERVATIONS FROM AUGUST 10TH OF 2004?

19 A YES.

20 Q MR. REYES INDICATE TO YOU AT ANY POINT IN
21 TIME THAT AFTERNOON ON AUGUST 10TH WHETHER HE WAS IN EL
22 SALVADOR PARK?

23 A YES.

24 Q DID HE TELL YOU THAT WAS BEFORE OR AFTER A
25 SHOOTING?

26 A INITIALLY HE TOLD US -- HE DIDN'T SAY

1 ANYTHING ABOUT A SHOOTING. INITIALLY WE SPOKE TO HIM ABOUT
2 AN INCIDENT INVOLVING HIS BROTHER WITH THE POSSESSION OF A
3 HANDGUN.

4 Q OKAY. WE'RE NOT GOING TO REALLY TALK ABOUT
5 THAT OTHER INCIDENT. I'D LIKE TO FOCUS YOUR ATTENTION AT
6 THIS POINT IN TIME ABOUT EDDIE REYES'S STATEMENTS WITH
7 RESPECT TO ONLY THE SHOOTING AND HIS BROTHER'S INVOLVEMENT
8 AND OTHERS' INVOLVEMENT, OKAY?

9 A OKAY.

10 Q DID EDDIE REYES INDICATE TO YOU THAT HE WAS
11 IN THE PARK WITH HIS BROTHER AND OTHERS PRIOR TO A
12 SHOOTING?

13 A NO.

14 Q YOU DID SPEAK WITH MR. REYES ABOUT A
15 SHOOTING; IS THAT ACCURATE?

16 A YES.

17 Q DID HE INDICATE TO YOU THAT HE SAW A
18 SHOOTING?

19 A YES.

20 Q DID HE TELL YOU WHERE HE SAW THE SHOOTING?

21 A YES.

22 Q WHAT DID HE TELL YOU?

23 A WILLITS AND SULLIVAN, INTERSECTION OF
24 WILLITS AND SULLIVAN.

25 Q DID EDDIE REYES TELL YOU WHERE HE WAS AT THE
26 TIME HE MADE THESE OBSERVATIONS?

1 A YES.

2 Q WHAT DID HE TELL YOU?

3 A IN THE BACK SEAT OF A WHITE EXTRA CAB PICKUP
4 TRUCK.

5 Q DID HE TELL YOU WHO HE WAS WITH AT THE TIME?

6 A YES.

7 Q WHAT DID HE TELL YOU?

8 A HE TOLD US HE WAS WITH AN INDIVIDUAL BY THE
9 NAME OF VICTOR MEDINA, I THINK HE SAID HIS NAME WAS, AND
10 ANOTHER SUBJECT THAT HE IDENTIFIED AS JR.

11 Q DID EDDIE REYES TELL YOU WHETHER HE SAW HIS
12 BROTHER IMMEDIATELY PRIOR TO A SHOOTING?

13 A YES.

14 Q DID HE TELL YOU WHERE HIS BROTHER WAS?

15 A HE SAID HE WAS AT THE INTERSECTION OF
16 WILLITS AND SULLIVAN ALSO.

17 Q DID HE TELL YOU WHETHER HIS BROTHER WAS IN A
18 CAR, OR A PEDESTRIAN OR ON A BICYCLE?

19 A HE WAS ON A BICYCLE.

20 Q DID EDDIE REYES TELL YOU WHO ELSE WAS WITH
21 HIS BROTHER ANDY AT THE -- ON A BICYCLE AT THAT POINT IN
22 TIME?

23 A YES.

24 Q WHO DID HE TELL YOU?

25 A HE TOLD US HE WAS WITH AN INDIVIDUAL THAT HE
26 KNEW AS FRANK, ALSO KNOWN TO HIM AS SPEEDY, OR JR. AN

1 INDIVIDUAL HE IDENTIFIED AS BOUNCER, SUBJECT HE IDENTIFIED
2 AS SOLDIER, AND A SUBJECT HE IDENTIFIED AS ISREAL, AND
3 ANOTHER ONE HE IDENTIFIED AS CHEWY.

4 Q WITH THE EXCEPTION OF CHEWY, WHO I BELIEVE
5 IS JESUS LOPEZ; IS THAT ACCURATE?

6 A YES.

7 Q DID YOU GO THROUGH AN IDENTIFICATION
8 PROCESS? I DON'T NEED TO GO THROUGH THEM ONE BY ONE, BUT
9 DID YOU GO THROUGH AN IDENTIFICATION PROCESS WITH EDDIE
10 REYES WHERE YOU SHOWED HIM A PHOTOGRAPH AND YOU CONFIRMED
11 WITH EDDIE THESE ARE THE INDIVIDUALS YOU'RE TALKING ABOUT?

12 A YES.

13 Q AGAIN, WITH THE EXCEPTION OF CHEWY, THE FIVE
14 INDIVIDUALS INCLUDING EDDIE REYES'S BROTHER SEATED HERE IN
15 COURT RIGHT NOW?

16 A YES.

17 Q AND ARE THESE THE INDIVIDUALS WHO ARE SEATED
18 IN THE JURY BOX RIGHT NOW?

19 A YES.

20 Q DID EDDIE REYES INDICATE TO YOU THAT HE SAW
21 SOMEBODY DRIVING A BLUE CAR?

22 A YES.

23 Q WHAT DID HE TELL YOU ABOUT THAT?

24 A HE TOLD US THAT HE SAW A BLUE, WHAT HE
25 THOUGHT WAS, MAY HAVE BEEN A HYUNDAI CAR SOUTHBOUND ON
26 SULLIVAN. STOP AT THE STOP SIGN AT THE INTERSECTION OF

1 WILLITS.

2 Q DID EDDIE REYES INDICATE TO YOU HOW FAR HE
3 WAS FROM THAT CAR, THAT INTERSECTION AT THE TIME HE MADE
4 THESE OBSERVATIONS?

5 A I BELIEVE HE SAID WHEN THEY FIRST SAW --
6 WHEN HE FIRST SAW THE CAR, THEY WERE ON THE OPPOSITE SIDE
7 OF THE INTERSECTION NORTHBOUND IN THE TRUCK.

8 Q DID EDDIE REYES INDICATE TO YOU THAT HE,
9 ALONG WITH VICTOR MEDINA, WHO WAS DRIVING THE TRUCK, WERE
10 FOLLOWING THE BICYCLISTS? DID HE TELL YOU HOW IT WAS THAT
11 HE CAME UPON HIS BROTHER AND THE OTHERS IN THE INTERSECTION
12 THERE?

13 A HE TOLD US THAT EARLIER HE HAD GONE TO EL
14 SALVADOR PARK LOOKING FOR HIS BROTHER, AND THAT AN
15 INDIVIDUAL NAMED MICHAEL TOLD HIM THAT HIS BROTHER, ANDY,
16 HAD GONE TO WEST F-TROOP AREA ON BICYCLES WITH SEVERAL
17 OTHER SUBJECTS, AND THAT THEY -- HE GOT IN THE TRUCK WITH
18 THIS VICTOR AND JR. TO GO LOOK FOR HIS BROTHER AND THE
19 OTHERS.

20 Q AND DID HE GO INTO ANY FURTHER DETAILS HOW
21 IT WAS THAT HE ENDED UP MEETING HIS BROTHER AT THAT
22 INTERSECTION? IN OTHER WORDS, WAS HE FOLLOWING HIS BROTHER
23 FROM A DIFFERENT LOCATION, OR WAS IT JUST A HAPPENSTANCE
24 THAT THEY ENDED UP IN THE INTERSECTION AT THE SAME TIME?

25 A FROM WHAT HE DESCRIBED, THEY HAPPENED TO RUN
26 INTO THEM AT THAT LOCATION.

1 Q DID YOU GO WITH -- DID YOU GO THROUGH WITH
2 EDDIE REYES ANY SORT OF DIAGRAM TO PLACE THE INDIVIDUALS
3 THAT WE'RE TALKING ABOUT HERE IN COURT, THE FIVE
4 INDIVIDUALS HERE IN COURT, IN RELATION TO THIS BLUE CAR?

5 A YES.

6 Q AND WE DON'T NEED TO GO THROUGH THE DIAGRAM.
7 WE DON'T NEED TO SEE THE DIAGRAM, BUT I'D LIKE TO ASK YOU
8 ABOUT IT IN RELATIONSHIP TO WHERE EVERYBODY WAS IN
9 REFERENCE TO THAT VEHICLE, ALL RIGHT?

10 A SURE.

11 Q YOU WANT TO JUST DO IT IN A NARRATIVE
12 FASHION, AS FAR AS WHO WAS WHERE?

13 A SURE.

14 Q GO AHEAD.

15 A THE DIAGRAM, HE INDICATED THAT MR. FRANK
16 LOPEZ WAS NEXT TO THE DRIVER'S SIDE OF THE VEHICLE.
17 STANDING NEXT TO MR. LOPEZ WAS JESUS LOPEZ, OR THE
18 INDIVIDUAL HE KNEW AS CHEWY. DIRECTLY BEHIND THE VEHICLE
19 OR WOULD BE NORTH OF THE VEHICLE, WAS THE INDIVIDUAL HE
20 INDICATED AS, THAT HE KNEW AS ISREAL. NEXT TO THAT
21 INDIVIDUAL WOULD BE THE INDIVIDUAL HE IDENTIFIED AS
22 SOLDIER, OR MR. LOUIS PEREZ. AND THEN A LITTLE FARTHER
23 NORTH OF THAT LOCATION IN THE STREET HE INDICATED WAS HIS
24 BROTHER ANDY. AND STANDING WITH HIS BROTHER, ANDY, WAS THE
25 SUBJECT HE IDENTIFIED AS BOUNCER, OR SEVERO DE LA RIVA.

26 Q SO MR. DE LA RIVA AND HIS BROTHER WERE

1 FARTHER FROM THE CAR AT THAT POINT, ACCORDING TO EDDIE
2 REYES? . . .

3 A YES.

4 Q YOU'RE FAMILIAR WITH THAT INTERSECTION,
5 SULLIVAN AND WILLITS?

6 A YES.

7 Q BASED ON THE DESCRIPTION THAT EDDIE REYES
8 SAID AND THE DIAGRAM THAT YOU WERE USING AS A TOOL, HOW FAR
9 WAS, THE FARTHEST, SEVERO DE LA RIVA AND ANDY WERE FROM
10 THAT VEHICLE?

11 A HOW FAR?

12 Q IN DISTANCE HOW FAR WERE THEY?

13 A SEVERAL FEET.

14 Q ALL IN CLOSE PROXIMITY?

15 A YES.

16 Q DID EDDIE REYES INDICATE TO YOU THAT HE
17 OBSERVED A SHOOTING?

18 A YES.

19 Q WHAT DID HE TELL YOU?

20 A HE SAID THAT HE INDICATED THAT HE LOOKED IN
21 THE REARVIEW MIRROR -- THE WINDSHIELD OF THE TRUCK, HE
22 LOOKED BACK AND HE SAW THE INDIVIDUAL HE IDENTIFIED AS JR.,
23 OR SPEEDY, DRESSED IN A RED ANGELS HAT, SHOOT ONE SHOT INTO
24 THE BACK OF THE VEHICLE AS IT DROVE SOUTHBOUND ACROSS THE
25 INTERSECTION.

26 Q SO WE'RE CLEAR, IS THE BLUE CAR GOING IN THE

1 OPPOSITE DIRECTION OF EDDIE REYES IN THE WHITE TRUCK?

2 A NO, I BELIEVE THAT WHEN HE DESCRIBED IT TO
3 US, WHAT HE DESCRIBED WAS THE WHITE TRUCK MADE A LEFT-HAND
4 TURN ON TO WILLITS, AND PULLED OVER TO THE CURB. AND HE
5 WAS LOOKING WOULD HAVE BEEN EASTBOUND OUT THE BACK WINDOW
6 OF THE TRUCK, AND SAW THE SHOOTING FROM THAT LOCATION.

7 Q AND EDDIE REYES WAS -- EDDIE REYES BELIEVED
8 THAT FRANK WAS THE SHOOTER; IS THAT ACCURATE?

9 A YES.

10 Q HE DIDN'T THINK HIS BROTHER WAS THE SHOOTER?

11 A NO, HE DID NOT.

12 Q DID HE ACTUALLY DRAW ANY PHYSICAL
13 DISTINCTION BETWEEN THE SHOOTER AND HIS BROTHER, AS FAR AS
14 SIZE AND WEIGHT AND THINGS OF THAT NATURE?

15 A YES.

16 Q WHAT DID HE TELL YOU?

17 A HE SAID THAT FRANK WAS TALLER AND FATTER
18 THAN HIS BROTHER.

19 Q AND MR. EDDIE REYES INDICATED THAT HE KNEW
20 FRANK AS LITTLE SPEEDY; IS THAT ACCURATE?

21 A I BELIEVE THE WORD HE USED WAS "SPEEDY." I
22 DON'T KNOW IF HE USED "LITTLE" IN FRONT OF IT.

23 Q AND THEN AFTER -- AFTER YOU SPOKE THEN YOU
24 WENT THROUGH THE PHOTOGRAPHIC LINEUPS AND AS WE DESCRIBED
25 EARLIER; IS THAT CORRECT?

26 A WE DID THAT, I BELIEVE IT WAS THE FOLLOWING

1 DAY.

2 Q OKAY. NOW, YOU ALSO HAD AN OPPORTUNITY WITH
3 RESPECT TO THIS INVESTIGATION TO SPEAK TO ANDY REYES; IS
4 THAT ACCURATE?

5 A YES.

6 Q AND THAT WOULD BE EDDIE REYES'S BROTHER?

7 A YES.

8 Q AND ANDY REYES IS THE INDIVIDUAL IN THE
9 MIDDLE THAT YOU'VE ALREADY IDENTIFIED IN COURT?

10 A YES.

11 Q WHERE DID THAT INTERVIEW TAKE PLACE ON
12 AUGUST 12TH, 2004, ABOUT 9:35 IN THE MORNING?

13 A IT WAS AN INTERVIEW ROOM LOCATED ON THE
14 THIRD FLOOR OF THE SANTA ANA POLICE DEPARTMENT
15 INVESTIGATION BUREAU.

16 Q DID YOU GO THROUGH ANDY REYES'S MIRANDA
17 ADVISEMENT PRIOR TO SPEAKING WITH HIM?

18 A YES.

19 Q DID YOU USE THE STANDARD SANTA ANA P.D.
20 FORM?

21 A YES.

22 Q DID ANDY REYES INDICATE TO YOU THAT HE
23 UNDERSTOOD THE ADMONISHMENT?

24 A YES, HE DID.

25 Q AND DID YOU HAVE HIM SIGN THE FORM?

26 A I BELIEVE WE DID.

1 Q AND DID YOU SPEAK WITH MR. REYES ABOUT THIS
2 INCIDENT?

3 A YES.

4 Q AND NOW WHEN I REFER TO MR. REYES, IT WILL
5 JUST ONLY BE WITH RESPECT TO ANDY REYES. EDDIE REYES IS
6 DONE, OKAY?

7 A OKAY.

8 Q SO THERE'S NO CONFUSION. DID YOU INITIALLY
9 TALK TO ANDY REYES ABOUT HIS INVOLVEMENT IN THE F-TROOP
10 GANG?

11 A YES.

12 Q WHAT DID HE INDICATE TO YOU BRIEFLY?

13 A INITIALLY HE SAID THAT HE HAD BEEN ARRESTED
14 FOR TAGGING A FEW MONTHS BEFORE THAT. THAT HE WAS TAGGING
15 F.T. FOR F-TROOP, IN THE F-TROOP AREA.

16 Q DID HE GO INTO ANY FURTHER DETAIL WITH YOU?

17 A LATER ON IN THE CONVERSATION WE DID.

18 Q DO YOU WANT TO TALK ABOUT THAT AT THIS POINT
19 IN TIME?

20 A SURE.

21 Q WHAT DID HE TELL YOU?

22 A HE SAID THAT HE HAD BEEN KICKING BACK WITH
23 F-TROOP FOR I THINK IT WAS ABOUT THREE MONTHS. THAT HE HAD
24 NOT BEEN JUMPED IN YET. THAT HE DID NOT HAVE A MONIKER
25 YET, BECAUSE HE WAS TOLD BY THE OLDER GANG MEMBERS FROM
26 F-TROOP THAT HE HAD TO PUT IN SOME WORK BEFORE HE EARNED

1 THE RIGHT TO GET JUMPED IN AND EARNED A MONIKER.

2 Q CHRONOLOGICALLY IN THE INTERVIEW YOU
3 INITIALLY SPOKE WITH ANDY REYES ABOUT A FIGHT. YOU BRIEFLY
4 SPOKE ABOUT THAT EARLIER. EDDIE REYES HAD -- YOU DIDN'T
5 INITIALLY TALK TO ANDY REYES ABOUT THE HOMICIDE; IS THAT
6 ACCURATE?

7 A THAT'S CORRECT.

8 Q AND THEN AT THAT POINT IN TIME AFTER
9 SPEAKING ABOUT THIS FIGHT, THAT INTERVIEW STOPPED. AND
10 THEN AT 1:30 THAT AFTERNOON YOU THEN RE-INTERVIEWED HIM; IS
11 THAT CORRECT?

12 A YES.

13 Q DID YOU REMIND ANDY REYES ABOUT HIS MIRANDA
14 ADVISEMENT PRIOR TO SPEAKING WITH HIM THE SECOND TIME?

15 A YES.

16 Q DID HE INDICATE THAT HE REMEMBERED THAT?

17 A YES.

18 Q AND NOW YOU SPOKE OF THE SHOOTING; IS THAT
19 RIGHT?

20 A YES.

21 Q WHAT DID MR. REYES TELL YOU ABOUT HIS
22 INVOLVEMENT IN THE SHOOTING?

23 A HE SAID THAT HE HAD BEEN PRESENT AT WILLITS
24 AND SULLIVAN, AND SAW THE WHOLE THING.

25 Q DID HE TELL YOU ANYTHING SPECIFIC ABOUT THE
26 VICTIM?

1 A HE SAID THE VICTIM HAD A TATTOO ON HIS NECK,
2 AND THAT HE WAS IN A, WHAT HE DESCRIBED AS A SMALL RED CAR,
3 I BELIEVE.

4 Q DID MR. -- DID ANDY REYES INDICATE TO YOU
5 THAT HE OVERHEARD ANY CONVERSATION BETWEEN FRANK, AND THE
6 VICTIM?

7 A YES.

8 Q WHAT DID HE TELL YOU?

9 A HE SAID THAT FRANK WAS CLOSEST TO THE
10 VICTIM'S VEHICLE, AND THAT HE HIT THE VICTIM UP ASKING HIM
11 WHERE HE WAS FROM. AND HE HEARD THE VICTIM MUMBLE
12 SOMETHING TO FRANK, BUT HE COULDN'T HEAR EXACTLY WHAT IT
13 WAS HE SAID, BEFORE THE VICTIM DROVE SOUTH IN THE
14 INTERSECTION.

15 Q DID ANDY REYES INDICATE TO YOU THAT HE EVER
16 TOOK POSSESSION OF THIS GUN FROM FRANK AFTER THE SHOOTING?

17 A YES.

18 Q WHAT DID HE TELL YOU?

19 A HE SAID AFTER THE SHOOTING THEY ALL MET UP
20 AT EL SALVADOR PARK, AT WHICH TIME FRANK TOLD HIM TO GO
21 RETRIEVE THE GUN WHERE HE HAD STASHED IT AT HIS HOUSE, AND
22 WRAPPED IN A SWEATER, AND TOLD HIM TO TAKE THE GUN AND GIVE
23 IT TO CHEWY TO GET RID OF.

24 Q DID ANDY REYES INDICATE TO YOU THAT HE DID
25 THEN TAKE POSSESSION OF THE GUN?

26 A YES.

1 Q GOING BACK TO THE SHOOTING ITSELF. DID ANDY
2 REYES INDICATE TO YOU HOW FAR AWAY HE WAS FROM THE VICTIM
3 AT THE TIME OF THE SHOOTING?

4 A HE SAID HE WAS ABOUT 20 FEET.

5 Q DID ANDY REYES INDICATE TO YOU HE ACTUALLY
6 SAW THE SHOOTING?

7 A YES.

8 Q WHAT -- DID HE SAY THAT HE ACTUALLY SAW WHAT
9 HAPPENED TO THE VICTIM?

10 A NO.

11 Q DID HE MENTION ANYTHING ABOUT BLOWING THE
12 VICTIM'S HEAD OFF, OR ANYTHING OF THAT NATURE?

13 A HE SAID THAT THE SHOT BLEW THE VICTIM'S HEAD
14 OFF. BUT WE ASKED HIM ABOUT THAT, AND HE SAID THAT HE
15 HEARD IT FROM A GIRL WHO WAS I THINK A FRIEND OF A FRIEND
16 THAT HAD BEEN AT THE SCENE.

17 Q SO ANDY DID NOT TELL YOU HE ACTUALLY SAW?

18 A ANDY DID NOT ACTUALLY SAY THAT HE HEARD THAT
19 FROM ANOTHER INDIVIDUAL.

20 MR. HARLEY: I GUESS I SHOULD BE, FOR WHAT IT'S
21 WORTH, MOTION TO STRIKE. IT SOUNDS LIKE TRIPLE HEARSAY.

22 THE COURT: WHY DON'T YOU JUST RESOLVE THAT.
23 GRANTED.

24 BY MR. GELLER: Q DID ANDY DESCRIBE THE GUN TO
25 YOU?

26 A YES.

1 Q WHAT DID HE TELL YOU IT WAS?

2 A HE SAID IT WAS A BLACK AND BROWN .357 WITH A
3 LARGE BLACK BARREL.

4 Q DID ANDY INDICATE TO YOU THAT HE HAD EVER
5 SEEN THAT GUN PRIOR TO AUGUST 10TH OF 2004?

6 A YES.

7 Q WHAT DID HE TELL YOU?

8 A HE SAID HE HAD SEEN IT ABOUT THREE MONTHS
9 PRIOR TO THAT.

10 Q DID HE TELL YOU WHERE HE SAW IT?

11 A I BELIEVE HE SAID IT WAS IN THE POSSESSION
12 OF FRANK.

13 Q DID HE TELL YOU HE HAD SEEN IT IN THE
14 NEIGHBORHOOD AT ALL DURING THE LAST SIX MONTHS?

15 A I BELIEVE WHEN HE SAW IT, I THINK WHEN HE
16 SAID HE SAW IT, IT WAS IN THE F-TROOP NEIGHBORHOOD.

17 Q AT THE END OF THIS INTERVIEW, DID YOU SPEAK
18 WITH ANDY REYES ABOUT F-TROOP'S ASSOCIATION WITH THE 5TH
19 STREET GANG?

20 A YES.

21 Q WHAT DID HE TELL YOU?

22 A WE ASKED HIM WHO F-TROOP GANG GOT ALONG
23 WITH, AND HE SAID THEY DON'T GET ALONG WITH ANYBODY OTHER
24 THAN 5TH STREET, AND THAT WAS BECAUSE OF FAMILY TIES
25 BETWEEN SOME 5TH STREETERS AND F-TROOP. PARTICULARLY
26 SEVERO DE LA RIVA WAS FRANK'S COUSIN.

1 Q AND FRANK IS THE -- FRANK LOPEZ, THE SHOOTER
2 THAT WE'VE BEEN SPEAKING OF; IS THAT CORRECT?

3 A YES.

4 Q DE LA RIVA IS ANOTHER ONE OF THE INDIVIDUALS
5 SEATED IN COURT?

6 A YES, THE SUBJECT SEATED ON THE END.

7 Q ANDY REYES INDICATED TO YOU HE WAS
8 PERSONALLY AWARE OF A RELATIONSHIP BETWEEN THE TWO; IS THAT
9 RIGHT?

10 A YES.

11 Q FINALLY, YOU HAD AN OPPORTUNITY TO SPEAK TO
12 SOMEBODY BY THE NAME OF STEVE GARCIA; IS THAT ACCURATE?

13 A YES.

14 Q STEVE GARCIA INTERVIEWED HIM ON AUGUST 11TH,
15 2004, AT ABOUT 1:40 IN THE MORNING; IS THAT RIGHT?

16 A YES.

17 Q WHERE DID THAT INTERVIEW TAKE PLACE?

18 A THE THIRD FLOOR OF THE SANTA ANA POLICE
19 DEPARTMENT INVESTIGATION.

20 Q AND MR. GARCIA INDICATED TO YOU HE WAS
21 PRESENT AT SCENE OF THE SHOOTING?

22 A YES. HE WAS JUST SOUTH OF THE INTERSECTION.

23 Q OKAY. WHAT DID MR. GARCIA TELL YOU, IF
24 ANYTHING, AS TO WHY HE WAS AT THAT LOCATION AT THE TIME OF
25 THE SHOOTING?

26 A HE TOLD US THAT HIS MOTHER AND FATHER OWNED

1 OR OPERATED A LUNCH TRUCK THAT THEY PARKED ALONG THE WEST
2 CURB OF SULLIVAN STREET, JUST SOUTH OF INTERSECTION WITH
3 WILLITS.

4 Q DID MR. GARCIA INDICATE TO YOU HE SAW ANY
5 INDIVIDUALS ON BICYCLES PRIOR TO THE SHOOTING?

6 A YES, HE DID.

7 Q WHAT DID HE TELL YOU?

8 A HE SAID HE SAW I THINK IT WAS BETWEEN SEVEN
9 AND 10 INDIVIDUALS, ALL ON BICYCLES, MOVING NORTHBOUND ON
10 SULLIVAN, ALONG THE SIDEWALK.

11 Q DID HE TELL YOU THAT HE SAW A SMALL BLUE CAR
12 IN THAT SAME VICINITY?

13 A YES.

14 Q WHAT DID HE TELL YOU HAPPENED, IF ANYTHING,
15 WITH RESPECT TO THAT BLUE CAR AND THE BICYCLISTS?

16 A HE SAID THE BLUE CAR WAS COMING NORTHBOUND
17 ON SULLIVAN, PASSING THE INDIVIDUALS ON THE BICYCLES. THAT
18 SOME OF THE INDIVIDUALS THAT WERE LAGGING BEHIND YELLED TO
19 THE SUBJECTS UP FRONT THAT THE VEHICLE WAS COMING TOWARDS
20 THEM. SO THE SUBJECTS UP FRONT BEGAN TO YELL AT THE CAR,
21 TRYING TO GET IT TO STOP.

22 Q SO WHAT DID HE TELL YOU HAPPENED NEXT, IF
23 ANYTHING?

24 A HE SAID THE CAR KEPT GOING, AND THE SUBJECTS
25 ON THE BICYCLES BEGAN TO CHASE THE VEHICLE NORTHBOUND ON
26 SULLIVAN.

1 Q WHAT DID MR. GARCIA TELL YOU HAPPENED NEXT?

2 A HE SAID SHORTLY AFTER THAT, HE HEARD A
3 GUNSHOT, RAN TO THE BACK OF THE LUNCH TRUCK, AND SAW THE
4 BLUE CAR NOW COMING SOUTHBOUND ON SULLIVAN, AND CAME TO A
5 STOP IN THE MIDDLE OF THE STREET JUST SOUTH OF THE
6 INTERSECTION.

7 Q DID MR. GARCIA INDICATE TO YOU HE KNEW WHO
8 THESE INDIVIDUALS ON THE BICYCLES WERE?

9 A NO.

10 Q DID HE INDICATE TO YOU WHETHER OR NOT HE
11 HEARD ANY WORDS EXCHANGED BETWEEN THE DRIVER OF THE
12 VEHICLE, AND ANY OF THE INDIVIDUALS ON THE BICYCLES?

13 A NO.

14 Q MORE OF JUST THE BICYCLISTS WERE SPEAKING
15 AMONGST THEMSELVES, IS THAT KIND OF THE WAY THE
16 CONVERSATION WAS?

17 A YES.

18 MR. GELLER: I HAVE NOTHING FURTHER, THANK YOU.

19 THE COURT: WOULD ANYBODY GET PUSHED OUT OF SHAPE
20 IF WE BROKE NOW AND COME BACK AT 1:45?

21 MR. LAZ: THAT'S FINE WITH ME.

22 MR. GELLER: YOUR HONOR, I'VE BEEN ORDERED TO BE IN
23 JUDGE SINGER'S COURTROOM AT 1:30 FOR A BRIEF -- I'M
24 ANSWERING READY FOR A TRIAL. IT SHOULDN'T TAKE MORE THAN
25 FIVE OR 10 MINUTES.

26 THE COURT: GOOD, WE'LL COME BACK AT 1:45.

1 MR. HARLEY: AND I'VE BEEN ORDERED TO C39 FOR THE
2 SAME THING.

3 THE COURT: 1:45. THANK YOU.

4 (WHEREUPON THE COURT WAS IN RECESS UNTIL
5 1:45 P.M. OF THE SAME DAY.)
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1 SANTA ANA, CALIFORNIA - MONDAY, APRIL 25, 2005

2 AFTERNOON SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN
4 OPEN COURT:)

5 THE COURT: GOOD AFTERNOON.

6 MR. GELLER: I THINK I WAS FINISHED WITH MY DIRECT.

7 THE COURT: OKAY.

8 MR. LAZ: OKAY.

9 THE COURT: MR. LAZ?

10 #RICHARD ASHBY,
11 RECALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN
12 PREVIOUSLY DULY SWORN, WAS EXAMINED AND TESTIFIED FURTHER
13 AS FOLLOWS:

14 #CROSS-EXAMINATION

15 BY MR. LAZ: Q CORPORAL ASHBY, HOW MANY INTERVIEWS
16 OF EDWARD REYES WERE YOU PRESENT FOR?

17 A TWO.

18 Q AND ONE WAS ON AUGUST 12TH, AND ONE WAS ON
19 AUGUST 17TH?

20 A ONE WAS ON AUGUST 12TH. I THOUGHT THE ONE,
21 THE SECOND ONE WAS THE NEXT DAY. BUT I COULD BE MISTAKEN.

22 Q WAS THE ONE YOU DID THE NEXT DAY, WHO WAS
23 THAT WITH; WAS THAT WITH INVESTIGATOR HERTER?

24 A YES, WHERE WE DID THE I.D.

25 Q SO BOTH THE INTERVIEWS YOU WERE INVOLVED IN
26 WERE BOTH WITH INVESTIGATOR HERTER?

1 A YES.

2 Q WITH RESPECT TO THE FIRST ONE ON THE 12TH,
3 DID YOU HAVE ANY CONVERSATION WITH EDDIE REYES PRIOR TO
4 STARTING THE TAPE?

5 A I DON'T RECALL THAT WE DID. OTHER THAN I
6 THINK WE MET HIS MOTHER AND HIM OUT IN THE FRONT LOBBY AND
7 BROUGHT HIM TO THE BACK.

8 Q OKAY. AND ANY CONVERSATION ABOUT THE CASE
9 AT ALL AFTER THE TAPE WENT OFF?

10 A WE MAY HAVE HAD SOME CONVERSATION WITH HIS
11 MOTHER ABOUT -- NOT WITH HIM DIRECTLY, BUT WITH HIS
12 MOTHER. ABOUT --

13 Q GO AHEAD.

14 A ABOUT HER SON'S INVOLVEMENT IN GANGS. AND
15 HOW, PRETTY MUCH WHAT WAS GOING TO HAPPEN. SHE WAS KIND OF
16 CURIOUS AS TO WHAT WOULD HAPPEN, OBVIOUSLY, BECAUSE SHE HAD
17 TWO SONS INVOLVED.

18 Q WHEN YOU WERE TALKING TO HER ON THAT
19 OCCASION, WAS EDDIE REYES PRESENT FOR THAT CONVERSATION?

20 A YES, I BELIEVE SO.

21 Q AND THEN HE LEFT THE POLICE DEPARTMENT?

22 A YES.

23 Q AND YOU THINK THAT HE CAME BACK THE NEXT
24 DAY, BUT MAY HAVE BEEN ANOTHER DAY?

25 A MY RECOLLECTION WAS THE NEXT DAY, BUT I
26 COULD BE MISTAKEN. COUPLE DAYS LATER.

1 Q BUT THE NEXT INTERVIEW YOU DID, YOU DID WITH
2 INVESTIGATOR HERTER?

3 A YES.

4 Q AND PRIOR TO THAT INTERVIEW, WAS THERE ANY
5 DISCUSSION OF THE FACTS OF THE CASE OR ANYTHING ABOUT THE
6 FACTS OF THE CASE WITH EDDIE GARCIA PRIOR TO THE --

7 A WITH EDDIE REYES?

8 Q I'M SORRY, EDDIE REYES.

9 A IN BETWEEN THE FIRST AND THE SECOND
10 INTERVIEW?

11 Q RIGHT.

12 A NO.

13 Q HOW ABOUT AFTER THE SECOND INTERVIEW?

14 A I DON'T BELIEVE SO, NO.

15 Q HE DID A DIAGRAM, CORRECT?

16 A YES.

17 MR. LAZ: IF I COULD APPROACH?

18 THE COURT: SURE.

19 BY MR. LAZ: Q I'M JUST GOING TO SHOW YOU A
20 DIAGRAM. IF YOU CAN TELL ME IF THIS IS THE ONE THAT WAS
21 DONE WHEN YOU WERE THERE. IT'S AT 62G, DISCOVERY PAGE, IN
22 THE BOTTOM RIGHT-HAND CORNER.

23 A YES.

24 Q NOW, THIS SAYS -- IS THIS DATED?

25 A YES.

26 Q SO WOULD THAT HAVE BEEN AT THE SECOND

1 INTERVIEW THAT HE DID THAT DIAGRAM?

2 A YES.

3 Q DID HE DO A SEPARATE DIAGRAM AT THE FIRST
4 INTERVIEW?

5 A YOU KNOW, I THINK THAT HE DID. I THINK I
6 DREW A DIAGRAM OF THE INTERSECTION, AND THAT'S WHERE HE
7 TOLD US THAT THEY HAD TURNED WEST ON WILLITS. BECAUSE
8 THERE WAS SOME CONFUSION ABOUT WHAT HE WAS TALKING ABOUT,
9 DIRECTIONWISE. AND I BELIEVE THERE WAS A DIAGRAM DONE
10 THERE.

11 Q AND AT THE SECOND DIAGRAM THAT'S DATED
12 AUGUST 17TH, DO YOU KNOW WHO DREW THAT?

13 A I THINK INVESTIGATOR HERTER DID.

14 Q DO YOU KNOW IF THERE ARE ANY DIFFERENCES
15 BETWEEN THIS DIAGRAM AND THE ONE THAT YOU DREW, AS FAR AS
16 WHAT EDDIE REYES SHOWED ON IT?

17 A OTHER THAN I THINK HE PUT THE POSITION OF
18 THE PICKUP TRUCK THAT HE WAS RIDING IN ON THE FIRST
19 DIAGRAM. I COULDN'T TELL YOU IF THERE IS OR NOT WITHOUT
20 SEEING -- I DON'T RECALL.

21 Q DO YOU HAVE A COPY OF THE DIAGRAM HE DID FOR
22 YOUR INTERVIEW WITH YOU BY ANY CHANCE?

23 A NO, I DON'T.

24 Q WOULD IT -- WOULD THAT DIAGRAM BE DATED?

25 A IT MIGHT BE. BUT BEING AS I DREW IT, I
26 DOUBT IT.

1 Q WOULD YOU HAVE PUT YOUR NAME ON IT?

2 A PROBABLY NOT.

3 Q AT THE FIRST INTERVIEW ON AUGUST 12TH, WHEN
4 EDDIE REYES DID DIFFERENT IDENTIFICATIONS, HOW DID YOU GO
5 ABOUT THAT PROCESS? DID YOU SHOW HIM LINEUPS OR INDIVIDUAL
6 PICTURES?

7 A ON THE FIRST INTERVIEW?

8 Q YES.

9 A WE DIDN'T SHOW HIM ANY PHOTOS IN THE FIRST
10 INTERVIEW.

11 Q WAS THERE ANY WAY BY WHICH HE IDENTIFIED --
12 STRIKE THAT.

13 WHEN YOU SAID THAT HE TALKED ABOUT ISRAEL
14 LOPEZ AT THAT FIRST INTERVIEW; IS THAT CORRECT?

15 A YES.

16 Q HOW DID HE DESCRIBE OR IDENTIFY ISRAEL
17 LOPEZ?

18 A I BELIEVE HE DESCRIBED HIM TO US AS THE
19 BROTHER OF CHEWY, AND WE CAME TO THE CONCLUSION IT WAS
20 ISREAL AND JESUS LOPEZ, BECAUSE THEY'RE WELL KNOWN TO THE
21 SANTA ANA GANG UNIT. THAT'S WHY WE WOUND UP SHOWING THEIR
22 PICTURE.

23 Q AT A LATER TIME?

24 A AT LATER TIME. MY RECOLLECTION.

25 Q IN THAT FIRST INTERVIEW DID HE DESCRIBE
26 ISREAL LOPEZ PHYSICALLY?

1 A I DON'T THINK SO.

2 Q AND DID HE INDICATE THAT HE, AT THAT FIRST
3 INTERVIEW, DID HE INDICATE THAT HE KNEW ISREAL LOPEZ?

4 A YES, I BELIEVE HE DID.

5 Q DID HE SAY --

6 A HE KNEW A GUY NAMED ISREAL. HE DIDN'T KNOW
7 HIS LAST NAME.

8 Q DID HE SAY WHETHER HE KNEW HIM PERSONALLY?

9 A HE DID NOT USE THAT TERMINOLOGY, NO.

10 Q WHEN YOU WERE FIRST TALKING TO EDDIE REYES,
11 HE LINKED THE NICKNAME JR. WITH ISREAL LOPEZ; IS THAT TRUE?

12 A NO. I THINK HE LINKED THE NICKNAME JR. WITH
13 FRANK LOPEZ. THAT HE KNEW FRANK AS EITHER JR., OR SPEEDY.

14 Q IN YOUR REPORT YOU WRITE, "WE ASKED REYES
15 WHAT ELSE THEY CALLED JR., AND HE SAID HE THOUGHT HIS NAME
16 WAS ISREAL." DO YOU REMEMBER THAT AT ALL?

17 A I'LL HAVE TO LOOK AT THE REPORT.

18 MR. LAZ: WITH THE COURT'S PERMISSION?

19 THE COURT: SURE.

20 MR. LAZ: IT'S PAGE 3, THE BIGGEST PARAGRAPH ON THE
21 BOTTOM HALF. DISCOVERY PAGE 65.

22 THE WITNESS: YES, HE DID SAY IT.

23 BY MR. LAZ: Q AND THEN YOU WENT ON TO ASK EDDIE
24 REYES WHAT ISREAL'S NICKNAME WAS, AND HE SAID HE DIDN'T
25 KNOW; IS THAT TRUE?

26 A YES.

1 Q WHEN HE DID THE DIAGRAM, DO YOU REMEMBER HOW
2 HE POINTED TO THE LOCATION WHERE ISREAL WAS AT?

3 A I THINK HE USED HIS FINGER.

4 Q WELL, I MEANT DID HE SAY ISREAL? DID HE SAY
5 JR.?

6 A I THINK HE USED -- I THINK HE USED HIS
7 MONIKER BAM BAM.

8 Q OKAY. SO THIS IS STILL THAT FIRST
9 INTERVIEW?

10 A NO, THIS IS THE SECOND INTERVIEW. YOU'RE
11 TALKING ABOUT THE DIAGRAM OF THE FIRST ONE?

12 Q YES.

13 A I DON'T RECALL THAT.

14 Q SO YOU JUST DON'T RECALL HOW HE DESCRIBED
15 ISREAL FOR PURPOSES OF LOCATING HIM ON THE DIAGRAM?

16 A NO. NOT IN THE FIRST DIAGRAM, NO.

17 Q HOW MANY TIMES WERE YOU INVOLVED IN
18 INTERVIEWS WITH ANDY REYES?

19 A TWICE.

20 Q AND WHAT ARE THE DATES OF THOSE INTERVIEWS;
21 DO YOU REMEMBER?

22 A THEY WERE BOTH ON THE SAME DAY. AUGUST
23 12TH.

24 Q ALL RIGHT. SO THERE'S AN INTERVIEW, THEN
25 THERE'S A BREAK, AND THEN YOU GO BACK TO FINISH THE
26 INTERVIEW?

1 A YES.

2 Q ARE THERE ANY CONVERSATIONS WITH HIM ON THAT
3 DAY ABOUT THIS CASE THAT AREN'T ON TAPE?

4 A NOT BY MYSELF, NO. THERE WAS A BRIEF
5 CONVERSATION BETWEEN HE AND INVESTIGATOR RONDOU AND ZEPEDA
6 WHILE THEY WERE TRANSPORTING HIM TO JUVENILE HALL THAT WAS
7 NOT TAPED.

8 Q AND THAT WOULD HAVE BEEN AFTER THE SECOND
9 SECTION OF THE INTERVIEW?

10 A THAT WOULD HAVE BEEN AFTER INVESTIGATOR
11 HERTER AND MY SECOND INTERVIEW.

12 Q HAVE YOU EVER TALKED TO EITHER OF THOSE
13 INVESTIGATORS ABOUT WHAT HE SAID DURING THAT
14 TRANSPORTATION?

15 A YES.

16 Q AND WHAT -- DID HE, DO YOU REMEMBER WHAT THE
17 SUBJECT MATTER WAS GENERALLY, THE CONVERSATION?

18 A YES.

19 Q WHAT?

20 MR. GELLER: OBJECTION. BEYOND THE SCOPE OF
21 DIRECT.

22 THE COURT: OVERRULED. GO AHEAD.

23 (PAUSE IN PROCEEDINGS.)

24 BY MR. LAZ: Q I WITHDRAW THE QUESTION.

25 DID YOU GO THROUGH AN IDENTIFICATION PROCESS
26 WITH ANDY REYES?

1 A NO.

2 Q DID YOU EVER SHOW HIM ANY PICTURES OR
3 LINEUPS?

4 A NO, I DIDN'T, NO.

5 Q YOU WERE THERE WHEN YOU WERE SHOWING ANY
6 PICTURES OR LINEUPS?

7 A NO.

8 Q WITH RESPECT TO EDDIE REYES, DO YOU KNOW HIM
9 APART FROM ANY QUESTIONING THAT YOU DID RELATED TO THIS
10 CASE?

11 A NO.

12 Q DO YOU KNOW IF HE HAS ANY GANG CONNECTIONS,
13 IF HE'S AFFILIATED OR AN ASSOCIATE OF F-TROOP, ANYTHING
14 ALONG THOSE LINES?

15 A ALL I KNOW IS WHAT HE TOLD US IN THE
16 INTERVIEWS.

17 Q DO YOU KNOW IF HE HAS ANY KIND OF CRIMINAL
18 RECORD, ANYTHING ALONG THOSE LINES?

19 A I KNOW THAT I BELIEVE HE WAS ARRESTED ONCE
20 OR CONTACTED IN REGARDS TO AN INCIDENT THAT'S DOCUMENTED IN
21 A POLICE REPORT, BUT I COULDN'T TELL YOU OFF THE TOP OF MY
22 HEAD WHAT IT WAS.

23 Q DID YOU DO A DIAGRAM DURING YOUR INTERVIEWS
24 OF ANDY REYES?

25 A I DON'T RECALL.

26 Q WERE BOTH THOSE INTERVIEWS THAT YOU DID WITH

1 INVESTIGATOR HERTER ON THAT DAY?

2 A YES.

3 Q HOW MANY INTERVIEWS DID YOU DO OF STEVE
4 GARCIA?

5 A I THINK -- I DID ONE WITH INVESTIGATOR
6 HERTER, I BELIEVE. THAT WAS THE MORNING FOLLOWING, THE
7 EARLY MORNING FOLLOWING THE SHOOTING.

8 Q AND THAT WOULD HAVE BEEN AUGUST 11TH ABOUT
9 1:40 IN THE MORNING?

10 A YES.

11 Q DID YOU HAVE ANY DISCUSSION WITH HIM ABOUT
12 THE CASE, WHAT HAPPENED, LIKE A PREINTERVIEW BEFORE YOU
13 WENT ON TAPE?

14 A NO.

15 Q HAVE YOU EVER HAD ANY DISCUSSIONS WITH HIM
16 SINCE THAT INTERVIEW AND GOING OFF TAPE?

17 A NO.

18 Q DID YOU EVER TRY TO DETERMINE -- STRIKE
19 THAT.

20 DO YOU KNOW IF ANYONE'S TRIED TO DETERMINE
21 IF STEVE GARCIA CAN IDENTIFY ANYONE THAT WAS PRESENT THAT
22 DAY?

23 A I BELIEVE HE WAS SHOWN PHOTOGRAPHS BY
24 INVESTIGATOR HERTER AND INVESTIGATOR RONDOU.

25 Q BUT YOU WERE NOT PRESENT?

26 A I WAS NOT PRESENT FOR THAT, NO.

1 MR. LAZ: NO FURTHER QUESTIONS.

2 THE COURT: ANYONE ELSE?

3 MR. DE GIACOMO: NO QUESTIONS, YOUR HONOR.

4 #CROSS-EXAMINATION

5 BY MR. BAILEY: Q GOOD AFTERNOON, CORPORAL ASHBY.

6 A GOOD AFTERNOON.

7 Q WITH REGARD TO STEVE GARCIA, WHO TOLD YOU
8 THAT HE MIGHT BE A PERSON WHO HAD INFORMATION CONCERNING
9 THIS CASE AND SHOULD BE INTERVIEWED?

10 A I BELIEVE HE WAS CONTACTED BY THE PATROL
11 OFFICERS THAT WERE FIRST ON THE SCENE RIGHT AFTER THE
12 SHOOTING. AND I BELIEVE HE WAS CONTACTED BY THEM AND
13 TRANSPORTED TO THE STATION SO THAT WE COULD TALK TO HIM
14 LATER.

15 Q YOU DON'T REMEMBER WHO THAT PATROL OFFICER
16 WAS?

17 A NO, I DON'T.

18 Q HAVE YOU READ ANY REPORTS THAT INDICATED
19 THAT STATEMENTS WERE MADE TO PATROL OFFICERS BY STEVE
20 GARCIA?

21 A I'M SURE THERE ARE. BUT I COULDN'T TELL YOU
22 WHO TOOK THE REPORT.

23 Q ALL RIGHT. THEN GOING OVER TO EDDIE REYES.
24 HE TOLD YOU ON THIS AUGUST 10TH INTERVIEW THAT HE WAS IN AN
25 EXTRA CAB PICKUP?

26 A YES.

1 Q IN THE BACK SEAT? DID YOU EVER DETERMINE
2 WHO THE OWNER OF THAT PICKUP WAS, OR DID YOU EVER --

3 A I BELIEVE WE KNOW WHO IT WAS. AN INDIVIDUAL
4 BY THE NAME OF VICTOR MONDRAGON.

5 Q DID YOU CAUSE THAT VEHICLE TO BE SEARCHED OR
6 EXAMINED IN ANY WAY IN CONNECTION WITH THE INVESTIGATION OF
7 THIS CASE?

8 A I DON'T BELIEVE WE EVER CONTACTED VICTOR,
9 NO.

10 Q AND SO JUST TAKING IT ON EDDIE'S WORD THAT
11 WAS THE VEHICLE THAT YOU WERE TALKING ABOUT, THAT WAS THE
12 CONCLUSION YOU REACHED, OR WAS THERE OTHER INFORMATION?

13 A I DON'T BELIEVE WE EVER VERIFIED WITH EDDIE
14 THAT WAS THE VEHICLE. WE SUSPECT THAT WAS THE VEHICLE, BUT
15 WE NEVER CONTACTED MR. MONDRAGON WITH REGARDS TO THAT.

16 Q EDDIE TOLD YOU HE WAS IN THE BACK, THAT THE
17 VEHICLE WAS BEING DRIVEN BY VICTOR MEDINA; IS THAT RIGHT?

18 A NO, I THINK HE SAID IT WAS BEING DRIVEN BY
19 AN INDIVIDUAL HE I.D.'D AS JR., AND THAT THE TRUCK WAS
20 OWNED BY VICTOR'S FATHER. AND VICTOR WASN'T DRIVING
21 BECAUSE HE HAD BEEN SHOT IN THE LEG COUPLE WEEKS PRIOR TO
22 THAT. HE WAS IN THE RIGHT FRONT PASSENGER SEAT.

23 Q OKAY. AND THIS PERSON, JR., WAS HE A PERSON
24 WHO YOU TRIED TO GET A PHOTOGRAPHIC IDENTIFICATION OF
25 THROUGH --

26 A WE WERE NEVER ABLE TO I.D. THAT INDIVIDUAL,

1 AS FAR AS I KNOW.

2 Q IN YOUR INVESTIGATION IN THIS CASE WHEN YOU
3 DID SHOW PHOTOGRAPHS TO EDDIE, DID YOU SHOW HIM PHOTOGRAPHS
4 IN AN ATTEMPT TO DETERMINE WHO JR. WAS?

5 A THE DRIVER OF THE TRUCK?

6 Q YES -- WELL, JR., WHO WAS IN THE TRUCK, YES.

7 A NO. NOT TO MY KNOWLEDGE, NO.

8 Q AND DID YOU SHOW HIM A PHOTOGRAPH OF VICTOR
9 MEDINA. IDENTIFIED VICTOR MEDINA?

10 A YOU MEAN VICTOR MONDRAGON.

11 Q YOU SAID VICTOR MONDRAGON WAS THE PERSON WHO
12 WAS IN --

13 A HE IS THE PERSON WE BELIEVE OWNED THE TRUCK
14 AND WAS A PASSENGER.

15 Q LET'S GO BACK THEN TO WHAT EDDIE TOLD YOU.

16 A HE TOLD US HIS NAME WAS VICTOR MEDINA, BUT
17 WE BELIEVE THAT WASN'T HIS TRUE NAME. WE BELIEVE THE
18 INDIVIDUAL THAT HE WAS TALKING ABOUT WAS VICTOR MONDRAGON.
19 AND THAT WAS BASED ON THE FACT THAT HE TOLD US THAT VICTOR
20 HAD BEEN SHOT IN THE LEG A COUPLE WEEKS PRIOR TO THAT. AND
21 VICTOR MONDRAGON, WE WERE AWARE OF, WAS THE VICTIM OF A
22 SHOOTING IN THE SAME LOCATION THE DATE HE HAD INDICATED. I
23 THINK IT WAS 9TH AND HOLLY STREET, COUPLE WEEKS PRIOR TO
24 THIS SHOOTING. SO, WE ASSUMED THAT THAT WAS THE SAME
25 INDIVIDUAL.

26 Q AND DID HE SAY -- DID HE NAME ANY OF THE

1 OTHER PEOPLE WHO WERE INSIDE THAT TRUCK?

2 A JUST JR. AND VICTOR.

3 Q ALL RIGHT. AND THEN HE SAID THAT HE SAW HIS
4 BROTHER ON A BIKE AND SEVERAL OTHER PEOPLE; IS THAT
5 CORRECT?

6 A YES.

7 Q AND THOSE PEOPLE HE SAID WERE FRANK, SPEEDY
8 OR JR.; IS THAT RIGHT?

9 A WELL, HE KNEW FRANK AS SPEEDY AND BY JR.,
10 ALSO. SO, THERE WERE THREE NAMES THAT HE KNEW FRANK LOPEZ
11 BY.

12 Q AND THEN HE ALSO NAMED A PERSON NAMED
13 SOLDIER, OR LITTLE SOLDIER?

14 A YES.

15 Q AND HE DIDN'T HAVE A NAME TO GO WITH THAT,
16 THAT WAS JUST THE ONLY NAME HE KNEW THAT PERSON BY?

17 A YES.

18 Q ON THE 10TH?

19 A I BELIEVE SOLDIER, YES.

20 Q AND HE SAID HE ALSO SAW ISREAL?

21 A YES.

22 Q CHEWY?

23 A YES.

24 Q BOUNCER?

25 A YES.

26 Q ANYBODY ELSE?

1 A NO. OTHER THAN HIS BROTHER, NO.

2 Q NOW, AS OF THAT DAY, THE 12TH OF AUGUST,
3 2004, DID YOU CONNECT BOUNCER WITH SEVERO DE LA RIVA?

4 A I DON'T KNOW IF IT WAS THAT EXACT DATE OR IT
5 WAS SHORTLY FOLLOWING THAT. WE CONNECTED HIM THROUGH THE
6 INFORMATION THAT WE HAD RECEIVED FROM EITHER ANDY, OR EDDIE
7 TOLD US THAT SEVERO'S FATHER WAS FRANK LOPEZ'S UNCLE, AND
8 WAS CALLING THE SHOTS AT CHINO PRISON. AND THROUGH A
9 CONTACT WITH OUR CAREER CRIMINAL UNIT WE WERE ABLE TO
10 VERIFY THAT THERE WAS AN INDIVIDUAL BY THE NAME OF SEVERO
11 DE LA RIVA, SR. THAT WAS OUT AT CHINO THAT WAS IDENTIFIED
12 AS A SHOT CALLER FROM CHINO. BUT WAS APPARENTLY IN THE
13 HAT, OR HAD A GREEN LIGHT ON HIM FOR SOME REASON,
14 WHATEVER. I DIDN'T CARE TO GO INTO THAT BECAUSE IT DIDN'T
15 HAVE ANYTHING TO DO WITH WHAT WE WERE --

16 Q OKAY. SO THEN YOU DETERMINED FROM THAT
17 NAME, DID YOU SEARCH THE RECORDS AND COME UP WITH
18 16-YEAR-OLD SEVERO DE LA RIVA WHO LIVED OVER IN THE 5TH
19 STREET AREA?

20 A YEAH, I BELIEVE THAT'S HOW WE DID IT, THE
21 RECORDS. YOU'D HAVE TO ASK INVESTIGATOR HERTER. I BELIEVE
22 HE DID THAT.

23 Q BUT IN THE NEXT INTERVIEW YOU HAD WITH
24 EDDIE, YOU SHOWED HIM PHOTOGRAPHS AND YOU'VE TESTIFIED THAT
25 HE IDENTIFIED A PICTURE OF SEVERO DE LA RIVA AS THAT PERSON
26 BEING BOUNCER?

1 A YES.

2 Q AND THAT'S THE INDIVIDUAL HERE IN COURT?

3 A YES.

4 Q AND THAT'S SOMEBODY WHO YOU KNEW WAS NOT AN
5 F-TROOP MEMBER, BUT YOU BELIEVE TO BE FROM 5TH STREET; IS
6 THAT RIGHT?

7 A YES.

8 Q NOW, THE INFORMATION YOU RECEIVED FROM EDDIE
9 AND FROM ANDY BOTH, WERE THAT THIS INDIVIDUAL, BOUNCER, HAD
10 RIDDEN HIS BICYCLE PAST THE CAR IN WHICH THE SHOOTING
11 VICTIM WAS SEATED; IS THAT CORRECT? AT THE TIME OF THE
12 SHOOTING?

13 A YEAH, EDDIE PUT HIM ON THE -- PLACED HIM ON
14 THE DIAGRAM AS NORTH OF THE VEHICLE ON SULLIVAN STREET.

15 Q AND WAS EDDIE OR ANDY WHO TOLD YOU THAT THE
16 VEHICLE HAD GONE ABOUT 20 FEET SOUTH OF THE INTERSECTION
17 WHEN THE SHOTS WERE FIRED?

18 A I'D HAVE TO LOOK AT THE REPORT.

19 Q THAT'S OKAY. BUT AT ANY RATE, BOTH THOSE
20 INDIVIDUALS INDICATED THAT BOUNCER, SEVERO DE LA RIVA, WAS
21 SOME DISTANCE PAST THE VEHICLE AND THE SHOOTER AT THE TIME
22 THE SHOTS WERE FIRED; ISN'T THAT RIGHT?

23 A I DON'T THINK ANDY DID, BUT I KNOW EDDIE DID
24 FOR SURE.

25 Q WHAT'S YOUR RECOLLECTION OF WHAT ANDY TOLD
26 YOU?

1 A ANDY DIDN'T SAY MUCH ABOUT ANYBODY OTHER

2 THAN FRANK LOPEZ, AT ALL. HE WAS RELUCTANT TO TALK ABOUT

3 ANYBODY OTHER THAN HIM.

4 Q AND ANDY SAID THAT HE WASN'T A MEMBER OF

5 F-TROOP, HADN'T BEEN JUMPED IN YET, HE IS KICKING BACK WITH

6 THEM FOR TWO OR THREE MONTHS, BUT HE HADN'T EARNED A

7 MONIKER, IS THAT A FAIR STATEMENT OF WHAT HE TOLD YOU?

8 A HE SAID THEY TOLD HIM HE HAD TO PUT WORK IN

9 PRIOR TO BEING ABLE TO EARN A MONIKER, AND PRIOR TO BEING

10 JUMPED INTO F-TROOP.

11 Q AND IN YOUR INVESTIGATION CONCERNING

12 BACKGROUND OF STEVE GARCIA, DID YOU DETERMINE WHETHER OR

13 NOT HE HAD ANY FELONY CONVICTIONS OR CRIMES OF MORAL

14 TURPITUDE?

15 A I DON'T RECALL. YOU'D HAVE TO ASK

16 INVESTIGATOR HERTER.

17 MR. BAILEY: NOTHING FURTHER.

18 THE COURT: ANYONE?

19 #CROSS-EXAMINATION

20 BY MR. HARLEY: Q YES. AUGUST 12TH, IS THAT THE

21 FIRST TIME YOU HAD ANY PERSONAL FACE-TO-FACE CONTACT WITH

22 EITHER ANDY REYES OR EDDIE REYES?

23 A TO MY RECOLLECTION, YES.

24 Q OF THE TWO, THE FIRST CONTACT YOU HAD WAS

25 ANDY REYES, CORRECT?

26 A YES.

1 Q AND THAT WAS AT 9:30 IN THE MORNING,
2 CORRECT?

3 A I BELIEVE SO, YES.

4 Q AND PRIOR TO THAT, YOU GOT A CALL FROM THE
5 MOTHER SAYING THAT HER SON WAS A VICTIM OF A CRIME THAT YOU
6 GUYS WERE INVESTIGATING, CORRECT?

7 A I BELIEVE SERGEANT STEEN IS THE ONE WHO GOT
8 THAT PHONE CALL.

9 Q AND THIS CASE NUMBER 04-34210 WAS A
10 DIFFERENT INCIDENT THAN THE ONE WE'RE INVOLVED IN TODAY,
11 CORRECT?

12 A YES.

13 Q ALL RIGHT. AND BASED ON THE INFORMATION YOU
14 GOT, THE MOTHER CALLED SAYING THAT HER SON WAS THE VICTIM
15 IN THAT INCIDENT, AND SHE WANTED TO MAKE SURE BOTH SIDES OF
16 THE STORY WERE GIVEN TO YOU GUYS, CORRECT?

17 A YES.

18 Q AND THEN HOW MUCH LATER WAS IT THAT YOU
19 LEARNED THAT -- STRIKE THAT.

20 YOU ALSO LEARNED THROUGH THE MOTHER THAT
21 ANDREW REYES WAS ON THE RUN BECAUSE OF A NO BAIL PROBATION
22 VIOLATION, JUVENILE COURT?

23 A I DON'T RECALL THAT. BUT YOU KNOW WHAT, I
24 THINK THAT'S CORRECT, BECAUSE I THINK WE BOOKED HIM ON A
25 PROBATION VIOLATION.

26 Q ALL RIGHT.

1 A OR JUVENILE HALL PROBATION VIOLATION.

2 Q BUT YOU LEARNED AT SOME POINT IN TIME --
3 SPECIFICALLY AT 9:00, THAT HE WAS IN CUSTODY FOR A NO BAIL
4 WARRANT ISSUED REGARDING A JUVENILE VIOLATION, CORRECT?

5 A YES. THAT IS CORRECT.

6 Q DID YOU GO DOWN THERE AND GET HIM FROM
7 JUVENILE HALL?

8 A NO. OFFICER CARRANZA, I BELIEVE, WENT TO
9 HIS HOUSE AND ARRESTED HIM ON THE WARRANT, IF I REMEMBER
10 CORRECTLY. I'D HAVE TO REFER TO THE REPORT.

11 Q OKAY. GO AHEAD. YOU HAVE THE REPORT UP
12 THERE, CORRECT?

13 A YES.

14 THE REPORT DOESN'T SAY IT WAS OFFICER
15 CARRANZA THAT HAD ARRESTED HIM THAT MORNING.

16 Q WAS HE WORKING AS PART OF YOUR GROUP, OR WAS
17 THIS AN INDEPENDENT INVESTIGATION?

18 A NO, HE WAS A PAROLE OFFICER.

19 Q AND HE ARRESTED MR. REYES FOR THIS NO BAIL
20 WARRANT, CORRECT?

21 A OFFICER CARRANZA DID, YES.

22 Q RIGHT. AND HE TOOK -- WHY DID HE BRING HIM
23 TO YOU, AS OPPOSED TO TAKING HIM TO JUVENILE HALL?

24 A I BELIEVE, IF I REMEMBER CORRECTLY, BASED ON
25 THE PHONE CALL OF ANDY'S MOTHER, THERE WAS A -- SHORTLY
26 AFTER THE SHOOTING ON THE 10TH, THERE WAS A CALL A FEW

1 MINUTES AFTER THAT. THERE WAS A CALL UP IN -- UP ON 12TH
2 STREET INVOLVING A FIGHT AND AN INDIVIDUAL BRANDISHING A
3 HANDGUN. THE VICTIM IN THAT FIGHT APPARENTLY DISARMED A
4 SUSPECT, TOOK THE GUN AWAY. AND WHEN SHE CALLED TO SAY
5 THAT HER SON WAS THE SECOND HALF OF THAT, WE BEGAN TO
6 BELIEVE THAT THAT GUN MAY HAVE POSSIBLY BEEN USED IN OUR
7 HOMICIDE.

8 Q OKAY. SO THAT'S WHY CARRANZA BROUGHT EDDIE
9 REYES TO YOU GUYS, CORRECT?

10 A YES.

11 Q AND HE ENDED UP IN YOUR OFFICE IN ROOM 6 AT
12 9:35 HOURS ON AUGUST 12TH, 2004, CORRECT?

13 A YES.

14 Q ARE YOU AWARE OF ANY CONVERSATION THAT TOOK
15 PLACE BETWEEN EDDIE REYES AND CARRANZA, BEFORE HE ENDED UP
16 IN YOUR OFFICE?

17 A NO.

18 Q AND THEN ONCE HE GOT IN YOUR OFFICE, WAS
19 THERE ANY CONVERSATION THAT WAS BETWEEN YOU AND THE OTHER
20 OFFICERS INVOLVED IN THE INTERVIEW WITH MR. REYES, THAT WAS
21 NOT ON TAPE?

22 A NO.

23 Q SO EVERYTHING WAS ON TAPE?

24 A WELL, IF HE NEEDED TO GO TO THE BATHROOM
25 WHEN HE WAS DOWN IN THE STATION SUP'S OFFICE, I THINK WE
26 GOT HIM LUNCH OR SOME POINT, OBVIOUSLY, WE HAD TO TALK TO

1 HIM ABOUT THAT. BUT THERE WAS NO DISCUSSION ABOUT THE --
2 EITHER INCIDENT THAT WAS OFF TAPE.

3 Q OKAY. NOW, DURING THIS INTERVIEW THAT TOOK
4 PLACE AT 9:35 HOURS, YOU WERE FOCUSING IN ON THE SUBSEQUENT
5 ASSAULT THAT TOOK PLACE ON AUGUST 11TH, CORRECT?

6 A THE FIGHT AND THE GUN ON 12TH STREET, YES.

7 Q RIGHT. THAT'S DR NUMBER 04-34210, CORRECT?

8 A I BELIEVE SO.

9 Q ALL RIGHT. WAS ANY OF THE CONVERSATION
10 TURNED TOWARDS THE SHOOTING DURING THIS FIRST CONVERSATION
11 THAT YOU HAD WITH MR. EDDIE REYES THAT STARTED AT 9:35
12 HOURS?

13 A NO.

14 Q BUT DURING THAT CONVERSATION, EVERY TIME THE
15 SUBJECT OF THE GUN WAS BROUGHT UP, MR. REYES DENIED KNOWING
16 ANYTHING ABOUT THE GUN; IS THAT CORRECT?

17 A THAT'S CORRECT.

18 Q OKAY. NOW, AFTER THAT INTERVIEW WAS
19 TERMINATED, YOU MADE A PHONE CALL TO EDDIE REYES'S MOTHER
20 AND TOLD HER THAT HER SON WAS ARRESTED AND YOU WANTED HER
21 OTHER SON TO COME IN; IS THAT CORRECT?

22 A YES.

23 Q AND WHAT SPECIFICALLY, WHY YOU WANTED THE
24 OTHER SON TO COME IN?

25 A BECAUSE ANDY HAD TOLD US THAT HE WAS AT
26 WILLITS AND SULLIVAN AND SAW WHAT HAD OCCURRED. I

1 BELIEVE -- I'M SORRY, I THINK THAT WAS --

2 Q LOOK AT THAT REPORT.

3 A I'M SORRY, THAT WAS THE SECOND INTERVIEW.

4 Q I'M STILL IN THE FIRST.

5 A THE FIRST INTERVIEW HE TOLD US THAT HIS
6 BROTHER, EDDIE, HAD BEEN WITH HIM AT THE TIME OF THE FIGHT.

7 Q OKAY. SO THAT'S WHY YOU CALL THE MOTHER AND
8 ASKED FOR THE BROTHER, THE YOUNGER BROTHER EDDIE TO COME
9 DOWN AND TALK ABOUT THAT SUBSEQUENT FIGHT?

10 A YES. I BELIEVE INVESTIGATOR HERTER CALLED.

11 Q AND THAT WAS THE REASON WHY YOU PHONED THE
12 MOTHER, CORRECT?

13 A YES, I BELIEVE SO.

14 Q ALL RIGHT. AND THEN YOU RE-INTERVIEWED
15 ANDREW REYES IN THE SAME ROOM AT APPROXIMATELY 1330 HOURS,
16 CORRECT?

17 A YES.

18 Q AND WHAT WAS THE REASON FOR DOING THAT?

19 A BETWEEN THE FIRST AND SECOND INTERVIEWS, WE
20 HAD GONE OUT TO OR GONE DOWN TO COSTA MESA POLICE
21 DEPARTMENT, SHOWED A PHOTO LINEUP THAT CONTAINED THE PHOTO
22 OF ANDY TO COSTA MESA DETECTIVE THAT HAD WITNESSED THE
23 SHOOTING. AND HE IDENTIFIED ANDY AS THE SUBJECT THAT HAD
24 FIRED THE SHOT, OR THAT HE SAW WITH THE GUN AT WILLITS AND
25 SULLIVAN.

26 SO, WE RETURNED TO THE STATION TO CONDUCT A

1 SECOND INTERVIEW IN REGARDS TO THE SHOOTING AT WILLITS AND
2 SULLIVAN.

3 Q ALL RIGHT. NOW, THIS OFFICER, THIS IS
4 DETECTIVE ZALINSKI?

5 A YES, I BELIEVE THAT'S HIS NAME.

6 Q AND WAS HE SHOWN A PHOTOGRAPHIC SIX-PACK?

7 A YES.

8 Q AND THAT'S IDENTIFIED BY PHOTO LINEUP NUMBER
9 879?

10 A I BELIEVE SO.

11 Q AND HE WAS READ THE STANDARD SANTA ANA P.D.
12 ADMONISHMENT; IS THAT CORRECT?

13 A YES, I BELIEVE SO.

14 Q DID YOU WATCH HIM PICK OUT SLOT NUMBER
15 THREE, WHICH IS EDDIE REYES?

16 A YES.

17 Q AND HOW SHORT A PERIOD OF TIME DID IT TAKE
18 HIM TO PICK OUT EDDIE REYES, THE PERSON THAT HE SAW WITH
19 THE GUN -- I'M SORRY, I MEANT ANDY REYES?

20 A I DON'T RECALL.

21 Q BUT AT LEAST HE PICKED OUT ANDY REYES AS THE
22 PERSON HE SAW WITH THE GUN?

23 A YES.

24 Q AND DID HE TELL YOU THAT THAT WAS THE PERSON
25 WHO HE SAW SHOOTING THE GUN?

26 A I DON'T THINK SO. I THINK HE'S THE PERSON

1 HE SAW WITH THE GUN LEAVING THE SCENE.

2 Q DID HE SEE THE ACTUAL SHOOTING, ACCORDING TO
3 YOUR CONVERSATIONS WITH HIM?

4 A I DON'T RECALL. I DON'T THINK HE DID.

5 Q WHO DID THE INTERVIEW WITH HIM?

6 A I BELIEVE -- YOU KNOW, I DON'T KNOW THAT,
7 EITHER. I KNOW IT WASN'T ME. I THINK IT MAY HAVE BEEN
8 INVESTIGATOR RONDOU.

9 Q BUT AT LEAST AS FAR AS YOU KNOW, HE SAW ANDY
10 REYES TAKING OFF IMMEDIATELY AFTER SHOTS WERE FIRED,
11 CORRECT?

12 A YES.

13 Q DID HE TELL YOU WHAT DISTANCE HE WAS
14 OBSERVING ANDY REYES FROM WHEN HE SAW HIM TAKE OFF WITH THE
15 GUN, IMMEDIATELY AFTER SHOTS WERE FIRED?

16 A AT THE TIME OF THE I.D.?

17 Q RIGHT.

18 A I DON'T RECALL.

19 Q TO YOUR KNOWLEDGE HAS HE BEEN SHOWN --
20 STRIKE THAT.

21 WAS HE SHOWN ANY OTHER PHOTOGRAPHIC ARRAYS
22 BESIDES PHOTOGRAPH ARRAY NUMBER 879 WHEREIN ANDY REYES WAS
23 DEPICTED IN PHOTO SLOT NUMBER THREE?

24 A I BELIEVE HE'S BEEN SHOWN PHOTO LINEUPS WITH
25 EVERYBODY, ALL THE OTHER SUSPECTS THAT WE IDENTIFIED IN THE
26 SHOOTING AT A LATER TIME.

1 Q OKAY. AND WAS HE SHOWN ALL THE OTHER
2 PHOTOGRAPHIC ARRAYS ON AUGUST 12TH, 2004, AT 12:30 HOURS,
3 OR WAS HE SHOWN THEM SUBSEQUENT TO THAT DATE AND TIME?

4 A IT WOULD HAVE BEEN SUBSEQUENT TO THAT DATE
5 AND TIME.

6 Q OKAY. SO HE WAS SHOWN THE PHOTOGRAPHIC
7 DISPLAY THAT CONTAINED MR. FRANK LOPEZ, CORRECT?

8 A I BELIEVE HE WAS AT SOME TIME -- AT SOME
9 POINT.

10 Q DID HE MAKE AN IDENTIFICATION OF THAT
11 PHOTOGRAPHIC DISPLAY?

12 A NO, I DON'T BELIEVE SO.

13 Q SO THE ONLY IDENTIFICATION HE MADE OF THE
14 PERSON HOLDING THE GUN IMMEDIATELY AT THE TIME SHOTS WERE
15 FIRED, WAS OF ANDY REYES, WHO WAS IN SLOT NUMBER THREE IN
16 PHOTOGRAPHIC LINEUP NUMBER 879, CORRECT?

17 A YES.

18 Q CAN YOU GIVE ME AN IDEA, AN APPROXIMATE IDEA
19 OF WHEN THOSE ADDITIONAL PHOTOGRAPHIC DISPLAYS WERE
20 DISPLAYED TO DETECTIVE ZALINSKI OF COSTA MESA P.D.?

21 A I DON'T RECALL.

22 Q BUT TO YOUR KNOWLEDGE, THEY WERE DISPLAYED
23 TO HIM, AND HE WAS ASKED TO MAKE AN IDENTIFICATION SOMETIME
24 AFTER AUGUST 12TH, 2004?

25 A WELL, WE SHOWED HIM PHOTO LINEUPS, AND HE
26 DIDN'T I.D. ANYBODY.

1 Q MY QUESTION IS WERE THOSE PHOTO LINEUPS
2 SHOWN AFTER THE PHOTO LINEUP CONTAINING ANDY REYES?

3 A YES.

4 Q AND DO YOU KNOW HOW LONG AFTERWARDS?

5 A NO. I DON'T RECALL.

6 Q BUT TO YOUR KNOWLEDGE HE MADE ABSOLUTELY NO
7 CHANGES IN HIS IDENTIFICATION, CORRECT?

8 A NOT TO MY KNOWLEDGE, NO.

9 Q AND THAT WAS THE REASON WHY YOU WENT BACK
10 AND RE-INTERVIEWED ANDREW REYES AT 1330 HOURS, CORRECT?

11 A YES.

12 Q NOW, DO YOU KNOW WHERE HE WAS FROM THE TIME
13 YOU TERMINATED YOUR FIRST INTERVIEW, UNTIL YOU INITIATED
14 YOUR SECOND INTERVIEW AT 1330 HOURS?

15 A YES.

16 Q WHERE WAS IT?

17 A HE WAS IN A HOLDING CELL THAT IS CONTAINED
18 WITHIN THE STATION SUPERVISOR'S OFFICE. WE HAVE TWO CELLS
19 THERE FOR JUVENILES WITH GLASS WINDOW AND GLASS DOORS SO
20 THAT THE STATION SUP CAN MONITOR EVERYTHING GOING ON WITH
21 ANY JUVENILES THAT ARE IN THERE.

22 Q AND DURING THAT PERIOD OF TIME, HOWEVER LONG
23 IT WAS, DID HE HAVE ANY CONVERSATIONS WITH ANYBODY FROM
24 SANTA ANA P.D.?

25 A NOT TO MY KNOWLEDGE, NO.

26 Q OKAY. SO TO YOUR KNOWLEDGE, THERE WAS NO

1 CONVERSATIONS HE HAD WITH ANYBODY FROM THE POINT IN TIME
2 THE FIRST INTERVIEW TERMINATED, UNTIL THE INITIATION OF THE
3 SECOND INTERVIEW, CORRECT?

4 A CORRECT.

5 Q AND AGAIN, EVERYTHING HE TOLD YOU AND YOUR
6 PARTNER OFFICERS WOULD BE ON THAT TAPE, CORRECT?

7 A YES.

8 Q NO CONVERSATION WAS HAD AFTER --

9 A WELL, OTHER THAN THE CONVERSATION I TOLD
10 MR. LAZ ABOUT.

11 Q THE BRIEF CONVERSATION WHILE HE WAS GOING TO
12 JUVENILE HALL?

13 A RIGHT. WITH INVESTIGATOR RONDOU AND
14 INVESTIGATOR ZEPEDA.

15 Q WHAT WAS THAT CONVERSATION ABOUT?

16 A WHAT I UNDERSTAND, BECAUSE I WASN'T THERE, I
17 WAS TOLD THIS BY INVESTIGATOR RONDOU AND ZEPEDA, THAT WHILE
18 THEY WERE TRANSPORTING MR. REYES TO JUVENILE HALL, HE ASKED
19 THEM WHAT HIS CHARGES WERE. AND THEY TOLD HIM THAT HE WAS
20 BEING LODGED ON A PROBATION VIOLATION. AND IT'S MY
21 UNDERSTANDING THAT HIS RESPONSE TO THAT WAS NO, THEY'RE
22 CHARGING ME WITH MURDER. AND THEN HE BEGAN TO TALK ABOUT
23 WHO ELSE WAS INVOLVED IN IT.

24 Q OKAY. HE ASKED WHAT THE CHARGES WERE?

25 A I BELIEVE HE ASKED -- THAT'S MY
26 UNDERSTANDING OF THE CONVERSATION. I WASN'T THERE.

1 Q HAVE YOU REVIEWED THE TAPE-RECORDING OF THE
2 ACTUAL CONVERSATIONS YOU HAD WITH ANDY REYES ON AUGUST
3 12TH?

4 A YES.

5 Q AND BASED ON YOUR REVIEW OF THIS REPORT THAT
6 WAS PREPARED BY, IT LOOKS LIKE DETECTIVE HERTER, DOES THAT
7 APPEAR TO BE A REASONABLY ACCURATE NARRATIVE OF BOTH OF THE
8 OF THE CONVERSATIONS THAT YOU HAD WITH ANDY REYES?

9 A YES.

10 Q ON AUGUST 12TH, 2004?

11 A YES.

12 Q NOTHING YOU WANT TO CHANGE?

13 A NO.

14 Q THEN AT 5:05, THAT'S WHEN YOU HAD AN
15 INTERVIEW WITH EDDIE REYES, CORRECT?

16 A YES. I BELIEVE SO.

17 Q AND THIS IS YOU AND HERTER IN THE SAME
18 INTERVIEW ROOM NUMBER 6 LOCATED THIRD FLOOR SANTA ANA P.D.?

19 A YES.

20 Q AND AS YOU INDICATED EARLIER, THERE WAS NO
21 CONVERSATION THAT WAS NOT CAPTURED ON THIS TAPE, CORRECT?

22 A AS I INDICATED, WE SPOKE WITH HIS MOTHER
23 BEFORE AND AFTER. BUT THERE WAS NO CONVERSATION WITH EDDIE
24 OTHER THAN WHAT WAS ON TAPE, ABOUT THE TWO CRIMES, THE
25 FIGHT AND THE SHOOTING.

26 Q ALL RIGHT. WAS THE MOTHER PRESENT DURING

1 THE FIRST INTERVIEW WITH EDDIE REYES?

2 A NO.

3 Q SHE BROUGHT HIM DOWN, THOUGH, RIGHT?

4 A YES.

5 Q AND WHAT WAS THE CONVERSATION YOU HAD WITH
6 THE MOTHER WHEN SHE BROUGHT HIM DOWN BEFORE YOU STARTED THE
7 INTERVIEW THAT STARTED ON 5:05 P.M.?

8 MR. GELLER: OBJECTION. RELEVANCE.

9 THE COURT: SUSTAINED.

10 BY MR. HARLEY: Q AND YOU HAD A CONVERSATION WITH
11 HER AFTER THE INTERVIEW WITH EDDIE REYES ENDED ON AUGUST
12 12TH, 2004, CORRECT?

13 A YES.

14 Q AND WHAT WAS THAT CONVERSATION ABOUT?

15 MR. GELLER: OBJECTION. RELEVANCE.

16 THE COURT: SUSTAINED.

17 BY MR. HARLEY: Q NOW, YOU'VE HAD AN OPPORTUNITY
18 TO REVIEW THE VIDEOTAPE OF THE INTERVIEW WITH EDDIE REYES
19 AND THE AUDIOTAPE OF THE INTERVIEW WITH EDDIE REYES,
20 CORRECT?

21 A I REVIEWED THE AUDIOTAPES.

22 Q AND BASED ON YOUR REVIEW OF THE AUDIOTAPE,
23 IS THERE ANYTHING CONTAINED IN THIS SUPPLEMENTAL REPORT
24 THAT'S INCONSISTENT OR INCORRECT WHEN YOU COMPARE IT WITH
25 THE AUDIOTAPE?

26 A NO.

1 Q NOW, THE VERY NEXT TIME YOU HAD AN
2 INTERVIEW WITH EDWARD REYES WAS ON AUGUST 17TH, 2004, AT
3 1700 HOURS?

4 A AS I TESTIFIED WITH MR. LAZ, I THOUGHT IT
5 WAS THE FOLLOWING DAY OF THE 12TH, BUT IT COULD HAVE BEEN
6 THE 17TH, YES.

7 Q WELL, DO YOU HAVE SOME NOTES UP THERE OR
8 DOCUMENTS THAT WOULD REFRESH YOUR RECOLLECTION AS TO WHEN
9 YOUR NEXT CONTACT WAS WITH EDWARD REYES?

10 A YES, I DO..

11 Q OKAY. WITH THE COURT'S PERMISSION, OF
12 COURSE?

13 A IT WAS THE 17TH.

14 Q ARE YOU AWARE OF ANYBODY IN THE DEPARTMENT
15 OR YOURSELF HAVING ANY CONTACT WITH EDDIE REYES BETWEEN
16 AUGUST 12TH AND AUGUST 17TH?

17 A NO.

18 Q SO TO YOUR KNOWLEDGE THE VERY NEXT TIME THAT
19 YOU HAD CONTACT WITH EDWARD REYES WAS WHEN HE SHOWED UP AT
20 THE SANTA ANA P.D. FOR THIS INTERVIEW THAT STARTED 1700
21 HOURS ON AUGUST 17TH, CORRECT?

22 A YES.

23 Q AND YOU HAD AN OPPORTUNITY TO REVIEW THE
24 AUDIOTAPE OF THAT PARTICULAR INTERVIEW?

25 A YES.

26 Q AND HAVE YOU COMPARED IT WITH THE POLICE

1 REPORT THAT WAS PREPARED BY DETECTIVE HERTER?

2 A YES.

3 Q AND BASED ON YOUR REVIEW OF THE AUDIOTAPE,
4 IT'S CONSISTENT WITH THE SUMMARY OF WHAT OCCURRED IN THE
5 POLICE REPORT?

6 A YES.

7 Q NOW, ANY CONVERSATIONS THIS TIME BETWEEN
8 MEMBERS OF YOUR DEPARTMENT, INCLUDING YOURSELF AND
9 MR. REYES, THAT TOOK PLACE THAT WERE NOT ON THE
10 VIDEOTAPE -- EXCUSE ME, NOT ON THE AUDIOTAPE?

11 A NOT TO MY RECOLLECTION, NO.

12 Q WAS HIS MOTHER PRESENT DURING THIS
13 INTERVIEW?

14 A YES, I BELIEVE SO.

15 Q AND SHE WAS SITTING IN ROOM NUMBER 6 DURING
16 THE ENTIRE INTERVIEW YOU HAD WITH EDDIE REYES ON TUESDAY,
17 AUGUST 17TH, 2004, CORRECT?

18 A NO.

19 Q OH, SHE WAS OUTSIDE THE ROOM?

20 A NO, SHE WAS -- THIS SECOND INTERVIEW WAS
21 CONDUCTED IN INTERVIEW ROOM NUMBER 4 OUTSIDE IN THE LOBBY
22 OF THE THIRD FLOOR. IT WASN'T CONDUCTED IN THE SAME
23 INTERVIEW ROOM.

24 Q OKAY. BUT WAS THE MOTHER PRESENT INSIDE
25 THAT INTERVIEW ROOM?

26 A YES.

1 Q I'M TALKING SPECIFICALLY ROOM NUMBER 4, IS
2 IT ROOM NUMBER 4 OR ROOM NUMBER 3211?

3 A WELL, THEY HAVE THE ROOMS KIND OF NUMBERED
4 TWO WAYS. IT'S INTERVIEW ROOM NUMBER 4, BUT WHATEVER
5 REASON THEY -- IT'S ONE IN THE SAME. 4 AND 3211 IS THE
6 SAME ONE.

7 Q WHATEVER THE ROOM NUMBER WAS, WAS MRS. REYES
8 INSIDE THIS INTERVIEW ROOM DURING THE CONVERSATION THAT YOU
9 HAD WITH EDDIE REYES THE START OF 1700 HOURS AUGUST 17TH,
10 2004?

11 A I BELIEVE SO, YES.

12 Q DURING THE ENTIRE INTERVIEW?

13 A YES, I BELIEVE SO.

14 Q DID SHE PARTICIPATE IN YOUR INTERVIEW AT
15 ALL?

16 A NO.

17 Q SO, NOTHING THAT WAS SAID BY HER SHOULD
18 APPEAR IN THE TAPE-RECORDING, TO YOUR RECOLLECTION,
19 CORRECT?

20 A NOT TO MY RECOLLECTION, NO.

21 MR. HARLEY: I HAVE NOTHING FURTHER.

22 MR. REED: NO QUESTIONS, YOUR HONOR.

23 THE COURT: THANK YOU, OFFICER.

24 ANY REDIRECT?

25 MR. LAZ: I GUESS NOT.

26 MR. HARLEY: COULD I JUST ASK. JUST ONE QUESTION,

1 YOUR HONOR, JUST ONE QUESTION.

2 THE COURT: SURE.

3 BY MR. HARLEY: Q ANY OTHER CONVERSATIONS WITH
4 EDDIE REYES BETWEEN AUGUST 17TH AND TODAY'S DATE?

5 A NO. NOT THAT I'M AWARE OF.

6 MR. HARLEY: NOTHING FURTHER.

7 THE WITNESS: THANK YOU.

8 MR. GELLER: WITH THE COURT'S PERMISSION, PEOPLE
9 CALL INVESTIGATOR ZEPEDA.

10 #FIDENCIO ZEPEDA,
11 CALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN
12 FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

13 THE BAILIFF: PLEASE TAKE SEAT IN THE WITNESS
14 STAND, STATE AND SPELL THE LAST NAME.

15 THE WITNESS: FIDENCIO, F-I-D-E-N-C-I-O. THE LAST
16 NAME IS ZEPEDA, Z-E-P-E-D-A.

17 #DIRECT EXAMINATION

18 BY MR. GELLER: Q INVESTIGATOR ZEPEDA, HOW LONG
19 HAVE YOU BEEN A SANTA ANA POLICE OFFICER?

20 A OVER EIGHT YEARS.

21 Q AND YOU WERE AT LEAST TANGENTIALLY INVOLVED
22 IN THE INVESTIGATION IN THIS CASE, YOU HAD AN OPPORTUNITY
23 TO SPEAK WITH ANDY REYES WHILE YOU WERE TRANSPORTING HIM TO
24 JUVENILE HALL AT THE REQUEST OF INVESTIGATOR HERTER, AND
25 ALSO AT THE JUVENILE HALL; IS THAT CORRECT?

26 A YES.

1 Q AND YOU WERE NOT PRESENT DURING INVESTIGATOR
2 HERTER AND ASHBY'S CONVERSATION WITH ANDY REYES PRIOR TO
3 YOU TRANSPORTING HIM; IS THAT ACCURATE?

4 A YES.

5 Q SO OTHER THAN MAYBE SPEAKING WITH YOUR TWO
6 COLLEAGUES, YOU DON'T KNOW WHAT WAS SAID AT THAT POINT?

7 A CORRECT.

8 Q OKAY. NOW, YOU WENT TO JUVENILE HALL WITH
9 INVESTIGATOR RONDOU AND ANDY REYES, AND YOU HAD A
10 CONVERSATION WHILE YOU WERE TRAVELING, ACCURATE?

11 A YES.

12 Q DID YOU REPEAT THAT CONVERSATION WHILE YOU
13 WERE AT JUVENILE HALL, OR WAS IT SOMETHING SAID IN THE
14 FIRST CONVERSATION THAT WAS NOT SAID IN THE SECOND
15 CONVERSATION?

16 A I BELIEVE WE REPEATED THE WHOLE
17 CONVERSATION.

18 Q THE SECOND CONVERSATION WAS ON TAPE, BUT THE
19 ONE TRAVELING WAS NOT?

20 A THAT IS CORRECT.

21 Q NOW, WHEN YOU SPOKE WITH ANDY REYES ABOUT
22 HIS -- DID YOU SPEAK WITH HIM ABOUT HIS INVOLVEMENT IN THE
23 F-TROOP GANG?

24 A YES.

25 Q WHAT DID HE TELL YOU?

26 A THAT HE WAS HANGING OUT WITH THE F-TROOP

1 GANG FOR SOME TIME. I BELIEVE HE ALSO SAID HE DIDN'T HAVE
2 A MONIKER YET.

3 Q AND YOU HAD THE OPPORTUNITY TO SPEAK WITH
4 HIM SPECIFICALLY ABOUT THE SHOOTING THAT HAD OCCURRED ON
5 AUGUST 10TH; IS THAT ACCURATE?

6 A YES.

7 Q AND WHAT DID ANDY REYES TELL YOU ABOUT THE
8 SHOOTING AS RELATES TO WHOM HE WAS WITH AT THAT TIME?

9 A MR. REYES TOLD ME THAT HE WAS PRESENT AT THE
10 SHOOTING, AND HE WAS WITH I BELIEVE HE GAVE MONIKERS OF BAM
11 BAM, WHICH WAS ISREAL LOPEZ, HIS BROTHER, I BELIEVE IT'S
12 JOSE LOPEZ. HE WAS WITH ANOTHER INDIVIDUAL NAMED LITTLE
13 SOLDIER. A MALE NAMED FRANK, WHO WAS ALSO KNOWN AS LITTLE
14 SPEEDY. AND ANOTHER MALE NAMED MONIKER OF BOUNCER, AND
15 THAT HE WAS FROM THE 5TH STREET GANG.

16 Q SO ANDY REYES INDICATED THE FIRST
17 INDIVIDUALS PRIOR TO GETTING TO BOUNCER WERE ALL FROM
18 F-TROOP, BUT BOUNCER WAS FROM 5TH STREET; IS THAT ACCURATE?

19 A YES.

20 Q DID ANDY REYES TALK TO YOU ABOUT FRANK
21 HAVING A GUN PRIOR TO THE SHOOTING?

22 A YES.

23 Q WHAT DID HE TELL YOU?

24 A HE SAID THAT PRIOR TO THE SHOOTING THEY WERE
25 ALL AT ISREAL LOPEZ'S HOUSE ON 9TH STREET. THEY WERE
26 ACROSS THE STREET, I BELIEVE IS WHAT HE SAID. AT WHICH

1 TIME FRANK, AS HE CALLED HIM AT THAT POINT, DISPLAYED A
2 GUN. SHOWED EVERYBODY IN THE GROUP A GUN. HE DESCRIBED
3 THE GUN AS A .357 CALIBER REVOLVER.

4 Q AND WHEN ANDY REYES TOLD YOU THAT HE, BEING
5 FRANK, SHOWED THEM THE GUN, WAS THAT THE "THEM," EVERYBODY
6 HE HAD JUST MENTIONED YOU HAD JUST TESTIFIED TO?

7 A YES.

8 Q DID FRANK REYES THEN -- I'M SORRY, DID ANDY
9 REYES THEN INDICATE TO YOU WHERE THE GROUP WENT?

10 A WHEN? AT WHICH TIME?

11 Q AFTER FRANK HAD SHOWN THE GUN.

12 A YES.

13 Q WHAT DID HE TELL YOU?

14 A HE SAID THAT THE ENTIRE GROUP THEN WENT TO
15 EL SALVADOR PARK. AND I BELIEVE THEY WERE PLAYING OR
16 HANGING OUT AT THE HANDBALL COURTS FOR A COUPLE OF HOURS.

17 Q AND DID ANDY REYES TELL YOU WHERE THE GROUP
18 WENT NEXT?

19 A YES.

20 Q WHAT DID HE TELL YOU?

21 A HE SAID THEY ALL RODE THEIR BICYCLES TO THE
22 WEST F-TROOP AREA.

23 Q DID YOU GO INTO THE ACTUAL SHOOTING WITH
24 ANDY REYES, OR NOT?

25 A I DON'T THINK WE DID.

26 Q DID YOU TALK TO ANDY REYES ABOUT A PHYSICAL

1 ALTERCATION WHERE THE GUN WAS TAKEN FROM HIM?

2 A YES.

3 Q DID HE INDICATE TO YOU THAT THAT WAS THE
4 SAME GUN THAT FRANK HAD USED PREVIOUSLY?

5 A YES.

6 Q PREVIOUSLY, MEANING A COUPLE HOURS EARLIER
7 IN THE SHOOTING; IS THAT ACCURATE?

8 A YES.

9 MR. GELLER: COULD I HAVE JUST A MOMENT, YOUR
10 HONOR?

11 (PAUSE IN PROCEEDINGS.)

12 MR. GELLER: I HAVE NOTHING FURTHER, THANK YOU.

13 THE COURT: OKAY.

14 MR. DE GIACOMO: NO QUESTIONS.

15 #CROSS-EXAMINATION

16 BY MR. LAZ: Q WHEN YOU'RE IN THE CAR ON THE WAY
17 TO JUVENILE HALL AND ANDY REYES STARTS TO TALK, DO YOU HAVE
18 ANY TAPE CAPABILITY IN THE CAR?

19 A NO.

20 Q AND WERE EITHER YOU OR INVESTIGATOR RONDOU
21 CARRYING HAND-HELD TAPES, YOU KNOW, THAT KIND OF THING?

22 A NO, I WAS DRIVING, AND I DON'T THINK
23 INVESTIGATOR RONDOU HAD A HAND-HELD WITH HIM.

24 Q ANYWAYS, AS YOU SIT HERE TODAY, I GUESS I'M
25 ASKING IT FOR THE SECOND TIME, YOU CAN'T THINK OF ANYTHING
26 YOU TALKED ABOUT DURING THE FIRST CONVERSATION IN THE CAR,

1 THAT WASN'T COVERED ON TAPE?

2 A THAT IS CORRECT.

3 Q WHEN YOU ASKED ANDY REYES TO TELL YOU WHO HE
4 WAS WITH, DID HE JUST GIVE YOU MONIKERS THEN IN RESPONSE?

5 A I BELIEVE HE GAVE US MONIKERS FOR EVERYBODY
6 EXCEPT FOR FRANK, I BELIEVE HE NAMED HIM BY HIS FIRST NAME.

7 Q DID YOU DO ANY DIAGRAMS THAT DAY?

8 A I BELIEVE WE DID.

9 Q DO YOU HAVE THE DIAGRAM WITH YOU BY ANY
10 CHANCE?

11 A YOU KNOW, I DO, BUT IT'S A HORRIBLE COPY AND
12 I CAN'T READ A THING ON IT.

13 Q COULD I JUST TAKE A LOOK AT IT?

14 A I'M ASSUMING IT'S THE DIAGRAM, BECAUSE IT'S
15 ATTACHED TO MY REPORT.

16 Q IT'S JUST SOLID --

17 A OH, YOU KNOW WHAT, I'M SORRY, I WAS THINKING
18 OF ANOTHER ONE. I DON'T HAVE IT. SORRY.

19 Q WHO DID THE DIAGRAM? WELL, WHO DREW THE
20 DIAGRAM THAT YOU WORKED FROM?

21 A I DON'T RECALL THAT IF WE DID ONE. BUT
22 NORMALLY I'M -- INVESTIGATOR RONDOU IS MY PARTNER, BUT
23 NORMALLY I'M THE ONE THAT DRAWS THE DIAGRAMS.

24 Q AND YOU DON'T HAVE ANY RECOLLECTION OF DOING
25 THAT?

26 A NO, I DON'T. I WAS CONFUSING IT WITH ONE OF

1 THE OTHER DEFENDANTS.

2 MR. LAZ: NO FURTHER QUESTIONS, THANK YOU.

3 MR. BAILEY: I HAVE A COUPLE.

4 #CROSS-EXAMINATION

5 BY MR. BAILEY: Q YOU SAID MONIKERS, YOU SAID BAM
6 BAM. BAM BAM WAS ISREAL; IS THAT RIGHT?

7 A YES.

8 Q AND JOSE LOPEZ WAS WHO?

9 A I BELIEVE IT'S HIS BROTHER. I COULD BE
10 WRONG ON THE FIRST NAME.

11 Q OKAY. BUT THE MONIKER THAT HE GAVE FOR JOSE
12 LOPEZ, WAS WHAT?

13 A I BELIEVE IT WAS CHEWY.

14 Q AND THEN LITTLE SOLDIER, DID YOU HAVE A NAME
15 TO GO WITH THAT?

16 A YEAH, THAT WOULD HAVE BEEN LOUIS PEREZ.

17 Q AND BOUNCER, DID YOU HAVE A NAME TO GO WITH
18 BOUNCER AS OF THAT DATE?

19 A I DON'T RECALL IF WE KNEW IT AT THAT TIME.
20 I KNOW IT NOW. I COULDN'T TELL YOU WHAT IT WAS, IF I KNEW
21 IT EXACTLY AT THAT MOMENT.

22 Q BUT HE TOLD YOU HE WAS SOMEBODY FROM 5TH
23 STREET?

24 A YES.

25 Q IS THERE ANY REASON WHY YOU WOULD HAVE KNOWN
26 THAT PRIOR TO THAT DATE?

1 A NOT THAT I COULD THINK OF, NO.

2 MR. BAILEY: THANK YOU. NOTHING FURTHER.

3 #CROSS-EXAMINATION

4 BY MR. HARLEY: Q YOU WERE TRANSPORTING HIM DOWN
5 TO JUVENILE HALL AT ABOUT 1650 HOURS; IS THAT CORRECT?

6 A YES.

7 Q WAS THERE ANY CONVERSATION YOU HAD DURING
8 THE TRIP FROM SANTA ANA P.D. DOWN TO JUVENILE HALL?

9 A YES.

10 Q WHAT TYPE OF CONVERSATION WAS THAT?

11 A AS WE WERE TRAVELING, I BELIEVE MR. REYES
12 ASKED US WHAT HE WAS BEING BOOKED FOR.

13 Q OKAY. SO THIS HAPPENED WHILE ENROUTE TO
14 ORANGE COUNTY JUVENILE HALL, REYES IS ASKING YOU WHY HE IS
15 BEING BOOKED AT JUVENILE HALL?

16 A CORRECT.

17 Q INSTEAD OF STAYING ANYTHING, YOU JUST SHOWED
18 HIM THE JUVENILE ENTRANCE FORM?

19 A I BELIEVE WE SHOWED IT TO HIM, AND THIS
20 WOULD HAVE BEEN INVESTIGATOR RONDOU, SINCE HE WAS DRIVING
21 AND TOLD HIM THAT ALL IT INDICATED WAS PROBATION VIOLATION.

22 Q ALL RIGHT. SO YOUR COMMUNICATION OR
23 RONDOU'S COMMUNICATION TO HIM WAS JUST A PROBATION
24 VIOLATION, CORRECT?

25 A YES.

26 Q AND THEN WHAT WAS REYES'S RESPONSE?

1 A HE TOLD US THAT HE WAS BEING BOOKED FOR
2 MURDER.

3 Q AND DID YOU ASK HIM HOW HE KNEW THAT?

4 A I BELIEVE WE DID.

5 Q OKAY. DID YOU KNOW HE WAS BEING BOOKED FOR
6 MURDER?

7 A YES -- WELL, YOU KNOW WHAT, AT THAT POINT I
8 DON'T REMEMBER IF WE WERE ACTUALLY ADDING THE MURDER CHARGE
9 AT THAT PARTICULAR POINT.

10 Q OKAY.

11 A I DON'T RECALL.

12 Q WELL, AFTER REYES TOLD YOU AND RONDOU THAT
13 HE WAS ALSO BEING CHARGED WITH MURDER, DID YOU QUESTION HIM
14 ABOUT WHY HE MADE THAT STATEMENT IF YOU WERE UNSURE OF
15 WHETHER OR NOT HE WAS BEING CHARGED WITH MURDER?

16 A YES, WE DID QUESTION HIM ABOUT THAT.

17 Q HOW DID YOU GO ABOUT QUESTIONING ABOUT THAT?

18 A I BELIEVE AS WE WERE TRAVELING, WE SAID, OH,
19 REALLY? SOMETHING LIKE THAT. AND HE CONTINUED TALKING.
20 AND THEN HE GOT INTO THE STORY OF WHAT HAD HAPPENED.

21 Q OKAY. BEFORE HE GOT INTO THE STORY ABOUT
22 WHAT HAD HAPPENED, YOU SAY HE CONTINUED TALKING, CORRECT?

23 A I BELIEVE HE DID.

24 Q WHAT DID HE CONTINUE TALKING ABOUT?

25 A ABOUT HIS INVOLVEMENT IN THE HOMICIDE.

26 Q OH, OKAY. SO IMMEDIATELY AFTER YOU GUYS

1 SAID, "WHAT DO YOU MEAN," HE CONTINUED TALKING, OR DID HE
2 START TALKING ABOUT HIS INVOLVEMENT IN THE HOMICIDE?

3 A I BELIEVE AFTER HE TOLD US THAT I'M BEING
4 BOOKED FOR MURDER, I BELIEVE THAT'S WHEN HE WENT ON TALKING
5 ABOUT WHAT HIS INVOLVEMENT WAS.

6 Q OKAY. AND SO AT THIS POINT IN TIME, HE WAS
7 JUST GIVING A NARRATIVE TO YOU AND RONDOU; IS THAT CORRECT?

8 A YES.

9 Q YOU WERE JUST SITTING THERE LISTENING WHILE
10 HE JUST RELATED ALL THIS INFORMATION, CORRECT?

11 A CORRECT.

12 Q WERE YOU TAKING NOTES AT THAT POINT IN TIME?

13 A NO.

14 Q NO TAPE-RECORDER GOING, CORRECT?

15 A CORRECT.

16 Q AND DURING THIS CONVERSATION, REYES MADE IT
17 CLEAR TO YOU THAT HE WAS NOT THE ONE WHO SHOT, BUT DUE TO
18 THE FACT HE WAS JUST PRESENT WITH HIS HOMEYS, HE WAS BEING
19 CHARGED WITH MURDER, CORRECT?

20 A YES.

21 Q AND THEN IMMEDIATELY FOLLOWING THAT
22 STATEMENT, THAT'S WHEN YOU STARTED ASKING HIM ABOUT WHAT
23 GANG HE WAS FROM?

24 A THAT, I DON'T RECALL. IF WE ASKED HIM THEN
25 OR IF WE ASKED HIM ONCE WE WERE INSIDE THE HALL.

26 Q OKAY. WELL, LOOK AT YOUR REPORT. SEE IF

1 THAT HELPS YOU REMEMBER. I ASSUME IT WAS WRITTEN IN
2 CHRONOLOGICAL FASHION?

3 A YES, IT WAS.

4 MR. HARLEY: WITH THE COURT'S PERMISSION, OF
5 COURSE?

6 THE COURT: SURE.

7 THE WITNESS: YES, I SEE IT.

8 BY MR. HARLEY: Q OKAY. SO WHEN HE STARTED
9 TALKING TO YOU ABOUT THE MURDER, HE JUST TOLD YOU HE WAS
10 WITH FIVE OF HIS HOMEBOYS ON SULLIVAN STREET WHERE A
11 SHOOTING TOOK PLACE, AND HE TOLD YOU HE WAS NOT THE ONE WHO
12 SHOT, BUT DUE TO THE FACT HE WAS PRESENT WITH HIS HOMEYS,
13 HE WAS BEING CHARGED WITH MURDER, CORRECT?

14 A CORRECT.

15 Q AND THAT WAS THE EXTENT OF HIS CONVERSATION
16 ABOUT THE ACTIVITIES SURROUNDING THE MURDER AT THAT POINT
17 IN TIME, CORRECT?

18 A YES.

19 Q AND THEN HE STARTED TALKING ABOUT WHAT GANG
20 HE WAS FROM, CORRECT?

21 A YES.

22 Q AND THEN HE TOLD YOU AT 1650 HOURS ON AUGUST
23 12TH, 2004 THAT HE WAS NO LONGER WITH THE F-TROOP GANG,
24 CORRECT?

25 A YES.

26 Q AND THE ONLY REASON HE GAVE YOU FOR NOT

1 BEING WITH THE F-TROOP GANG -- STRIKE THAT.

2 BASED ON YOUR KNOWLEDGE HE WAS A MEMBER OF
3 THE F-TROOP GANG ON AUGUST 11TH, 2004, A DAY EARLIER?

4 A CORRECT.

5 Q THE ONLY REASON HE GAVE YOU TO SUBSTANTIATE
6 HIS CLAIM HE IS NO LONGER A GANG GUY, HE WENT HOME AND
7 THREW UP IMMEDIATELY AFTER THE MURDER, CORRECT?

8 A THAT IS CORRECT.

9 Q AND SO THAT WAS THE ONLY THING HE TOLD YOU
10 AFTER THIS MURDER TOOK PLACE, HE WENT HOME AND THREW UP AS
11 A RESULT OF WHAT TOOK PLACE, CORRECT?

12 A THAT IS CORRECT.

13 Q DID HE EVER TELL YOU ANYTHING ABOUT
14 ASSAULTING SOMEBODY ELSE WITH A GUN AFTER THE MURDER TOOK
15 PLACE?

16 A YEAH, WE TALKED ABOUT THE ASSAULT THAT
17 OCCURRED AFTERWARDS.

18 Q OKAY. ALL RIGHT. BUT RIGHT NOW I'M TALKING
19 ABOUT THIS UNRECORDED UNTAPED CONVERSATION THAT TOOK
20 PLACE. DID YOU TALK ABOUT THE FACT THAT AFTER THIS MURDER
21 WENT DOWN, HE WAS INVOLVED IN ANOTHER ASSAULT WITH A GUN ON
22 SOMEBODY ELSE?

23 A NO.

24 Q OKAY. SO IMMEDIATELY AFTER HE TOLD YOU HE
25 IS NO LONGER A GANG MEMBER BECAUSE HE WENT HOME AND THREW
26 UP AS A RESULT OF WHAT TOOK PLACE, THAT'S WHEN YOU BEGAN

1 ASKING HIM WHO THE HOMEYS WERE THAT WERE WITH HIM, CORRECT?

2 A CORRECT.

3 Q AND THEN HE MADE THOSE STATEMENTS THAT ARE
4 CONTAINED IN PARAGRAPH THREE OF THIS NARRATIVE REPORT,
5 CORRECT?

6 A YES.

7 Q NOW, YOU HAD AN OPPORTUNITY TO REVIEW THIS
8 NARRATIVE PORTION OF THE UNTAPED CONVERSATION YOU HAD
9 INSIDE HIS CAR WHERE YOU GUYS WERE TRAVELING DOWN WITH
10 REYES TO BOOK HIM IN JUVENILE HALL, CORRECT?

11 A YES.

12 Q IS THERE ANYTHING ELSE THAT WAS COMMUNICATED
13 BETWEEN YOU AND THIS GUY REYES THAT'S NOT REFLECTED IN THIS
14 REPORT?

15 A NO, NOT THAT I COULD RECALL, NO.

16 Q YOU'RE ABSOLUTELY POSITIVE ABOUT THAT?

17 A YES.

18 Q NOW, FROM THE POINT IN TIME -- STRIKE THAT.
19 THIS IS THE EXTENT OF THE CONVERSATION, THE
20 UNRECORDED CONVERSATION THAT TOOK PLACE UNTIL AFTER HE WAS
21 BOOKED IN JUVENILE HALL, CORRECT?

22 A CORRECT.

23 Q YOU DIDN'T HAVE ANY FURTHER CONVERSATIONS
24 ABOUT EITHER ONE OF THE INCIDENTS HE WAS INVOLVED WITH,
25 UNTIL AFTER THE BOOKING PROCESS WERE COMPLETED, CORRECT?

26 A THAT'S CORRECT.

1 Q AND THAT'S WHEN YOU AND RONDOU TURNED ON A
2 TAPE-RECORDING AND STARTED INTERVIEWING THIS GUY REYES,
3 CORRECT?

4 A YES.

5 Q AND FROM THEN ON, EVERYTHING HE TOLD YOU IS
6 CAPTURED ON THIS TAPE-RECORDING, CORRECT?

7 A YES.

8 Q NOTHING OCCURRED OFF THE TAPE, CORRECT?

9 A CORRECT.

10 MR. HARLEY: I HAVE NOTHING FURTHER.

11 #RECROSS-EXAMINATION

12 BY MR. LAZ: Q DETECTIVE, WHERE WAS -- THERE'S A
13 GUY NAMED LITTLE SOLDIER WHICH YOU SAY THAT'S LOUIS PEREZ?

14 A YES.

15 Q THERE'S LITTLE SPEEDY?

16 A YES.

17 Q AND THERE'S A LITTLE SEVERO, S-E-V-E-R-O?

18 A YEAH, I BELIEVE THAT'S BOUNCER.

19 Q BUT ALL OF THEM HAVE "LITTLE" IN FRONT OF
20 THEIR NAMES?

21 A I'M NOT SURE ABOUT THE BOUNCER. HE MIGHT.
22 BUT I KNOW THE FIRST TWO DO.

23 Q SO WHEN THESE, WHEN MR. REYES IS DESCRIBING
24 TO YOU, HE DOESN'T USE THE LAST PART, HE ACTUALLY SAYS
25 SPEEDY OR HE ACTUALLY SAYS LITTLE SPEEDY AND LITTLE
26 SOLDIER. HE DOESN'T JUST SAY "LITTLE" WAS THERE?

1 A YES, HE SAY THE MONIKERS, AND I BELIEVE THE
2 ONLY NAME THAT I CAN REMEMBER HIM SAYING WAS FRANK. FIRST
3 NAME OF FRANK, I BELIEVE.

4 Q WELL, HE AT ONE TIME MUST HAVE USED LITTLE
5 SPEEDY?

6 A I BELIEVE HE DID, YES.

7 Q AND HE TOLD YOU HE DIDN'T KNOW WHY FRANK HAD
8 HIT THE GUY UP, RIGHT?

9 A I DON'T KNOW THAT WE ASKED HIM WHY. HE DID
10 SAY HE DIDN'T KNOW WHAT WAS SAID BY THE VICTIM, THAT IS.

11 Q THE VICTIM IS STOPPED AT THE STOP SIGN?

12 A CORRECT.

13 Q HE GETS HIT UP?

14 A YES.

15 Q HE PULLS AWAY?

16 A CORRECT.

17 Q AND THEN THAT'S WHEN HE'S SHOT?

18 A "HE" BEING FRANK, YES.

19 Q FRANK WASN'T SHOT. THAT'S WHEN FRANK SHOT
20 THE GUY?

21 A THAT'S WHAT I MEANT, YES.

22 Q DIDN'T YOU OR YOUR PARTNER ASK HIM WHY HE,
23 IF HE KNEW WHY FRANK HIT HIM UP?

24 A YOU KNOW, I'M SURE WE DID. RIGHT NOW I
25 DON'T HAVE RECOLLECTION OF THAT.

26 MR. LAZ: NO FURTHER QUESTIONS.

1 THE COURT: ANYONE?

2 MR. HARLEY: NO, YOUR HONOR.

3 THE COURT: REDIRECT?

4 THANK YOU. OFFICER.

5 MR. GELLER: WITH THE COURT'S PERMISSION, CALL
6 INVESTIGATOR HERTER TO THE STAND.

7 #BO HERTER,
8 CALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN
9 FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

10 THE BAILIFF: PLEASE TAKE A SEAT AT THE WITNESS
11 STAND.

12 PLEASE STATE YOUR ENTIRE NAME, AND SPELL
13 YOUR LAST NAME FOR THE RECORD.

14 THE WITNESS: YES, THE NAME IS BO HERTER,
15 H-E-R-T-E-R. B-O IS SPELLED B-O.

16 MR. GELLER: YOUR HONOR, PRIOR TO ASKING ANY
17 QUESTIONS OF INVESTIGATOR HERTER, I WOULD ASK THESE TWO
18 EXHIBITS BE FORMALLY MARKED AS PEOPLE'S 1 AND 2. I CAN
19 DESCRIBE THEM FOR THE RECORD.

20 (WHEREUPON PEOPLE'S EXHIBIT NO. 1,
21 MELGOZA PREDICATE, WAS MARKED FOR IDENTIFICATION.)

22 THE COURT: OKAY.

23 MR. GELLER: PEOPLE'S 1 WOULD BE CERTIFIED COPIES
24 OF A PREDICATE OFFENSE DEFENDANT'S NAME IS FRANCISCO
25 M-E-L-G-O-Z-A, CASE NUMBER 02CF0135. THE PACKET INCLUDES
26 CERTIFIED COPIES OF A COMPLAINT, AN INFORMATION. THIS IS A

1 JURY TRIAL, SO THERE'S VERDICT FORMS, COURT'S MINUTES. AND
2 THE RELEVANT OFFENSES WOULD BE VIOLATION OF PENAL CODE
3 SECTION 192 OR ATTEMPTED 192, AND A 186.22(A). AND THE
4 DATE OF VIOLATION WOULD BE JANUARY 13TH, 2002. AND THIS
5 WOULD BE AN F-TROOP PREDICATE. AND I'LL SHOW THESE ALL TO
6 COUNSEL.

7 THE COURT: WHAT NUMBER DID YOU PUT ON THAT?

8 MR. GELLER: THAT WOULD BE 1. I HAVE ANOTHER
9 CERTIFIED COPY OF A PREDICATE PACKET FOR CASE NUMBER
10 03CF2307 FOR A PETER PAUL CABRERA, C-A-B-R-E-R-A.
11 CERTIFIED COPIES OF A COMPLAINT, EXTRANEIOUS DOCUMENTS THAT
12 ARE POLICE REPORTS. I'D -- I'M NOT GOING TO SEPARATE THEM.
13 I ASK THE COURT NOT TO USE THOSE AT THIS TIME. THERE'S A
14 COPY OF AN ABSTRACT OF JUDGMENT. THERE SHOULD BE COPIES OF
15 MINUTES IN HERE.

16 RELEVANT OFFENSE WOULD BE VIOLATION OF PENAL
17 CODE SECTION 245 AND AS A FELONY, AND 186.22(A) AS A
18 FELONY. AND THIS IS FOR 5TH STREET. AND I'LL SHOW THIS TO
19 COUNSEL, TOO.

20 THE COURT: 2.

21 (WHEREUPON, EXHIBIT NO. 2, CABRERA PREDICATE, WAS
22 MARKED FOR IDENTIFICATION.)

23 #DIRECT EXAMINATION

24 BY MR. GELLER: Q INVESTIGATOR HERTER, WHAT DO YOU
25 PRESENTLY DO FOR A LIVING?

26 A I'M A POLICE DETECTIVE OF THE CITY OF SANTA

1 ANA, POLICE DEPARTMENT.

2 Q HOW LONG HAVE YOU BEEN A SANTA ANA POLICE
3 OFFICER?

4 A FOR APPROXIMATELY 18 YEARS.

5 Q AND YOU ARE PRESENTLY ASSIGNED IN THE GANG
6 UNIT; IS THAT ACCURATE?

7 A YES, SIR.

8 Q NOW, THIS IS -- YOU'RE THE LEAD INVESTIGATOR
9 ON THE CASE THAT WE'VE BEEN TALKING ABOUT HERE TODAY?

10 A YES, SIR.

11 Q PRIOR TO GETTING INTO YOUR GANG BACKGROUND,
12 I'D LIKE TO TALK TO YOU REAL BRIEFLY ABOUT THE CASE
13 ITSELF. DID YOU ACTUALLY GO OUT TO THE SCENE OF THE CRIME
14 THAT DAY?

15 A YES.

16 Q ABOUT HOW LONG AFTER IT OCCURRED WERE YOU
17 THERE, IF YOU KNOW?

18 A I DON'T KNOW EXACTLY. MAYBE AN HOUR OR SO.

19 Q OKAY. AND YOU HEARD TESTIMONY ABOUT AN
20 INDIVIDUAL WHO WAS SHOT DRIVING A SMALL BLUE CAR. DID YOU
21 FIND ANYBODY LIKE THAT OUT AT THE SCENE THAT DAY?

22 A YES, SIR.

23 Q WHERE WAS THAT INDIVIDUAL?

24 A THE INDIVIDUAL WHEN I ARRIVED WAS STILL
25 INSIDE OF HIS VEHICLE, SLUMPED OVER THE STEERING WHEEL.

26 Q OKAY. AND THAT PERSON HAVE A NAME?

1 A YES.

2 Q WHAT WAS THE NAME?

3 A PEDRO ROSARIO.

4 Q AND AT THE TIME I REALIZE YOU'RE NOT A
5 MEDICAL DOCTOR, HAVE YOU HAD AN OPPORTUNITY TO SEE GUNSHOT
6 VICTIMS BEFORE?

7 A YES.

8 Q IS THERE ANYTHING YOU SAW FROM THAT PERSON
9 WHO WAS SLUMPED OVER THE SEAT OF THE CAR INDICATING THERE
10 WAS A GUNSHOT WOUND?

11 A YES.

12 Q WHAT WAS THAT?

13 A THAT HIS ENTIRE BACK OF HIS HEAD, AND THERE
14 WAS A LOT OF BLOOD ON HIS UPPER TORSO AREA AND HIS FACE
15 AREA.

16 Q DID HE APPEAR TO BE DECEASED AT THE TIME?

17 A YES, HE WAS DECEASED.

18 Q OKAY. LET'S TALK ABOUT YOUR GANG -- LET'S
19 JUST CHRONOLOGICALLY TALK ABOUT YOUR CAREER WITH THE SANTA
20 ANA POLICE DEPARTMENT. ONCE YOU ATTENDED A POLICE ACADEMY,
21 WHERE DID YOU GO?

22 A WHEN I ATTENDED POLICE ACADEMY, GRADUATED, I
23 BECAME A STREET POLICE OFFICER IN A BLACK AND WHITE UNIT.
24 AND I DID SO FOR APPROXIMATELY 14 YEARS.

25 IN BETWEEN THAT I DID A STINT IN THE MIDTOWN
26 DIRECTIVE PATROL, WHICH IS STILL WORKING THE STREETS. IT'S

1 KIND OF A STREET NARCOTICS TEAM.

2 . . . I ALSO DID APPROXIMATELY EIGHT YEARS OF A
3 PART-TIME POSITION WITH THE -- IN THE AIR UNIT.

4 AND I WAS A TRAINING OFFICER, FIELD TRAINING
5 OFFICER FOR THE CITY FOR APPROXIMATELY 18 YEARS.

6 Q AND IN THE COURSE OF --

7 A I'M SORRY, EIGHT YEARS.

8 Q IN THE COURSE OF YOUR CAREER PRIOR TO EVEN
9 GETTING INTO THE GANG UNIT, DID YOU HAVE AN OPPORTUNITY TO
10 GET ANY SORT OF FORMAL CLASSROOM GANG-TYPE TRAINING?

11 A YES, SIR.

12 Q WHAT WAS THAT ALL ABOUT?

13 A WELL, I HAVE -- I STARTED OUT, I GRADUATED
14 FROM CAL STATE LONG BEACH IN 1986 PRIOR TO BECOMING A
15 POLICE OFFICER IN ADMINISTRATION OF JUSTICE. AND I HAD
16 APPROXIMATELY TWO FULL SEMESTER COURSES, ONE BEING THAT OF
17 GANG SUBCULTURES, AND ANOTHER HUMANITIES COURSE, WHICH
18 DEALT WITH MOTIVES OF JOINING A GANG, ET CETERA.

19 THROUGHOUT MY CAREER I ATTENDED
20 APPROXIMATELY THREE 40-HOUR CLASSES WITH THE LOS ANGELES
21 COUNTY SHERIFF'S DEPARTMENT. AND THAT DEALT WITH
22 INVESTIGATING GANG CRIMES, IDENTIFYING GANG MEMBERS,
23 ET CETERA.

24 AND TWO, 40-HOUR COURSES WITH THE LOS
25 ANGELES POLICE DEPARTMENT, THE SAME IDENTIFYING STREET
26 GANGS, INVESTIGATING STREET CRIMES.

1 ALSO RECEIVED -- I DID A CROSS-TRAINING WITH
2 THE SANTA-ANA POLICE DEPARTMENT, DETECTIVE KEVIN RUIZ, WHEN
3 I FIRST WAS A NEW OFFICER, FOR APPROXIMATELY SIX MONTHS.
4 AND TOOK HIS 40-HOUR COURSE WHICH HE -- I'M SORRY, 24-HOUR
5 COURSE WHICH HE GAVE ON IDENTIFYING STREET GANGS WITHIN THE
6 CITY.

7 MOST OF MY CAREER WAS DONE ON THE STREETS,
8 AND THAT'S WHERE I GAINED MOST OF MY EXPERIENCE IN TALKING
9 WITH STREET GANG MEMBERS AND INVESTIGATING GANG CRIMES.

10 SUBSEQUENTLY I WAS -- DID MY LAST THREE
11 YEARS IN THE DETECTIVE DIVISION OF THE GANG UNIT WHERE I
12 WORKED THE STOP TEAM, WHICH IS THE STREET TERRORISM PROGRAM
13 AND WORKING ASSAULTS AS A DETECTIVE, AND NOW AT THE GANG
14 HOMICIDE UNIT.

15 Q THE FORMAL TRAINING THAT YOU'VE RECEIVED
16 OBVIOUSLY, WHAT, THE MAJORITY OF IT WAS PRIOR TO YOU EVEN
17 ENTERING INTO THE GANG UNIT; IS THAT ACCURATE?

18 A YES.

19 Q ANY FORMAL CLASSROOM TRAINING IN THE LAST
20 THREE YEARS THAT YOU RECEIVED?

21 A YES, I RECEIVE UPDATED TRAINING. I ATTENDED
22 THE CALIFORNIA GANG INVESTIGATORS MEETING, WHICH WAS I
23 BELIEVE JUNE OF LAST YEAR. AND THAT WAS A 40-HOUR MEETING
24 WHICH HAD UPDATED FORMAL TRAINING ON RECOGNITION OF GANGS,
25 IDENTIFYING AND DOCUMENTATION OF GANG MEMBERS.

26 Q NOW, YOU ALSO SAID THAT I GUESS PROBABLY

1 PRIMARILY YOU RELY ON YOUR EXPERIENCE DEALING WITH GANG
2 MEMBERS IN THE STREETS; IS THAT ACCURATE?

3 A YES.

4 Q OVER THE COURSE OF YOUR CAREER, ABOUT HOW
5 MANY GANG MEMBERS HAVE YOU SPOKEN WITH?

6 A I'D SAY PROBABLY CONSERVATIVE ESTIMATE AT
7 LEAST A THOUSAND.

8 Q AND WHAT ARE SOME OF THE AREAS THAT YOU
9 SPEAK WITH THESE GANG MEMBERS ABOUT? WE CAN GO THROUGH IT
10 QUESTION/ANSWER. YOU TALK TO THEM ABOUT HOW THEY GET INTO
11 A GANG?

12 A YES.

13 Q WHAT ARE SOME OF THE THINGS THAT YOU
14 LEARNED?

15 A THERE'S SEVERAL WAYS. YOU COULD BE JUMPED
16 IN, WHICH IS THE NORMAL THING WHERE PEOPLE GO AND THEY GET
17 AROUND YOU, BEAT YOU UP, SEE HOW LONG YOU COULD SUSTAIN A
18 GOOD BEATING, FOR YOU TO SHOW YOUR COMMITMENT TO THE GANG.

19 YOU COULD BE CRIMED IN, WHICH IS BASICALLY
20 SHOWING YOUR COMMITMENT TO THE GANG BY DOING VARIOUS
21 CRIMINAL ACTIVITY FOR THE GANG TO SHOW YOUR COMMITMENT.

22 AND THERE'S ALSO ANOTHER WAY WHERE OUT OF
23 RESPECT, IF YOU HAVE LET'S SAY A GENERATIONAL, YOUR FATHER,
24 YOUR GRANDFATHER, WHOEVER WAS IN THE GANG, YOU COULD
25 ACTUALLY JUST WALK INTO THE GANG JUST OUT OF RESPECT OF
26 YOUR FAMILY.

1 Q AND THIS IS SOMETHING THAT YOU'VE LEARNED
2 THROUGH YOUR CONVERSATIONS WITH GANG MEMBERS OUT OF
3 CUSTODY, JUST TALKING TO THEM OUT ON THE STREETS?

4 A OUT OF CUSTODY, IN CUSTODY. BOTH.

5 Q YOU TALKED TO THEM HOW -- HOW TURF IS
6 IMPORTANT TO GANGS?

7 A YES.

8 Q WHAT HAVE YOU LEARNED?

9 A WELL, TURF IS VERY IMPORTANT. IT'S ALMOST
10 LIKE THEIR TURF IS THEIR POSSESSION. IT'S WHAT THEY
11 DEFEND, THEY PROTECT FROM OTHER GANGS. THE NEIGHBORHOOD.
12 PEOPLE IN THE NEIGHBORHOOD, ET CETERA.

13 Q YOU'VE TALKED TO THEM ABOUT THE ROLES OF
14 ALLIED GANGS AND RIVAL GANGS?

15 A YES.

16 Q WHAT HAVE YOU LEARNED SPECIFICALLY ABOUT
17 THOSE TWO CONCEPTS?

18 A WELL, THE RIVAL GANGS BEING A THREAT TO
19 THEIR GANG. ALLIED GANGS, LOTS OF TIMES ALLIED GANGS GET
20 TOGETHER, YOU COULD SEE IT IN THE TAGGING, AS FAR AS THE
21 GRAFFITI. YOU'LL SEE GANGS ALIGNED FOR CERTAIN REASON
22 WHERE IT WILL BE FAMILY TIES OR SOME TYPE OF -- MAYBE IN
23 THE PRISON SYSTEM I'VE HEARD THAT TWO LEADERS FROM TWO
24 GANGS, BECAUSE THEY GET ALONG, THEY'LL ORDER THEIR GUYS OUT
25 ON THE STREET TO GET ALONG BECAUSE, YOU KNOW, THEY'RE
26 CALLING THE SHOTS. SO, DEPENDING ON THE SITUATION.

1 Q HAS IT BEEN YOUR EXPERIENCE THAT ALLIED
2 GANGS HAVE COMMITTED CRIMES WITH ONE ANOTHER?

3 A SURE.

4 Q I MEAN ITS PROBABLY PRETTY RARE A GANG WILL
5 TAKE A RIVAL GANG ALONG WITH THEM TO COMMIT A CRIME, RIGHT?

6 A YEAH, THAT'S PRETTY CORRECT.

7 Q THE GANGS THAT YOU'RE USED TO OR THAT YOU'RE
8 FAMILIAR WITH IN SANTA ANA, ARE THEY KNOWN AS TRADITIONAL
9 HISPANIC TURF-ORIENTED STREET GANGS?

10 A PRETTY MUCH MAJORITY THAT WE DEAL WITH ARE
11 TURF-ORIENTED TRADITIONAL STREET GANGS.

12 Q ABOUT HOW MANY GANGS ARE YOU TALKING ABOUT?

13 A I THINK WE HAVE CARDED PROBABLY 80 STREET
14 GANGS OR SO, NOT INCLUDING SOME OF THE NONTRADITIONAL,
15 WHICH WOULD BE THE TAGGING CREWS WHO START TO EVOLVE INTO
16 GANGS AND THINGS LIKE THAT, WHO DON'T NECESSARILY CLAIM A
17 TURF, BUT THEY ARE LOYAL TO THEIR TAGGING CREW.

18 Q GANG MEMBERS, AMONGST OTHER THINGS, COMMIT
19 VIOLENT CRIMES; IS THAT ACCURATE?

20 A YES.

21 Q HAVE YOU TALKED TO THEM ABOUT THIS ROLE OF
22 VIOLENCE AS RELATES TO THE MEMBERSHIP IN A CRIMINAL STREET
23 GANG?

24 A YES.

25 Q WHAT HAVE YOU LEARNED?

26 A WELL, VIOLENCE KIND OF GOES OUT TO THE

1 RESPECT THAT THEY GET. THE MORE VIOLENT THE CRIMES THAT
2 THEY COMMIT, THE MORE RESPECT THEY GET FROM GANG MEMBERS
3 AND THE GANGS.

4 YOU KNOW, I THINK ONE -- I'VE HEARD ONE GANG
5 MEMBER TALKING TO ME, IF YOU'RE CALLED CRAZY, THAT'S KIND
6 OF A REAL TERM OF RESPECT. IF YOU CALL ANOTHER GANG MEMBER
7 CRAZY BECAUSE IT SHOWS I GUESS COMMITMENT TO VIOLENCE TO
8 THE GANG. SO, IT'S VERY IMPORTANT.

9 Q I MEAN IS IT ACTUALLY -- I MEAN ARE THEY
10 RELATED, THE MORE VIOLENT CRIME THAT ONE IS WILLING TO
11 COMMIT, THE MORE RESPECT THEY'LL GET AMONGST THE
12 COLLEAGUES?

13 A ABSOLUTELY.

14 Q THIS CONCEPT OF RESPECT, IS THAT IMPORTANT
15 TO GANG MEMBERS?

16 A OH, IT'S VERY IMPORTANT.

17 Q WHY DO YOU SAY THAT?

18 A RESPECT IS -- IT'S LOOKED AT VERY HIGHLY.
19 TO BE DISRESPECTED AND NOT DO ANYTHING ABOUT IT AND TO BE
20 CALLED WHAT THEY CALL A PUNK OUT ON THE STREET, THAT'S THE
21 ULTIMATE, HOW YOU SAY, WHAT'S THE WORD I'M LOOKING FOR,
22 EMBARRASSMENT TO THE GANG. IF YOU DON'T TAKE CARE OF
23 BUSINESS FOR YOUR GANG AND YOUR GANG GETS A NAME OF BEING
24 GUYS THAT DON'T TAKE CARE OF BUSINESS, IT JUST -- I'M
25 TRYING TO THINK OF THE WAY TO PUT IT HERE.

26 SOMEBODY GAINS RESPECT, LET'S SAY F-TROOP,

1 FOR EXAMPLE. F-TROOP IS KNOWN AROUND THE COUNTY, THE
2 STATE, EVEN SOME OF THE HIGHER PRISON SYSTEMS, BECAUSE OF
3 THE GANG IS KNOWN TO BE A VIOLENT GANG. AND THAT'S HOW
4 THEY GAIN THE RESPECT. THEY GET THE NOTORIETY. 18TH
5 STREET FROM LOS ANGELES, IT'S KNOWN ALL THE WAY THROUGH THE
6 NATION BECAUSE OF THEIR TENDENCY FOR VIOLENCE.

7 Q HAS IT BEEN YOUR EXPERIENCE THAT GANG
8 MEMBERS TEND TO COMMIT CRIMES BY THEMSELVES, OR DO THEY
9 TEND TO BRING THEIR COLLEAGUES WITH THEM IF THAT
10 OPPORTUNITY ARISES?

11 A THEY -- MOST OF THE TIME MY EXPERIENCE THEY
12 TEND TO BRING THEIR COLLEAGUES WITH THEM.

13 Q AND WHAT HAVE YOU LEARNED AS TO WHY THEY DO
14 THAT?

15 A WELL, THEY DO THAT FOR BACKUP. FOR
16 ASSISTANCE. WHETHER IN CASE SOMETHING GOES WRONG, THEY
17 KNOW WHAT'S GOING TO GO ON IF SOMEONE IS BRINGING THE GUN,
18 IF SOMETHING GOES WRONG, WHO IS GOING TO TAKE THE GUN. A
19 LOT OF THINGS. BUT THEY USUALLY ARE ASSISTED, AND WHEN
20 THEY DO COMMIT A CRIME.

21 ALSO IN TERMS OF IDENTIFICATION PURPOSES,
22 IT'S HARDER SOMETIMES TO IDENTIFY -- IT'S EASIER TO
23 IDENTIFY A SINGLE PERSON THAN IT IS A GROUP OF PEOPLE. SO,
24 I'VE BEEN TOLD THAT BY SOME GANG MEMBERS ALSO.

25 Q HAVE YOU BEEN INVOLVED IN A NUMBER OF
26 INVESTIGATIONS WHERE GANG MEMBERS ARE COMMITTING THEM IN A

1 GROUP, COMMITTING CRIMES IN A GROUP, IN OTHER WORDS, THIS
2 WHOLE BACKUP CONCEPT?

3 A YES.

4 Q AND YOU'VE QUALIFIED AS A GANG EXPERT BEFORE
5 IN ORANGE COUNTY; IS THAT ACCURATE?

6 A YES, I HAVE.

7 Q WHAT'S YOUR DEFINITION OF A CRIMINAL STREET
8 GANG?

9 A CRIMINAL STREET GANG IS A THREE OR MORE
10 HAVING A COMMON SYMBOL OR NAME WHO MAY OR MAY NOT CLAIM A
11 TURF, AND ARE INVOLVED IN ONGOING PATTERN OF CRIMINAL
12 ACTIVITY.

13 Q THEY TEND TO MEET ON A REGULAR BASIS?

14 A YES.

15 Q LET'S TALK ABOUT A HIT-UP. WE'VE HEARD SOME
16 TESTIMONY WITH RESPECT TO HIT-UPS IN THIS CASE. WHAT IS A
17 HIT-UP?

18 A HIT-UP IS BASICALLY A CHALLENGE OR ASKING
19 SOMEBODY WHAT GANG THAT THEY'RE FROM. AND IT'S USUALLY
20 WHERE ARE YOU FROM.

21 Q IS THAT A COMMON THING YOU SEE AMONGST GANG
22 MEMBERS?

23 A YES.

24 Q WHY IS IT THEY DO THIS HIT-UP? IS IT A
25 QUESTION, FIRST OF ALL?

26 A IT'S A QUESTION AND A CHALLENGE.

1 Q OKAY. AND WHY IS IT THAT THESE GANG MEMBERS
2 DO THESE HIT-UPS?

3 A WELL, SEE WHO IS THE BADDER GANG. THE
4 CHALLENGE OF YOU'RE GOING TO TELL ME WHERE YOU'RE FROM,
5 BECAUSE I'M TELLING YOU WHERE I'M FROM. TERM OF RESPECT.

6 Q WOULD YOU EXPECT A VIOLENT CONFRONTATION TO
7 OCCUR IF SOMEBODY DOES A HIT-UP ON A RIVAL GANG MEMBER?

8 A ABSOLUTELY.

9 Q IF YOU DIDN'T, SOMEBODY DOES A HIT-UP ON A
10 RIVAL GANG MEMBER AND THE PERSON WHO ACTUALLY DID THE
11 HIT-UP DOESN'T RESPOND TO THAT RIVAL, WOULD THEY BRING
12 DISRESPECT UPON THEMSELVES?

13 A OH, ABSOLUTELY.

14 Q WHY?

15 A BECAUSE HE DIDN'T DO NOTHING ABOUT IT. HE
16 DID WHAT THEY CALL RANKED OUT. HE GOT SCARED OR WHATEVER
17 IT WAS, AND HE WOULD PROBABLY BE DEALT WITH BY HIS GANG FOR
18 DOING IT.

19 Q IF SOMEBODY DOES A HIT-UP OF THEIR COLLEAGUE
20 GANG MEMBERS, THEY DON'T DO ANYTHING ABOUT IT, THAT WOULD
21 BE A PROBLEM FOR THAT INDIVIDUAL?

22 A YES.

23 Q WHAT KIND OF RESPONSES HAVE YOU SEEN FROM
24 HIT-UPS? WHAT ARE THE VARIOUS TYPES OF RESPONSE YOU'VE
25 SEEN?

26 A BEING BEAT UP, BEING SHOT.

1 Q DOES IT MATTER WHAT THE VICTIM SAYS -- WHEN
2 I SAY "VICTIM," THE PERSON WHO IS BEING HIT-UP.

3 A I'VE SEEN WHERE THE PERSON SAID I'M NOT FROM
4 ANYWHERE, AND ENDS UP BEING SHOT ANYWAY.

5 Q THE PERSON WHO DOES THE HIT-UP, DO THEY
6 PERCEIVE THEMSELVES AS KIND OF A POSITION OF POWER AT THAT
7 POINT IN TIME?

8 A YES. DEFINITELY.

9 Q WHY DO YOU SAY THAT?

10 A BECAUSE THEY ARE. THEY'RE IN A POSITION OF
11 POWER. THEY'RE GIVING THE CHALLENGE. AND USUALLY THEY
12 HAVE SOMETHING OR SOMEONE TO HELP THEM BACK UP THAT
13 CHALLENGE.

14 Q LET'S TALK ABOUT THE CONCEPT OF GUNS. ARE
15 GUNS IMPORTANT TO GANG MEMBERS?

16 A YES.

17 Q HOW SO?

18 A WELL, ONE, THEY USE THEM TO COMMIT THEIR
19 CRIMES. AND TO BE IN POSSESSION OF A GUN IS YOU GAIN A LOT
20 OF RESPECT, YOU SHOW YOUR COMMITMENT TO THE GANG.

21 Q YOU HEARD OF THE TERM "GANG GUN"?

22 A UH-HUH.

23 Q WHAT IS A GANG GUN?

24 A BASICALLY IT BELONGS TO THE GANG. IT COULD
25 BE PASSED ON FROM ONE MEMBER TO ONE MEMBER, DEPENDING ON
26 WHO NEEDS IT AT WHAT TIME.

1 Q I MEAN YOU'VE HAD CONVERSATIONS WITH GANG
2 MEMBERS ABOUT THIS VERY CONCEPT, GANG GUNS?

3 A YES.

4 Q I MEAN IS THIS GUN -- REGARDLESS OF WHO IS
5 ACTUALLY IN PHYSICAL POSSESSION OF THAT GUN, IS THAT GUN
6 AVAILABLE FOR ANY ONE OF THOSE GANG MEMBERS TO USE?

7 A YES.

8 Q WHY DO YOU SAY THAT?

9 A I TALK TO GANG MEMBERS ALL THE TIME WHO TELL
10 ME THAT WHENEVER IT'S NEEDED, THERE'S A GUN THAT THEY CAN
11 GET IN POSSESSION OF.

12 Q IS THAT A FACT THAT GANG MEMBERS TEND TO
13 KEEP TO THEMSELVES WHEN THEY'RE WITH THEIR FELLOW GANG
14 MEMBERS? IN OTHER WORDS, THEY'RE ACTUALLY IN POSSESSION OF
15 A FIREARM?

16 A YES.

17 Q THAT'S SOMETHING THAT THEY DON'T TELL THEIR
18 COLLEAGUES THAT THEY HAVE A GUN?

19 A NO, THEY USUALLY TELL THEIR COLLEAGUES THAT
20 THEY DO HAVE A GUN.

21 Q AND IS THERE A HOST OF REASONS WHY THAT IS
22 SO?

23 A IT'S A HOST OF REASONS. WHO IS GOING TO BE
24 THE MOST, HOW WOULD YOU SAY, RESPONSIBLE, OR THE FACT THAT
25 LET'S SAY SOMEBODY IS ON PAROLE, AND THEY'RE NOT SUPPOSED
26 TO BE HANGING AROUND WITH ANOTHER GANG MEMBER. THEY'RE

1 GOING TO KNOW, WELL, IF WE GET STOPPED BY THE COPS, WHO'S
2 GOT THE GUN. IF WE COME ACROSS A RIVAL GANG WHO IS GOING
3 TO HAVE THE GUN TO PROTECT US, OR THERE'S A HOST OF
4 REASONS.

5 Q YOU'VE TALKED ABOUT F-TROOP. YOU MENTIONED
6 THAT AS ONE OF THE GANGS IN YOUR CITY. YOU'RE FAMILIAR
7 WITH F-TROOP, OBVIOUSLY?

8 A YES.

9 Q HOW LONG HAVE YOU BEEN FAMILIAR WITH THEM?

10 A SINCE I FIRST BECAME A POLICE OFFICER.

11 Q AND HOW LONG HAS F-TROOP BEEN AROUND, TO
12 YOUR KNOWLEDGE?

13 A TO MY KNOWLEDGE IT'S BEEN AROUND SINCE
14 APPROXIMATELY THE 1960'S OR SO.

15 Q BACK IN AUGUST OF 2004, DID IT HAVE THREE OR
16 MORE MEMBERS?

17 A YES.

18 Q WHAT ARE SOME OF THE TYPES OF CRIMES THAT
19 YOU'RE FAMILIAR WITH THAT THEY COMMIT, YOU KNOW, PRIOR TO
20 AUGUST OF '04?

21 A ASSAULT WITH A DEADLY WEAPON, ATTEMPTED
22 MURDER, MURDER.

23 Q BACK AUGUST 10TH OF '04, WAS IT AN ONGOING
24 ORGANIZATION?

25 A YES.

26 Q ABOUT HOW MANY MEMBERS DID IT HAVE, IF YOU

1 KNOW?

2 A NO SPECIFIC NUMBER, BUT I'D SAY
3 APPROXIMATELY 400 OR SO.

4 Q THERE'S TWO FACTIONS, EL SALVADOR PARK AND
5 THEN ARTESIA; IS THAT CORRECT?

6 A YES.

7 Q ARE THEY ONE IN THE SAME GANG, JUST
8 SEPARATED GEOGRAPHICALLY? OR HOW DOES THAT WORK?

9 A THEY'RE SEPARATED GEOGRAPHICALLY.
10 EL SALVADOR PARK OBVIOUSLY GOES FROM THE HISTORY OF THAT
11 AREA. EL SALVADOR PARK F-TROOP AND ARTESIA HAVE ALWAYS
12 BEEN ALMOST ONE GANG. IT'S A DIFFERENT FACTION, BUT
13 BECAUSE OF COMMUNITY TIES, THE AREA, IT'S IN CLOSE
14 PROXIMITY, SOME OF THE -- FROM A LONG TIME AGO, PEOPLE
15 GROWING UP TOGETHER, IT ALWAYS WAS PRETTY CLOSE IN ONE AREA
16 AND GROUP.

17 Q AND WE'LL SPEAK ABOUT THIS A LITTLE LATER,
18 BUT THE INDIVIDUALS INVOLVED IN THIS CASE, OTHER THAN
19 MR. DE LA RIVA, YOUR OPINION THAT THEY'RE ASSOCIATED WITH
20 THE EL SALVADOR PARK FACTION OF THE F-TROOP?

21 A WITH F-TROOP, YES, SIR.

22 Q WITH F-TROOP?

23 A YES.

24 Q WE'RE NOT TALKING ABOUT ARTESIA WITH RESPECT
25 TO THIS CASE?

26 A NO, I THINK WE'RE TALKING ABOUT BOTH.

1 Q WE ARE TALKING ABOUT BOTH.

2 A YES.

3 Q DO THEY CLAIM A PARTICULAR TURF, PARTICULAR
4 AREA OF SANTA ANA?

5 A YES.

6 Q WHERE IS THAT?

7 A BASICALLY ARTESIA AND EL SALVADOR PARK
8 F-TROOP CLAIM THE AREA FROM APPROXIMATELY 1ST STREET, TO
9 APPROXIMATELY -- WELL, THEY COULD GO UP AS FAR NORTH OF
10 SANTA CLARA FROM BRISTOL TO THE EAST, AND APPROXIMATELY
11 FAIRVIEW TO THE WEST. THERE'S ALSO A SMALL GROUP WHICH
12 ALSO CLAIMS A TURF IN THE SOUTH CENTRAL AREA OF SANTA ANA,
13 WHICH IS APPROXIMATELY THE 2200 BLOCK OF WEST MONTE VISTA,
14 SOUTHEAST OF SULLIVAN AND WILLITS.

15 Q THIS CRIME -- YOU JUST SAID SULLIVAN AND
16 WILLITS, THIS CRIME OCCURRED AT THE INTERSECTION OF
17 SULLIVAN AND WILLITS. IS THAT IN A DIFFERENT GANG'S AREA?

18 A YEAH, THAT AREA IS KIND OF -- IT'S NOT ONE
19 SPECIFIC. I'VE SEEN -- I'VE SEEN SOME GRAFFITI FROM THE
20 THREE OF THE GANGS, THE RIVAL GANGS OF F-TROOP BEING WEST
21 MYRTLE STREET, WHICH IS -- IT'S THE CORE AREA IS THE 2100
22 BLOCK OF WEST MYRTLE, WHICH IS WEST OF RAITT STREET, SOUTH
23 OF FIRST.

24 ALSO, THERE'S A SMALL GROUP OF SULLIVAN
25 STREET GANG DOWN THERE. AND THEN WEST -- WELL, F-TROOP,
26 WHICH IS ALSO KNOWN AS WEST F-TROOP, IS DOWN IN THE 200

1 BLOCK OF WEST MONTE VISTA STREET.

2 Q SO CAN YOU ARTICULATE THAT THAT PARTICULAR
3 SULLIVAN AND WILLITS IS CLAIMED BY ANY PARTICULAR GANG, OR
4 JUST ON THE FRINGE OF A COUPLE OF DIFFERENT GANGS?

5 A IT'S PROBABLY ON THE FRINGE OF A FEW GANGS
6 THERE.

7 Q F-TROOP, THEY HAVE -- THAT'S THEIR NAME. DO
8 THEY ASSOCIATE THEMSELVES WITH A COMMON SIGN OR SYMBOL?

9 A YES.

10 Q WHAT?

11 A I'VE SEEN F.T., THE TAGGING F.X.T. THEY
12 USUALLY IDENTIFY WITH THE COLOR BROWN. YOU SEE BROWN RAGS
13 OR WEARING BROWN CLOTHES.

14 Q WHAT WERE SOME OF THE PRIMARY ACTIVITIES
15 BACK IN AUGUST 10TH, '04?

16 A ATTEMPTED MURDER, ASSAULT WITH A DEADLY
17 WEAPON.

18 Q DID THEY HAVE -- WE'LL TALK ABOUT 5TH
19 STREET. IS 5TH STREET AN ALLIED GANG TO F-TROOP?

20 A YES.

21 Q AND HOW DO YOU KNOW THAT?

22 A I'VE TALKED TO HIGHER RANKING F-TROOPERS,
23 AND ALSO SOME OTHER F-TROOP GANG MEMBERS WHO EXPLAINED TO
24 US THAT THEY ARE ALLIED BECAUSE OF FAMILY TIES THAT HAVE
25 GONE ON. AND I'VE ALSO TALKED TO PEOPLE INVOLVED IN THIS
26 CASE WHO CONFIRMED THAT, THAT THERE'S FAMILY TIES BETWEEN

1 THE TWO GANGS. AND THAT'S WHY THEY'RE ALLIES.

2 I NOTICE ALSO IN THE 2200 BLOCK OF WEST
3 MONTE VISTA, 613 SOUTH GOLDEN WEST, ALVINO CHAVEZ, THEY
4 USED TO LIVE THERE. RIGHT IN FRONT OF HIS HOUSE WAS TAGGED
5 UP 5TH STREET, WHICH WASN'T CROSSED OUT.

6 SO THAT'S ONE OF THE THINGS OF CHALLENGING,
7 USUALLY ALLIED GANGS WILL NOT CROSS OUT ANOTHER ONE OF
8 THEIR ALLIED GANG'S GRAFFITI, EVEN IF IT'S IN THEIR AREA.

9 Q IN OTHER WORDS, IF WEST MYRTLE GOES OVER TO
10 ALVINO CHAVEZ'S HOUSE AND TAGS WEST MYRTLE, YOU'D EXPECT
11 RIGHT THEREAFTER TO CROSS WEST MYRTLE OUT?

12 A THAT'S CORRECT.

13 Q BECAUSE 5TH STREET IS NOT CROSSED OUT,
14 THAT'S ANOTHER INDICATION THEY'RE ALLIES?

15 A YES.

16 Q HOW LONG HAS 5TH STREET BEEN AROUND, IF YOU
17 KNOW?

18 A APPROXIMATELY THE 1970'S, EARLY '70'S.

19 Q AND THE TYPES OF CRIMES THAT 5TH STREET
20 COMMITS?

21 A POSSESSION OF WEAPONS, ASSAULT WITH DEADLY
22 WEAPONS.

23 Q POSSESSION OF WEAPONS, INCLUDING MINORS IN
24 POSSESSION OF FIREARMS; IS THAT ACCURATE?

25 A YES.

26 Q 8/10/04 WAS 5TH STREET AN ONGOING

1 ORGANIZATION?

2 A YES.

3 Q HAVE THREE OR MORE MEMBERS?

4 A YES.

5 Q OTHER THAN THE NAME OF 5TH STREET, DO THEY
6 HAVE A COMMON SIGN OR SYMBOL?

7 A I'VE SEEN THE TAGGING 5ST, FF, AND THEN A
8 DASH AND AN ST. THEY ALSO ARE KNOWN BY ANOTHER NAME, LOS
9 DIABLOS. AND THAT KIND OF CAME FROM WHEN THEY FIRST
10 STARTED UP IN THE '70'S, APPARENTLY IT EVOLVED FROM A CAR
11 CLUB.

12 Q 5TH STREET CLAIM A PARTICULAR TURF IN SANTA
13 ANA?

14 A YES.

15 Q WHERE IS THAT?

16 A THE CORE AREA IS APPROXIMATELY NORTH OF 1ST
17 STREET TO ABOUT HAZARD. EUCLID TO ABOUT THE WEST, WEST OF
18 THERE TO THE WEST SIDE OF THE CITY BORDER. THEY ALSO KIND
19 OF TRICKLE INTO GARDEN GROVE A LITTLE BIT THERE.

20 Q HOW MANY MEMBERS DID IT HAVE IN AUGUST OF
21 '04?

22 A I WOULD SAY APPROXIMATELY 60, MAYBE.

23 Q 16 OR 60?

24 A 60.

25 Q I'M ASSUMING YOU SEE BOTH -- WITH F-TROOP
26 AND WITH 5TH STREET, YOU SEE -- YOU MENTIONED GRAFFITI. DO

1 YOU SEE GANG MEMBERS WITH TATTOOS ON THEIR BODIES
2 REPRESENTING THESE GANGS?

3 A YES.

4 Q DO YOU SEE HAND SIGNS OR F-TROOP OR 5TH
5 STREET?

6 A YES.

7 Q AND YOU MENTIONED WEAPONS VIOLATIONS,
8 INCLUDING MINORS IN POSSESSION OF FIREARMS, ASSAULTS WITH
9 DEADLY WEAPONS. WERE THOSE SOME OF THE PRIMARY ACTIVITIES
10 OF 5TH STREET BACK IN AUGUST OF '04?

11 A YES.

12 Q OTHER THAN 5TH STREET, DOES F-TROOP ALIGN
13 THEMSELVES WITH ANY OTHER GANG THAT YOU'RE AWARE OF?

14 A NO. NOT REALLY.

15 Q SO PRETTY MUCH EVERY OTHER GANG IN THE CITY
16 OF SANTA ANA WOULD BE CONSIDERED A RIVAL GANG OF F-TROOP?

17 A YES, SIR.

18 Q NOW, YOU'VE HAD AN OPPORTUNITY TO DO
19 BACKGROUND CHECKS ON ALL THE INDIVIDUALS IN THIS CASE; IS
20 THAT ACCURATE?

21 A YES, SIR.

22 Q DID YOU KNOW ANY OF THESE FIVE INDIVIDUALS
23 PRIOR TO THIS CASE?

24 A WELL, I'VE KNOWN OF SOME. I THINK I DID
25 MAKE CONTACT WITH MR. ISREAL LOPEZ BEFORE.

26 Q OKAY. DO YOU WANT TO JUST GO DOWN THE ROW.

1 DO YOU WANT TO START WITH MR. LOPEZ, AND THEN GO DOWN THE
2 ROW. WE HAVE TO TALK ABOUT EACH ONE OF THEM INDIVIDUALLY.

3 A SURE.

4 Q UNLESS YOU HAVE SOMEBODY ELSE.

5 A NO, THAT'S FINE. I COULD START WITH
6 MR. LOPEZ. MR. LOPEZ, I CHECKED OUR RECORDS AND FOUND
7 APPROXIMATELY FROM APPROXIMATELY MARCH OF '02 TILL
8 SEPTEMBER OF 2004, ABOUT 19 SEPARATE RECORDS WHERE HE'S
9 EITHER BEEN IN THE PRESENCE OF F-TROOP GANG MEMBERS WHERE
10 HE'S CLAIMED F-TROOP GANG --

11 Q LET ME INTERRUPT YOU RIGHT THERE. WHAT'S
12 THE SIGNIFICANCE OF SOMEBODY BEING IN THE PRESENCE OF OTHER
13 F-TROOP GANG MEMBERS AS RELATES TO THEIR ASSOCIATION WITH
14 THAT GANG?

15 A WELL, BEING WITH THE MEMBERS JUST SHOWS THAT
16 THEY HANG AROUND, YOU KNOW, THEY'VE BEEN CONTACTED WITH
17 THEM. I THINK IT'S SIGNIFICANT TO THE FACT THAT IT SHOWS,
18 YOU KNOW, IF THEY'RE -- ESPECIALLY CONTACTING ESPECIALLY
19 BEING CONTACTED SEVERAL TIMES WITH F-TROOP MEMBERS, I THINK
20 IT SHOWS THEIR COMMITMENT TO BEING WITH THAT GANG.

21 Q I'M SORRY TO INTERRUPT. GO AHEAD. WHAT
22 ELSE DO YOU HAVE ON MR. LOPEZ?

23 A I PULLED 10 NOTICE OF DETERMINATION FORMS.
24 FOUR F.I. CARDS. AND FIVE SANTA ANA POLICE INFORMATION
25 WARRANT ARREST REPORTS.

26 Q I NEED YOU TO DESCRIBE WHAT A NOTICE OF

1 DETERMINATION OR A STEP NOTICE IS. JUST THIS ONE TIME,
2 PLEASE.

3 A BASICALLY NOTICE OF DETERMINATION FORM IS
4 KIND OF A FORM WE FILL OUT WHEN WE CONTACT A PERSON WHETHER
5 THEY CLAIMED A GANG, OR BEING IN CONTACT WITH A GANG. AND
6 IT'S BASICALLY A NOTICE PUTTING THEM ON FAIR NOTICE THAT
7 THIS GANG HAS BEEN DOCUMENTED AS A CRIMINAL STREET GANG.
8 AND IF THEY'RE CAUGHT DOING ANY OTHER ACTIVITIES ENUMERATED
9 IN THE 25 CRIMES, THAT THERE'S GANG ENHANCEMENTS THAT COULD
10 BE CHARGED FOR THEM.

11 AND WHAT WE DO WHEN WE CONTACT SOMEBODY, WE
12 MAKE SURE TO DOCUMENT THEIR NAME, THEIR IDENTIFYING
13 INFORMATION, ANY TATTOOS THEY HAD, ANY STATEMENTS THAT THEY
14 MADE REGARDING GANG MEMBERSHIP, AFFILIATION, WHO WERE THEY
15 WITH, WHAT AREA THEY WERE IN, ET CETERA. AND WE OBTAINED A
16 PHOTOGRAPH AND USUALLY A THUMBPRINT ON THE FORM.

17 Q AND F.I. CARDS ARE BRIEFLY WHAT?

18 A F.I. CARD IS SANTA ANA POLICE DEPARTMENT --
19 F.I. CARD IS BASICALLY A CONTACT, SHOWS A CONTACT,
20 CONTACTING AN INDIVIDUAL. AND IT'S SOMEWHAT OF THE SAME
21 FORMAT. HOWEVER, THERE'S USUALLY NOT A PHOTOGRAPH ATTACHED
22 TO IT. WE OBTAIN THEIR IDENTIFYING INFORMATION, MAYBE ANY
23 STATEMENTS THAT WERE MADE, WHO THEY WERE WITH, WHAT TYPE OF
24 VEHICLE THEY WERE DRIVING, WHAT THE BASIS FOR THE CONTACT
25 WAS, ET CETERA.

26 THE COURT: THE COURT WILL TAKE 10 MINUTES. SHOULD

1 I DO THAT?

2 MR. GELLER: YES.

3 THE COURT: LET'S COME BACK AT 25 TILL.

4 (RECESS.)

5 (THE FOLLOWING PROCEEDINGS WERE HELD IN
6 OPEN COURT:)

7 BY MR. GELLER: Q I WAS GETTING -- WE DEFINED A
8 COUPLE OF TERMS, STEP NOTICE OR 186 NOTICE. LET'S TALK
9 SPECIFICALLY ABOUT MR. ISREAL LOPEZ.

10 YOU'VE HAD AN OPPORTUNITY TO REVIEW YOU
11 MENTIONED A NUMBER OF POLICE REPORTS, STEP NOTICES, F.I.
12 CARDS, INCLUDED STATEMENTS THAT HE MAY HAVE MADE.

13 IN YOUR OPINION ON THE DATE OF THIS OFFENSE,
14 AUGUST 10TH OF '04, WAS MR. ISREAL LOPEZ AN ACTIVE
15 PARTICIPANT IN THE F-TROOP STREET GANG?

16 A YES, SIR.

17 Q AND WHAT IS THAT OPINION BASED ON;
18 EVERYTHING WE'VE JUST TALKED ABOUT?

19 A YES, BASED ON EVERYTHING WE TALKED ABOUT,
20 ALONG WITH THE FACTS OF THE CASE AND THE STATEMENTS MADE IN
21 THIS INVESTIGATION.

22 Q OKAY. LET'S TALK ABOUT FRANK LOPEZ AT THIS
23 POINT IN TIME. WHAT INFORMATION ARE YOU RELYING ON THAT
24 YOU HAVE ON FRANK LOPEZ?

25 A MR. FRANK LOPEZ I FOUND THREE PIECES OF
26 INFORMATION. THE SANTA ANA POLICE DEPARTMENT CRIME REPORT,

1 AND TWO F.I. CARDS. AND THE STATEMENTS, AGAIN, THE FACTS
2 OF THIS CASE, AND SOME OF THE STATEMENTS MADE.

3 Q STATEMENTS NOT NECESSARILY MADE BY HIM, BUT
4 MAYBE STATEMENTS MADE BY OTHERS WITH RESPECT TO HIM?

5 A YES.

6 Q OKAY. DO YOU HAVE AN OPINION WHETHER FRANK
7 LOPEZ WAS AN ACTIVE F-TROOP GANG MEMBER AT THE TIME THIS
8 CRIME WAS COMMITTED?

9 A YES, I DO.

10 Q YOUR OPINION IS?

11 A THAT HE WAS.

12 Q BASED UPON WHAT WE JUST TALKED ABOUT?

13 A CORRECT.

14 Q AND ANDY REYES, PLEASE?

15 A ANDY I NOTED APPROXIMATELY, LET'S SEE, ONE
16 NOTICE OF DETERMINATION; TWO INFORMATION REPORTS THAT WE
17 PULLED; TWO FIELD INTERROGATION CARDS; AND THREE CURRENT
18 PROBATION REPORTS FROM THE JUVENILE HALL.

19 Q AND THIS GOES WITHOUT SAYING WITH ALL OF
20 THESE REPORTS, YOU'RE LOOKING FOR FACTS INDICATING FOR EACH
21 OF THESE INDIVIDUALS ALLEGIANCE WITH THE F-TROOP STREET
22 GANG, OR WITH RESPECT TO MR. DE LA RIVA, THE 5TH STREET
23 GANG; IS THAT ACCURATE?

24 A THAT'S ACCURATE.

25 Q AS RELATES TO ANDY REYES, DO YOU HAVE AN
26 OPINION THAT HE WAS AN ACTIVE F-TROOP GANG MEMBER AT THE

1 TIME THE CRIME WAS COMMITTED?

2 A YES, SIR.

3 Q AND YOUR OPINION IS?

4 A THAT HE WAS AN ACTIVE MEMBER.

5 Q LOUIS PEREZ, PLEASE?

6 A MR. PEREZ, I PULLED TWO NOTICE OF
7 DETERMINATION REPORTS, AND THREE SANTA ANA POLICE
8 DEPARTMENT REPORTS. AND, AGAIN, THE FACTS OF THIS CASE AND
9 STATEMENTS THAT WERE MADE DURING THE INVESTIGATION OF THIS
10 CASE. NOT NECESSARILY FROM HIM, BUT FROM OTHERS INVOLVED,
11 THAT I FORMED AN OPINION.

12 Q AND YOUR OPINION IS?

13 A THAT HE WAS ACTIVE PARTICIPANT.

14 Q NOW, HE IS NOT CHARGED PRESENTLY, BUT THERE
15 IS SOMEBODY BY THE NAME OF CHEWY; IS THAT CORRECT?

16 A YES.

17 Q WHO IS CHEWY?

18 A CHEWY IS -- CHEWY.

19 (PAUSE IN PROCEEDINGS.)

20 THE WITNESS: MAY I CONTINUE?

21 THE COURT: OKAY.

22 BY MR. GELLER: Q WHO IS CHEWY?

23 A CHEWY IS ISREAL'S LITTLE BROTHER. JESUS
24 LOPEZ.

25 Q YOU TALKED ABOUT -- EARLIER ABOUT GANG
26 MEMBERS NOT -- THEY TEND TO COMMIT CRIMES WITH OTHER GANG

1 MEMBERS; IS THAT ACCURATE?

2 A YES.

3 Q SO, IS IT SIGNIFICANT, FIRST OF ALL, IS
4 CHEWY AN F-TROOP GANG MEMBER?

5 A YES.

6 Q IS THAT A SIGNIFICANT FACTOR FOR YOU AS FAR
7 AS TALKING ABOUT THIS OFFENSE, AND IT'S ALL COMMITTED BY
8 GANG MEMBERS?

9 A YES.

10 Q SEVERO DE LA RIVA?

11 A MR. DE LA RIVA I PULLED TWO TOTAL REPORTS.
12 ONE IS BEING A SANTA ANA POLICE NOTICE OF DETERMINATION,
13 AND ANOTHER WAS A REPORT DONE BY DETECTIVE RUIZ. AND,
14 AGAIN, THE STATEMENTS MADE IN THIS CASE AND THE FACTS OF
15 THIS CASE. IT'S HOW I MADE AN OPINION.

16 Q AND YOUR OPINION IS MR. DE LA RIVA WAS A 5TH
17 STREET GANG MEMBER; IS THAT ACCURATE?

18 A YES.

19 Q NOW, WE'VE TALKED ABOUT SOME MONIKERS
20 ALREADY. BAM BAM FOR ISREAL LOPEZ, DO YOU BELIEVE THAT TO
21 BE HIS MONIKER?

22 A YES.

23 Q LITTLE SPEEDY FOR FRANK LOPEZ?

24 A CORRECT.

25 Q ANDY REYES INDICATED IN HIS INTERVIEWS HE
26 DIDN'T HAVE A MONIKER, AND HAVE YOU BEEN ABLE TO COME UP

1 WITH A MONIKER FOR HIM?

2 A NO, I DID NOT.

3 Q WHAT ABOUT HIS LITTLE BROTHER EDDIE REYES,
4 NO MONIKER?

5 A NO.

6 Q EDDIE REYES IS NOT AN F-TROOP GANG MEMBER,
7 AT LEAST IN AUGUST OF '04?

8 A NO, I DON'T BELIEVE HE WAS.

9 Q LOUIS PEREZ, LITTLE SOLDIER?

10 A YES.

11 Q AND SEVERO DE LA RIVA, BOUNCER, ACCURATE?

12 A YES.

13 Q THE FACT THAT THIS OFFENSE WAS COMMITTED
14 WITH F-TROOP, FOUR F-TROOP GANG MEMBERS OR FIVE, IF YOU
15 INCLUDE CHEWY, AND A 5TH STREETER, WHAT SIGNIFICANCE, IF
16 ANY, DO YOU ATTACH TO THAT FACT?

17 A I'M SORRY, SAY --

18 Q WE'VE NOW IDENTIFIED FIVE F-TROOP GANG
19 MEMBERS, ONE 5TH STREET GANG MEMBER AT LEAST WERE OUT ON
20 BICYCLES AT THE TIME THIS CRIME WAS COMMITTED. IS THERE
21 ANY SIGNIFICANCE TO THE FACT THAT YOU HAVE FIVE F-TROOPERS
22 COMMITTING THIS OFFENSE, WITH ONE 5TH STREETER?

23 A WELL, IT CONFIRMS THE INFORMATION THAT
24 THEY'RE AN ALLIED GANG. AND WE DID CONFIRM INFORMATION
25 ALSO THAT THERE IS A FAMILY TIE ALSO.

26 Q YOU'VE HAD AN OPPORTUNITY TO REVIEW THE

1 POLICE REPORTS IN THIS CASE. YOU KNOW THAT THE GROUP LEFT
2 EL SALVADOR PARK, AND THEN THEY WENT TO WHICH LOCATION?

3 A LEFT EL SALVADOR PARK. THEY EXPLAINED TO US
4 THAT THEY WENT DOWN RAITT, MC FADDEN AREA. RAITT STREET.
5 WILLITS. TO THE LOCATION OF WEST F-TROOP, WHICH IS IN THE
6 2200 BLOCK OF WEST MARK STREET AND MONTE VISTA AREA.

7 Q AND YOU DON'T HAVE A SPECIFIC ROAD MAP,
8 SHALL WE SAY, OF EXACTLY WHICH STREETS THEY ACTUALLY WENT
9 DOWN, WHICH SIDE STREETS. YOU JUST KNOW THEY WENT FROM
10 POINT A TO POINT B, AND THEY MAY HAVE TAKEN SOME DETOURS
11 ALONG THE WAY; IS THAT ACCURATE?

12 A THAT'S ACCURATE.

13 Q IN THE COURSE, AT LEAST THE INFORMATION THAT
14 WE'VE OBTAINED, AT LEAST ONE OF THEM, IF NOT MORE OF THEM,
15 WERE ARMED AT THE TIME; IS THAT ACCURATE?

16 A YES.

17 Q DID THEY GO FROM POINT A TO POINT B; DID
18 THAT TRAVERSE THROUGH RIVAL TERRITORIES?

19 A YES.

20 Q WHICH GANGS?

21 A WEST MYRTLE STREET.

22 Q NOW, IN YOUR EXPERIENCE, WOULD YOU EXPECT A
23 GROUP OF F-TROOPERS TO GO DOWN THROUGH WEST MYRTLE STREET
24 EVEN IN BROAD DAYLIGHT ON BICYCLES, WITHOUT BEING ARMED?

25 A MY EXPERIENCE THEY PROBABLY WOULDN'T.

26 Q HAVE YOU TALKED TO AT LEAST ONE OF THESE

1 INDIVIDUALS ABOUT THAT VERY ISSUE?

2 A WELL, IN ONE OF THE STATEMENTS MADE,
3 MR. LOPEZ, ISREAL LOPEZ, STATED SOMETHING TO THE FACT THAT
4 I WOULDN'T GO DOWN THERE. THEY KNOW I'M AN F-TROOP GANG
5 MEMBER, AND IT WOULD BE STUPID FOR ME TO GO DOWN THERE
6 BEING UNARMED.

7 Q AND WHAT SIGNIFICANCE, IF ANY, DO YOU ATTACH
8 TO THAT STATEMENT AS RELATES TO BOTH ISREAL LOPEZ, AND TO
9 THE GANG SUBCULTURE AS A WHOLE?

10 A IT JUST CONFIRMED EVERYTHING WE TALKED
11 ABOUT. GOING INTO A RIVAL GANG TERRITORY, WITHOUT A PLAN,
12 WITHOUT KNOWING WHO HAS GOT A GUN. I BELIEVE IN TESTIMONY
13 WE HEARD EARLIER, THE GUN WAS SHOWN BEFORE EVERYBODY LEFT
14 TO THIS LOCATION. JUST CONFIRMS EVERYTHING WE TALKED
15 ABOUT.

16 Q THE VICTIM IN THIS CASE, HAVE YOU DONE ANY
17 BACKGROUND INVESTIGATION ON HIM TO DETERMINE IF HE ALIGNED
18 HIMSELF WITH ANY GANGS?

19 A YES, I DID.

20 Q WHAT, IF ANYTHING, HAVE YOU BEEN ABLE TO
21 UNCOVER?

22 A WE DIDN'T FIND ANY DOCUMENTED LIKE 186
23 FORMS, F.I.'S OR ANYTHING LIKE THAT. HOWEVER, WE DID
24 SEARCH HIS RESIDENCE, AND I FOUND SOME PHOTOS WHICH WERE
25 SIGNIFICANT OF HIM WEARING BLUE, WHICH IS WEST MYRTLE
26 COLORS. WHICH ALSO THROWING UP SOME HAND SIGNS WHICH WENT

1 TO WEST MYRTLE STREET. HE FORMED A W AND AN M, STANDING
2 FOR WEST MYRTLE.

3 WE SPOKE TO HIS BROTHER, I BELIEVE THE NIGHT
4 THAT HE WAS KILLED, AND HE SAID THAT HE HEARD ALSO HE WAS
5 ALIGNING HIMSELF WITH WEST MYRTLE STREET GANG.

6 Q AND DO YOU ATTACH ANY SIGNIFICANCE TO THE
7 FACT THAT THE VICTIM WAS LOOSELY OR OTHERWISE ALIGNED WITH
8 WEST MYRTLE AS RELATES TO HOW THIS TYPE OF A CRIME WOULD
9 PROMOTE, FURTHER OR ASSIST FELONIOUS CONDUCT AMONGST
10 F-TROOP?

11 A I ATTACH A LOT OF SIGNIFICANCE. IT'S A
12 RIVAL GANG OF THE F-TROOP GANG, EVEN MADE A COUPLE OF
13 STATEMENTS DURING THIS INVESTIGATION, ONE AGAIN BY
14 MR. LOPEZ, I BELIEVE ANOTHER ONE WAS TALKING ABOUT THE
15 RIVALRIES BETWEEN GANGS. AND I BELIEVE WAS MR. PEREZ,
16 LOUIS PEREZ THAT STATED THAT ONE OF THEIR ENEMIES ARE WEST
17 MYRTLE STREET GANG.

18 Q WHAT ABOUT THE HIT-UP, IS THAT SIGNIFICANT
19 TO YOU -- AND WHAT I'D LIKE YOU TO FOCUS ON NOW IS HOW THIS
20 TYPE OF A CRIME, THIS HOMICIDE, WOULD BENEFIT INDIVIDUALLY
21 AND COLLECTIVELY THESE GANG MEMBERS' REPUTATIONS AND THE
22 GANG'S REPUTATION AS A WHOLE?

23 A WELL, INDIVIDUALLY BEING INVOLVED IN A
24 HOMICIDE, IT SURE ENHANCES A PERSON'S STATUS WITHIN THE
25 GANG. CARRYING A GUN ENHANCES THE STATUS IN A GANG, AS
26 SHOWING HIS COMMITMENT TO THE GANG.

1 AND COLLECTIVELY, AGAIN, THAT'S HOW LOTS OF
2 GANGS GET THEIR REPUTATION, THAT'S HOW YOU HEAR NATIONWIDE
3 ABOUT 18TH STREET. IN CALIFORNIA, F-TROOP. YOU HEAR LOTS
4 OF PEOPLE FROM EVERYWHERE. I'VE TALKED PEOPLE FROM
5 NORTHERN CALIFORNIA WHO KNEW ABOUT F-TROOP.

6 SO, IT'S PRETTY SIGNIFICANT. IT DOES
7 ENHANCE THEIR STATUS, AND IT ENHANCES THE STATUS OF THE
8 GANG AS BEING A PRETTY VIOLENT GANG.

9 Q AND IS A GUN POSSESSED BY ONE OF THESE GANG
10 MEMBERS, IF THERE'S ONLY ONE GUN, IS THAT AVAILABLE FOR USE
11 FOR ANY OF THESE INDIVIDUALS?

12 A OH, SURE. ABSOLUTELY.

13 MR. GELLER: THANK YOU, I HAVE NO FURTHER
14 QUESTIONS, YOUR HONOR.

15 THE COURT: WHO IS UP?

16 MR. LAZ: MY GUESS I AM.

17 THE COURT: OKAY.

18 #CROSS-EXAMINATION

19 BY MR. LAZ: Q EL SALVADOR AND ARTESIA ARE BOTH
20 FACTIONS IN THE SAME F-TROOP GANG, RIGHT?

21 A YES, SIR.

22 Q AND YOU SEEM TO LIKE TO JUST REFER TO THEM
23 TOGETHER AS OPPOSED TO DRAW A DISTINCTION BETWEEN THE TWO;
24 IS THAT TRUE?

25 A WELL, THERE'S SUCH -- ONE IS A DIFFERENT
26 FACTION FROM THE OTHER, BUT AS FAR AS, AGAIN, IT'S ALWAYS

1 BEEN LOOKED AT AS ALMOST ONE BECAUSE THEY'RE SUCH A CLOSE
2 KNIT TOGETHER.

3 Q IS THERE ANY WAY THAT YOU CAN ALLOCATE
4 MEMBERSHIP IN NUMBERS BETWEEN THE TWO?

5 A I DON'T KNOW EXACTLY, SIR.

6 Q I MEAN ARE THEY BOTH ABOUT THE SAME SIZE?

7 A NO, I DON'T -- NO, I BELIEVE PROBABLY
8 EL SALVADOR PARK F-TROOP, IN FACT, IF YOU LOOK AT THE
9 HISTORY OF IT, ONE OF THE THINGS EL SALVADOR F-TROOP WAS A
10 LOT OF THE, FOR EXAMPLE, GOLDEN WEST, TOWNSEND STREET,
11 MYRTLE, ALL THESE ONES USED TO BE WITH THE F-TROOP TAG ON
12 IT.

13 EL SALVADOR PARK GOT SO BIG AND POWERFUL
14 THAT THEY STARTED TELLING THESE OTHER GANGS TO TAKE ON
15 THEIR NAME. AND THAT'S WHERE THE RIFT CAME AND A LOT OF
16 THEM STARTED BREAKING UP AND FORMING THEIR OWN GANG.

17 Q NON-F-TROOP AFFILIATED?

18 A YES, THAT'S CORRECT.

19 Q HOW MANY TOTAL MEMBERS ARE THERE IN BOTH
20 FACTIONS TOGETHER, ROUGHLY?

21 A I'D SAY ROUGHLY MAYBE 460, 500. I DON'T
22 KNOW.

23 Q AND SOME OF THIS I JUST COULDN'T GET IT DOWN
24 QUICK ENOUGH. FIRST STREET TO SANTA CLARA, AND FAIRVIEW TO
25 BRISTOL, WHO IS THAT?

26 A WELL, THAT ENCOMPASSES EL SALVADOR PARK AND

1 ARTESIA STREET. ARTESIA IS -- A LOT OF THEM HANG OUT,
2 USUALLY 1ST TO 5TH, BETWEEN RAITT AND TOWNSEND. THE
3 EL SALVADOR PARK FACTION IS A LOT LARGER, THEY TRICKLE UP
4 TO ABOUT SANTA CLARA TO THE NORTH. THE COURT AREA IS
5 AROUND EL SALVADOR PARK.

6 Q AND WHEN YOU SAY AROUND EL SALVADOR PARK, A
7 BLOCK, TWO BLOCKS, THREE BLOCKS, CAN YOU GIVE ME A FEEL FOR
8 THAT?

9 A MAYBE FROM COURT AREA BEING 5TH STREET TO
10 17TH STREET, BRISTOL TO FAIRVIEW.

11 Q THEN YOU SAID THERE IS A SMALL F-TROOP GROUP
12 WHICH CLAIMS SOUTH CENTRAL?

13 A WELL, NO, IT'S IN THE SOUTH CENTRAL PORTION
14 OF SANTA ANA.

15 Q OKAY.

16 A AND THAT IS, THEY REFERRED TO IT AS WEST,
17 LET'S GO WEST, WEST F-TROOP.

18 Q OKAY.

19 A AND THAT IS PROBABLY THE 2200 BLOCK OF WEST
20 PARK AND MONTE VISTA, 600 BLOCK OF SOUTH GOLDEN WEST AND
21 DIAMOND STREET. VAN DEL STREET.

22 Q THEN YOU SAID WEST -- HOW OLD IS WEST MYRTLE
23 STREET AS A GANG?

24 A IT'S PROBABLY BEEN AROUND WHEN -- IT STARTED
25 TO BREAK UP FROM THE EL SALVADOR PARK FACTION, SO, I WOULD
26 SAY MAYBE IN THE EARLY '70'S.

1 Q WEST MYRTLE STREET WAS AN F-TROOP GANG?

2 A PART OF IT A LONG TIME AGO.

3 Q ABOUT HOW LONG AGO?

4 A I'D SAY THAT THE GANG STARTED BREAKING UP
5 AROUND THE 1970'S OR SO WHEN EL SALVADOR PARK WAS GETTING
6 TOO, TOO LARGE AND TOO POWERFUL.

7 Q HOW BIG IS WEST MYRTLE STREET NOW, IN
8 NUMBERS OF GANG MEMBERS?

9 A I WOULD SAY APPROXIMATELY 70, 80.

10 Q IN THE LAST 10 YEARS, HAVE THEY HAD ANY GANG
11 IN THEIR GEOGRAPHICAL SIZE OR BOUNDARIES?

12 A IN THE GEOGRAPHICAL SIZE.

13 Q AND BOUNDARIES?

14 A NO, I THINK IT'S PRETTY MUCH BEEN THE SAME
15 BECAUSE YOU DON'T GO TOO FAR EAST WHERE YOU RUN INTO
16 ANOTHER GANG, AND WEST WHERE YOU RUN INTO ANOTHER GANG.
17 SO, THERE REALLY HASN'T BEEN MUCH CHANGE AS FAR AS THE
18 GEOGRAPHICAL BOUNDARIES.

19 Q WHAT ARE THEY AGAIN?

20 A THE CORE AREA IS PROBABLY 1ST STREET SOUTH,
21 TO PROBABLY WEST OF RAITT, TO APPROXIMATELY SULLIVAN OR
22 FAIRVIEW TO THE WEST, AND PROBABLY WILLITS TO THE SOUTH.

23 Q SULLIVAN STREET IS ALSO A, WHAT, AN F-TROOP
24 BREAKOFF?

25 A WELL, IT'S -- IF YOU GO SOUTH OF WILLITS
26 STREET, THAT'S ABOUT WHERE THE WEST SIDE F-TROOP KIND OF --

1 THERE'S A LOT OF THEM LIVING IN THAT AREA.

2 Q OKAY.

3 A WHERE YOU GO NORTH OF THAT, IT'S INTO THE
4 WEST MYRTLE. WEST MYRTLE STREET.

5 Q OKAY. IS SULLIVAN STREET A SEPARATE GANG,
6 OR IS THAT JUST A STREET YOU USE TO DIVIDE?

7 A IT'S A SEPARATE GANG, AND THEY'VE BEEN
8 PRETTY DORMANT. BUT IT IS A SEPARATE GANG THAT'S STARTING
9 TO KIND OF COME UP AGAIN.

10 Q AND WHAT ARE THEIR BOUNDARIES?

11 A WELL, SINCE THEY HAVE BEEN KIND OF DORMANT,
12 IT'S KIND OF REALLY HARD TO SAY. THEY USED TO CLAIM
13 PROBABLY AREA OF SULLIVAN FROM 1ST STREET ALL THE WAY DOWN
14 TO EDINGER -- WELL, ACTUALLY, NO, MC FADDEN TO PROBABLY
15 FAIRVIEW STREET. THE VULTAR APARTMENTS, WHICH IS IN THE
16 800 BLOCK OF SOUTH FAIRVIEW STREET.

17 Q WITH RESPECT TO EDDIE REYES, DO YOU KNOW OF
18 ANY -- I MEAN DO YOU HAVE ANY F.I. CARDS, INTELLIGENCE,
19 WORD ON THE STREET OR ANYTHING THAT HE'S EVER AFFILIATED
20 WITH F-TROOP, ANYTHING LIKE THAT?

21 A WELL, I BELIEVE THERE WAS A REPORT WHICH I
22 BELIEVE WAS DONE BY OFFICER BRACKMAN OR AHERN WHICH THERE
23 WAS AN INVOLVEMENT OF 2111 WEST 17TH, WHERE I BELIEVE HE
24 MIGHT HAVE BEEN CONTACTED. AND THERE WAS SOME OTHER
25 GROUPS -- OR OTHER JUVENILES WITHIN THE APARTMENT COMPLEX
26 THAT WERE RUNNING AROUND SAYING THAT THIS IS THE F-TROOP

1 TERRITORY.

2 Q AND SO THERE'S A POLICE REPORT GENERATED
3 ABOUT THAT?

4 A THERE'S A POLICE REPORT, BUT I'M NOT SURE
5 IF -- I THINK HE WAS CONTACTED REGARDING THAT. BUT I'M NOT
6 SURE.

7 Q DO YOU KNOW GENERALLY WHAT TIME FRAME THAT
8 WAS?

9 A IT WAS SOMETIME THE -- SOMETIME LAST YEAR IN
10 '04.

11 Q DO YOU REMEMBER EARLY, LATE -- STRIKE THAT.
12 BEFORE OR AFTER THE INCIDENT WE'RE HERE
13 ABOUT?

14 A I THINK IT WAS AFTER THE INCIDENT.

15 Q ANYTHING ELSE IN TALKING TO ANY F-TROOP
16 MEMBERS THAT -- ABOUT EDDIE REYES?

17 A NO, SIR.

18 Q WITH RESPECT TO THE RELATIONSHIP BETWEEN
19 EL SALVADOR PARK F-TROOP AND WEST MYRTLE STREET, HAS THERE
20 EVER BEEN ANY CONFLICT BETWEEN THOSE TWO GROUPS?

21 A YES.

22 Q AND ANY WAY THAT YOU CAN DESCRIBE THAT OR
23 QUANTIFY IT?

24 A WELL, I KNOW THAT FROM WORKING BOTH AREAS, I
25 KNOW THAT I'VE SPOKEN TO GANG MEMBERS FROM BOTH SIDES WHO,
26 YOU KNOW, WE ALWAYS, HEY, WHO ARE YOU GETTING ALONG WITH SO

1 WE CAN KNOW WHERE TO CONDUCT OUR PATROLS AND STUFF.

2 . . . AND EVER SINCE I'VE BEEN A POLICE OFFICER, I
3 KNOW THEY'VE NEVER BEEN ALIGNED, ONE SAY F-TROOP WE DON'T
4 GET ALONG WITH, OR WE DON'T GET ALONG WITH MYRTLE STREET,
5 ET CETERA.

6 Q HAVE THERE BEEN ANY ASSAULTS BY EITHER GROUP
7 AGAINST THE OTHER?

8 A YES.

9 Q CAN YOU ESTIMATE HOW MANY IN THE LAST FIVE
10 YEARS?

11 A NO, SIR, I CAN'T.

12 Q IS IT CLOSER TO TEN OR CLOSER TO ONE?

13 A IF I WAS TO GUESS, I WOULD SAY IT WOULD BE
14 CLOSER TO TEN. I DON'T KNOW. I DON'T HAVE THAT SPECIFIC
15 INFORMATION.

16 Q DO YOU KNOW OF ANY SPECIFIC INSTANCES WHERE
17 ISREAL LOPEZ HAD ANY PROBLEMS WITH WEST MYRTLE STREET?

18 A NO. YOU MEAN BEFORE THIS?

19 Q WELL, APART FROM THIS INCIDENT?

20 A. APART FROM THIS INCIDENT? NO.

21 Q DO YOU KNOW OF ANY -- STRIKE THAT.

22 YOU'VE TALKED TO WEST MYRTLE STREET GANG
23 MEMBERS, RIGHT?

24 A YES.

25 Q CAN YOU ESTIMATE HOW MANY?

26 A THROUGHOUT MY CAREER, PROBABLY, I DON'T

1 KNOW, 100, COUPLE HUNDRED, MAYBE.

2 Q DID I ASK YOU HOW BIG THAT WEST MYRTLE
3 STREET WAS IN NUMBERS?

4 A YES, YOU DID.

5 Q HOW MANY IS IT?

6 A I'D SAY MAYBE 70, 80.

7 Q HAVE ANY OF THEM EVER MENTIONED ISREAL
8 LOPEZ?

9 A NOT THAT I CAN REMEMBER. AND --

10 Q WHEN WE TALK ABOUT ASSAULTS BETWEEN WEST
11 MYRTLE STREET AND F-TROOP, CAN YOU THINK OF ANY ASSAULTS
12 BETWEEN THOSE TWO GANGS INVOLVING WEAPONS, AS YOU SIT HERE
13 TODAY?

14 A WELL, I'VE BEEN TOLD ABOUT A LOT OF
15 SHOOTINGS THAT HAVE GONE ON THAT HAVE NOT BEEN DOCUMENTED
16 BY A LOT OF THE AREA RESIDENTS. BUT AS FAR AS --

17 Q NOT TO INTERRUPT YOU, BUT BY THOSE AREA
18 RESIDENTS, DID THEY SAY THESE ARE SHOOTINGS BETWEEN MYRTLE
19 STREET AND F-TROOP?

20 A YES. AND NOT JUST SHOOTINGS, BUT SOME TYPE
21 OF ASSAULTS OR SOME TYPE OF CONFRONTATION --

22 Q OKAY.

23 A -- BETWEEN THE TWO. BETWEEN THE TWO GANGS.

24 Q ARE THERE ANY SHOOTINGS OR ASSAULTS WITH
25 WEAPONS CAUSING INJURY THAT YOU ATTRIBUTE TO EITHER WEST
26 MYRTLE ON F-TROOP, OR F-TROOP ON WEST MYRTLE, THAT YOU

1 HAVEN'T BEEN ABLE TO RESOLVE OR SOLVE?

2 A ANY CURRENT THAT I'M QUESTIONING?

3 Q OR THAT YOU'RE AWARE OF?

4 A NO, NOT ON MY CASE LOAD, NO. I DON'T HAVE
5 ANY.

6 Q WELL, GENERALLY THE DIFFERENT GANG
7 INVESTIGATORS TALK AMONGST EACH OTHER ABOUT THE STUFF
8 THEY'RE WORKING ON, RIGHT?

9 A YES.

10 Q AND SO AS YOU SIT HERE NOW, YOU DON'T KNOW
11 OF ANY ASSAULTS ON MYRTLE STREET OR ASSAULTS ON F-TROOP
12 THAT ARE ATTRIBUTED TO THE OTHER GANG ARE UNSOLVED; IS THAT
13 A FAIR STATEMENT?

14 A WELL, THERE'S SOME THAT WE HAVE SUSPICIONS
15 ON.

16 Q OKAY.

17 A BUT AS FAR AS -- AS FAR AS ME HAVING A
18 DOCUMENTED FACT THAT THAT HAPPENED, I DON'T HAVE THAT, NO.

19 Q IF YOU WERE TRYING TO GO FROM -- STRIKE
20 THAT.

21 DO YOU KNOW WHERE ISREAL LOPEZ LIVED AT THE
22 TIME?

23 A YES.

24 Q IF YOU WERE TRYING TO GO FROM EL SALVADOR
25 PARK DIRECTLY TO HIS HOUSE IN THE MOST DIRECT ROUTE, WOULD
26 YOU HAVE TO GO THROUGH ANY GANG'S TERRITORY?

1 A JUST YOU'RE IN F-TROOP TERRITORY, YOU'RE IN
2 EL SALVADOR PARK F-TROOP TERRITORY.

3 Q YOU NEVER LEAVE THAT TERRITORY?

4 A NO.

5 Q HOW ABOUT WITH RESPECT TO ANY OF THE OTHERS
6 THAT WERE ALLEGEDLY WITH HIM?

7 A I AM 40 NOW. LET ME REMEMBER WHERE THEY
8 LIVE. WELL, ARE YOU TALKING JUST ABOUT F-TROOP?

9 Q I'M JUST TALKING ABOUT REALLY GUESS IF WE
10 TALKED ABOUT --

11 A I'M SORRY, ANYBODY WHO CLAIMS F-TROOP OR ANY
12 OF THE DEFENDANTS -- IN OTHER WORDS, MR. DE LA RIVA.

13 Q I UNDERSTAND, I'LL GO BY AN INDIVIDUAL SO
14 THERE'S NO CONFUSION.

15 A OKAY.

16 Q WITH RESPECT TO ANDY REYES AND EDDIE REYES?

17 A NO.

18 Q NO WHAT?

19 A THEY WOULDN'T HAVE TO GO THROUGH -- AND THIS
20 IS AGAIN WITH THE ADDRESSES THAT WERE DOCUMENTED AND GIVEN
21 THEM KNOWN TO BE LIVING AT.

22 Q FAIR ENOUGH. HOW ABOUT LOUIS PEREZ?

23 A NO.

24 Q SEVERO DE LA RIVA?

25 A YES.

26 Q WHAT TERRITORY WOULD HE HAVE TO GO THROUGH?

1 A SANTA ANITA.

2 Q ANY OTHERS THAT YOU CAN THINK OF?

3 A NO, HE MIGHT RUN INTO A COUPLE
4 MIDDLESIDERS, BUT PROBABLY NOT.

5 Q AND FRANK LOPEZ?

6 A WELL, IT DEPENDS ON WHICH ADDRESS YOU'RE
7 TALKING ABOUT. IF YOU'RE TALKING ABOUT THE ADDRESS ON
8 NORTH TOWNSEND STREET, NO. IF YOU'RE TALKING ABOUT THE
9 ADDRESS ON I BELIEVE IT WAS EAST NORMANDY, YOU WOULD HAVE
10 TO, DEPENDING ON WHAT ROUTE YOU TOOK.

11 Q AND WHO MIGHT YOU -- WHAT TERRITORY MIGHT
12 YOU GO THROUGH?

13 A THAT'S IN THE SOUTHEAST AREA OF THE TOWN.

14 Q A LOT?

15 A SEVERAL, YEAH. DEPENDING ON WHICH ROUTE YOU
16 TOOK.

17 Q DO YOU KNOW WHERE CROW LIVES?

18 A YES.

19 Q IF YOU WERE GOING TO GO FROM EL SALVADOR
20 PARK TO CROW'S, WOULD YOU HAVE TO GO THROUGH ANYBODY ELSE'S
21 TERRITORY?

22 A YES.

23 Q AND THAT'S BECAUSE YOU NORMALLY GO THROUGH
24 THE INTERSECTION OF WILLITS AND SULLIVAN?

25 A WELL, THAT'S ONE ROUTE YOU CAN TAKE.

26 Q OKAY.

1 A YOU COULD TAKE ANOTHER ROUTE.

2 Q WHAT ROUTE WOULD THAT BE?

3 A IF YOU TOOK RAITT STREET AND YOU WENT DOWN
4 RAITT TO WILLITS, YOU'D GO THROUGH WEST MYRTLE STREET.
5 WEST MYRTLE TERRITORY. YOU COULD GO THROUGH -- YEAH, WEST
6 MYRTLE.

7 Q OKAY. AND WHEN YOU TOOK THE ROUTE THAT
8 THEY, SOME OF THEM SAID THEY TOOK, WHAT GANGS?

9 A WEST MYRTLE STREET.

10 Q AND SULLIVAN STREET, MAYBE?

11 A YES.

12 I'M SORRY, JUST TO MAKE SURE WE'RE TALKING
13 ABOUT THE SAME THING GOING TO --

14 Q YES.

15 A -- CROW'S HOUSE.

16 Q YES.

17 A NOT COMING FROM.

18 Q LET'S BREAK IT DOWN. GOING TO.

19 A GOING TO, YES, WEST MYRTLE STREET.

20 Q IF YOU WERE GOING TO COME BACK FROM CROW'S
21 HOUSE AND GO TO ISREAL LOPEZ'S HOUSE, WOULD YOU HAVE TO GO
22 THROUGH RIVAL GANG TERRITORY?

23 A AS I SAID A LITTLE BIT OF WEST MYRTLE STREET
24 ON THE WEST SIDE, YOU MIGHT. SULLIVAN STREET. BUT AGAIN,
25 THEY'RE KIND OF DORMANT. SO, AS FAR AS THEM CLAIMING THAT
26 TURF. BUT IF YOU WENT UP SULLIVAN, YOU'D GO UP TO FIRST

1 JUST PRETTY MUCH CLOSE TO ARTESIA, YOU'D BE BACK IN YOUR
2 AREA AGAIN.

3 Q AND SO BASICALLY RIGHT NOW AND AT THE TIME
4 THIS HAPPENED, THERE WERE THREE GENERAL F-TROOP GROUPS:
5 ARTESIA, EL SALVADOR AND WEST SIDE?

6 A WELL, I WOULD SAY THAT -- ACTUALLY, I'D SAY
7 THAT THE ONES THAT REFERRED TO WEST SIDE, THAT'S KIND OF
8 MORE OF A TERM OF AN AREA WHERE THEY GO TO.

9 Q OKAY.

10 A AS FAR AS I BELIEVE LIKE RUBIN SALGADO,
11 ALVINO CHAVEZ, RICHARD VEGA, ALL THREE BEING EL SALVADOR
12 PARK F-TROOP GANG MEMBERS, BUT THEY LIVE DOWN THERE IN THAT
13 AREA.

14 Q SO THAT'S EL SALVADOR F-TROOP, IT'S JUST
15 THAT, IT'S JUST A DIFFERENT AREA?

16 A YEAH, AND I'VE HEARD PEOPLE SAY LET'S GO
17 WEST, AND THEY MEAN WEST F-TROOP.

18 Q WHEN YOU DID YOUR EVALUATION OF ISREAL
19 LOPEZ, YOU USED 19 CONTACTS BETWEEN MARCH '02 AND SEPTEMBER
20 OF '04; IS THAT CORRECT?

21 A YES, SIR.

22 Q AND I'M JUST GOING TO TAKE YOU THROUGH SOME
23 OF THESE RELATIVELY BRIEFLY. DO YOU HAVE THOSE IN FRONT OF
24 YOU GENERALLY?

25 A YES, CAN I REFER TO THEM?

26 MR. LAZ: WITH THE COURT'S PERMISSION?

1 THE COURT: SURE.

2 BY MR. LAZ: Q AND WE'RE TALKING ABOUT MAY 20TH OF
3 '02, AN F.I. CARD THAT WAS A TRAFFIC STOP?

4 A DID YOU SAY MAY 20TH?

5 Q OF '02, AN F.I. -- I MEAN MARCH.

6 A MARCH, AN F.I. CARD?

7 Q YES.

8 A WAS THAT MARCH 30TH, SIR?

9 Q JUST A MINUTE, LET ME FIND IT. MINE SHOWS
10 MARCH 30TH OF '02, AN F.I. CARD?

11 A YES. I'M SORRY, I THOUGHT YOU SAID 20TH.

12 Q OKAY. IT'S A TRAFFIC STOP, CORRECT?

13 A CORRECT.

14 Q AND I ASSUME THERE'S SOMETHING SIGNIFICANT
15 ABOUT WHO HE IS WITH?

16 A YES.

17 Q AND ARE THOSE BOTH ADMITTED F-TROOP GANG
18 MEMBERS?

19 A YES.

20 Q AND HOW OLD IS MARCELIS REVARO?

21 A MARCELIS REVARO?

22 Q ROUGHLY.

23 A ROUGHLY PROBABLY IN HIS EARLY 20'S. THE
24 SAME WITH ERIC CHAVEZ.

25 Q AND WITH RESPECT TO -- WITH RESPECT -- I'M
26 GOING TO JUMP AHEAD, AUGUST 23RD OF '02, WHICH IS A POLICE

1 REPORT.

2 A AUGUST 20TH OF '02?

3 Q OR A PROBATION VIOLATION REPORT.

4 A AUGUST -- OH, OKAY. OKAY. YES.

5 Q AND HAVE YOU EVER --

6 A AUGUST, I'M SORRY, WHAT DATE WAS THAT AGAIN?

7 Q WELL, I HAVE -- AUGUST 23RD OF '02?

8 A IS THAT BY DETECTIVE ZEPEDA?

9 Q I DON'T HAVE THAT IN FRONT OF ME, BUT IT'S
10 02-37041?

11 A YES, THAT'S THE ONE.

12 Q AND IT'S A THIN PIECE OF METAL WITH A
13 CARTOON ON IT. SO THEY COLLECTED THAT?

14 A YES.

15 Q HAVE YOU EVER SEEN THAT?

16 A YES.

17 Q I MEAN HOW BIG IS IT? WHAT DOES IT LOOK
18 LIKE?

19 A OH, I'M SORRY, THE OBJECT?

20 Q YES.

21 A NO. I THOUGHT YOU WERE TALKING ABOUT THE
22 REPORT.

23 Q ALL RIGHT. HAVE YOU EVER TALKED TO DEPUTY
24 PROBATION OFFICER HAWKINS ABOUT ISREAL LOPEZ?

25 A YES.

26 Q AND HOW MANY TIMES, DO YOU THINK?

1 A I DON'T KNOW, PROBABLY LESS THAN FIVE, I
2 BELIEVE.

3 Q DID YOU EVER DISCUSS ANYTHING ABOUT HIS
4 INTEREST IN ISREAL LOPEZ AND THE DEGREE OF HIS INTEREST,
5 ANYTHING ALONG THOSE LINES?

6 A DEPUTY PROBATION OFFICER HAWKINS?

7 Q YES.

8 A NO.

9 Q EVER TALKED TO HIM ABOUT THE NUMBER OF TIMES
10 HE VISITED ISREAL LOPEZ, ANYTHING ALONG THOSE LINES?

11 A NO. HUH-UH.

12 Q HOW ABOUT FRANK ROWA, DO YOU KNOW WHO FRANK
13 ROWA IS?

14 A THE NAME RINGS A BELL.

15 Q THAT WOULD BE IN THE REPORT OF 12/28/02?

16 A THAT'S A REPORT?

17 Q 02-56593.

18 A I DON'T THINK I HAVE THAT.

19 Q LET ME DOUBLE CHECK.

20 A A REPORT DONE BY --

21 Q IT'S A REPORT BY OFFICER REYNOSO.

22 A ON 12/28/02.

23 Q WELL, MAYBE 12/27/02. THE REPORT MIGHT BE
24 12/28. THE INCIDENT WAS 12/27.

25 A BY OFFICER REYNOSO?

26 Q YES.

1 A I DON'T THINK I HAVE THAT.

2 Q WELL, THE REASON I REALLY BROUGHT IT UP WAS
3 JUST BECAUSE FRANK ROWA'S NAME WAS IN IT. BUT YOU'RE NOT
4 SURE OFFHAND IF HE IS AN F-TROOP GANG MEMBER?

5 A YOU KNOW THE NAME RINGS A BELL. BUT I DON'T
6 KNOW. I'M NOT SURE.

7 Q HOW ABOUT DANIEL VEJIA, V-E-J-I-A, OR RAUL
8 SALGADO OR RUBIN SALGADO?

9 A YES. RUBIN AND RAUL.

10 Q HOW ABOUT DANIEL VEJIA, V-E-J-I-A?

11 A NO, I DON'T BELIEVE.

12 Q OKAY, WITH RESPECT TO RAUL SALGADO, HAS HE
13 ADMITTED?

14 A YES, I BELIEVE SO. AND RUBIN.

15 Q ARE BOTH ADMITTED?

16 A YES.

17 Q AND ANY ESTIMATE AS TO THEIR AGE?

18 A I THINK RUBIN -- I WOULD BE ESTIMATING IS
19 MID, MID-TWENTIES.

20 Q DO YOU HAVE AN INCIDENT ON MARCH 9TH OF '04
21 THAT HAS A REPORT 04-15283? IT'S AN INCIDENT WITH CARLOS
22 LOVANO?

23 A IT'S A REPORT?

24 Q YES.

25 A NO, NO, I DON'T THINK I HAVE THAT.

26 Q DID YOU REFER -- STRIKE THAT.

1 DID YOU I GUESS RELY UPON AN INCIDENT IN
2 SEPTEMBER OF '04 INVOLVING ISREAL LOPEZ IN FORMING AN
3 OPINION?

4 A LET ME SEE. AND IS IT A REPORT?

5 Q IT SHOULD BE A REPORT. THOUGH I DON'T THINK
6 I HAVE IT. AROUND SEPTEMBER 4TH OF '04?

7 A SEPTEMBER OF '04?

8 Q WELL, THERE WAS A SEPTEMBER 9TH OF '04 BY
9 DETECTIVE CASTILLO? I DON'T KNOW.

10 A THAT'S IN A SUPPLEMENTAL UNDER THIS
11 INVESTIGATION.

12 Q OKAY. NOW, THIS ONE WOULD BE SEPTEMBER 4TH
13 REGARDING OFFICER ALVAREZ, I THINK.

14 A OH, ANDREW ALVAREZ?

15 Q I DON'T KNOW.

16 A I DIDN'T -- I DON'T RECALL PULLING THAT CASE
17 FOR THIS.

18 Q THE SEPTEMBER 9TH, '04 FROM CASTILLO, WHICH
19 IS A SUPPLEMENT IN THIS CASE. WHAT'S THAT ABOUT?

20 A OH, THAT WAS AN ITEM THAT WAS RECOVERED FROM
21 ONE OF THE RESIDENCES THAT WAS SEARCHED.

22 Q WHOSE RESIDENCE?

23 A IF I COULD REFER TO THAT?

24 Q WELL, WAS IT ISREAL LOPEZ'S RESIDENCE?

25 A YES. I THINK IT WAS THE EAST NORMANDY
26 RESIDENCE.

1 Q BUT WAS THAT WHEN THEY SERVE THE WARRANTS?

2 A YES. YES.

3 Q THAT'S FINE THEN. STARTING IN '04,
4 MR. LOPEZ SAYS THAT HE NO LONGER CLAIMED F-TROOP, YOU'RE
5 AWARE OF THAT?

6 A YES.

7 Q AND BY THAT TIME HE'S NO LONGER WEARING
8 BROWN CLOTHES, WOULD YOU AGREE WITH THAT?

9 A I DON'T KNOW. I DIDN'T -- I HAVEN'T SEEN
10 HIM EVERY DAY WHAT HE WEARS.

11 Q WELL, THEY DO A LOT OF CONTACTS WITH HIM
12 STILL, AND HE IS NEVER IN BROWN CLOTHES IN ANY OF THOSE
13 CONTACTS, CORRECT?

14 A I BELIEVE SO.

15 Q I MEAN IS THAT SIGNIFICANT TO YOU IN ANY
16 WAY?

17 A IT COULD BE.

18 Q BECAUSE BROWN IS AN F-TROOP COLOR?

19 A CORRECT.

20 Q SO IF SOMEBODY USED TO WEAR BROWN AND
21 STOPPED WEARING BROWN, THAT MIGHT BE AN INDICATOR THE
22 DIRECTION THEY WERE HEADED; IS THAT CORRECT?

23 A SURE. THAT MIGHT BE, UH-HUH.

24 Q IF SOMEBODY PERIODICALLY CLAIMED F-TROOP BUT
25 THEN STOPPED CLAIMING THEM, THAT MIGHT BE AN INDICATOR OF
26 THE DIRECTION THEY WERE HEADED, CORRECT?

1 A SURE.

2 Q AND IF THAT PERSON ALSO HAPPENED TO BE
3 WORKING FULL TIME AND GOT A NEW JOB, THAT MIGHT BE AN
4 INDICATOR, IF YOU WILL, GOING IN A DIFFERENT DIRECTION?

5 A ABSOLUTELY.

6 Q DO YOU KNOW WHO CARLOS LOVANO IS?

7 A CARLOS LOVANO?

8 I THINK I MIGHT KNOW, BUT I CAN'T BE
9 SPECIFIC.

10 Q TO THE EXTENT YOU THINK YOU KNOW, IS HE
11 F-TROOP OR --

12 A I THINK SO.

13 Q HOW MANY PROBATION CHECKS DO YOU THINK YOU
14 WENT ON AT ISREAL LOPEZ'S HOUSE WITH DEPUTY PROBATION
15 OFFICER HAWKINS?

16 A I DON'T THINK I WENT ON ANY WITH
17 MR. HAWKINS. I DON'T THINK -- I THINK I MIGHT HAVE BEEN
18 THERE ONCE OR TWICE. BUT I DON'T THINK IT'S EVER BEEN WITH
19 MR. HAWKINS. I'M NOT SURE, THOUGH.

20 Q ON THE OCCASIONS THAT YOU TALKED TO HAWKINS
21 ABOUT ISREAL LOPEZ, WHAT WAS THE REASON FOR THOSE
22 CONVERSATIONS?

23 A I BELIEVE IT WAS TO -- PROBABLY INVOLVING
24 THIS CASE HERE.

25 Q SO AS FAR AS YOU KNOW, IT WOULD NOT HAVE
26 BEEN PRIOR TO THIS CASE?

1 A YOU KNOW WHAT, I MIGHT HAVE TALKED TO HIM
2 BEFORE; BUT I DON'T KNOW. I KNOW THAT I WORKED IN THE STOP
3 TEAM AND I MIGHT HAVE ASKED THEM ABOUT VARIOUS POSSIBLE
4 GANG MEMBERS. SO, I MIGHT HAVE. BUT I DON'T KNOW.

5 Q OKAY. WITH RESPECT TO THE VICTIM IN THIS
6 CASE, YOU SAID SOMETHING ABOUT HIM HAVING SOME CONNECTIONS
7 TO WEST MYRTLE STREET?

8 A YES, SIR.

9 Q AND WHAT WERE THOSE CONNECTIONS AGAIN?

10 A WELL, I RAN THE SAME CHECKS THAT I DID WITH
11 ALL OF THE DEFENDANTS, AND I COULDN'T COME UP WITH ANY
12 DOCUMENTED INCIDENTS. HOWEVER, WE DID FIND SOME
13 PHOTOGRAPHS WITH HIM THROWING UP SOME HAND SIGNS.

14 I ALSO SPOKE WITH HIS BROTHER THE NIGHT OF
15 THE INCIDENT, AND HE SAID THAT APPARENTLY HIS BROTHER WAS
16 STARTING TO HANG AROUND WITH THE WEST MYRTLE STREET GANG.

17 Q DID HIS BROTHER SAY WHEN THAT HAPPENED?

18 A HE JUST SAY IT WAS RECENTLY. HE DIDN'T GIVE
19 A DATE OR ANYTHING LIKE THAT.

20 Q WHO TALKED TO THE BROTHER, DO YOU KNOW?

21 A I KNOW I SPOKE WITH HIM. BUT I CAN'T
22 REMEMBER IF IT WAS IN SPANISH AND IT WAS TRANSLATED. I
23 DON'T KNOW.

24 Q WHEN YOU TALKED TO THE BROTHER, WERE YOU
25 TRYING TO DEVELOP WHATEVER INFORMATION YOU COULD ABOUT THE
26 GANG BACKGROUND FOR THE VICTIM?

1 A ANY INFORMATION AT ALL, WHETHER IT BE GANGS,
2 WHETHER IT BE WHATEVER IT WAS. MOTIVE. ANYTHING, YOU
3 KNOW, WHAT COULD HELP OUT IN THE CASE.

4 Q FAIR ENOUGH. I MEAN SO DURING THAT
5 CONVERSATION, I ASSUME HE GAVE YOU NO SPECIFICS?

6 A JUST -- JUST WHAT I ALREADY TOLD YOU.

7 Q HE DIDN'T TELL YOU ANY SPECIFIC PEOPLE HE
8 WAS HANGING AROUND WITH?

9 A CORRECT.

10 Q DIDN'T TELL YOU HE WAS WEARING ANY
11 PARTICULAR COLORS?

12 A NO..

13 Q AND DIDN'T SAY ANYTHING ABOUT SEEING HIM
14 TAGGING, ANYTHING LIKE THAT?

15 A NO. NOTHING LIKE THAT.

16 Q DID THE VICTIM HAVE ANY TATTOOS?

17 A YES, HE HAD SEVERAL.

18 Q AND ANY THAT HAVE TO DO WITH MYRTLE STREET?

19 A NO, ONE BEING A -- SOMETHING OBVIOUSLY YOU
20 CAN'T TELL FROM ONE TATTOO, HE IS IDENTIFYING WITH. I
21 THINK HE HAD A NUMBER TO IDENTIFY HIMSELF, THE 13TH FOR THE
22 SOUTH, WHICH IS THOUGH YOU CAN'T JUST SAY THAT ABOUT ONE
23 TATTOO, BUT MY TRAINING AND EXPERIENCE AND EVERYTHING IN
24 TALKING WITH HIM, THE NUMBER USUALLY RELATES TO GANGS FROM
25 THE SOUTH IN CALIFORNIA, COMPARED TO THE NORTH.

26 Q WERE ANY OF THOSE TATTOOS TATTOOS THAT MIGHT

1 SEND YOU IN THE DIRECTION OF A DIFFERENT GANG, OR
2 AFFILIATION WITH A DIFFERENT GANG THAT WASN'T WEST MYRTLE
3 STREET?

4 A NO, I BELIEVE IT WAS HE HAD ONE IN SPANISH
5 THAT SAID SOMETHING I THINK ONE WAS THE FACE OF JESUS. THE
6 OTHER ONE WAS I'M SORRY, MOTHER, FOR MY TEARS I'VE CAUSED,
7 OR SOMETHING LIKE THAT. WHICH I'VE SEEN ON GANG MEMBERS
8 BEFORE, AND SOMETIMES NONGANG MEMBERS. SO, NOTHING
9 SPECIFIC TO SEND US TO ANOTHER GANG.

10 Q ANY DISCUSSIONS WITH THE BROTHER ABOUT WHEN
11 HE GOT THOSE TATTOOS?

12 A NO, I DON'T THINK SO. BECAUSE AT THE TIME
13 THAT I SPOKE WITH HIS BROTHER, THE CORONER HAD NOT ARRIVED
14 YET AND WE REALLY COULDN'T SEE WHAT TATTOOS WERE THERE OR
15 ANYTHING. SO, I DON'T BELIEVE WE DID.

16 Q THE -- THE VICTIM WAS USING DIFFERENT NAMES?

17 A YES.

18 Q HOW MANY DIFFERENT NAMES DID YOU FIND OUT HE
19 HAD BEEN USING?

20 A WELL, I THINK WE HAD A PAYCHECK STUB WITH
21 THE PEDRO ROSARIO. I THINK WE HAD ANOTHER PIECE OF PAPER
22 IN HIS WALLET WHICH WAS FROM HIS WEIGHT LIFTING CLASS HE
23 HAD IN RANCHO SANTIAGO COLLEGE, I BELIEVE IT WAS WITH A
24 DIFFERENT NAME. SO THERE WAS A, PROBABLY ABOUT, I GUESS
25 TWO, MAYBE THREE DIFFERENT NAMES.

26 Q DID YOU RUN ALL THOSE NAMES --

1 A YES.

2 Q -- AGAINST ALL YOUR GANG SOURCES?

3 A YES.

4 Q AND UNDER WHICH NAME -- STRIKE THAT.

5 YOU SAID THAT YOU FOUND SOME PHOTOGRAPHS
6 THAT HAD HIM IN THEM?

7 A YES.

8 Q WHERE DID YOU GET THOSE PHOTOGRAPHS?

9 A IN HIS RESIDENCE.

10 Q HOW MANY WERE THERE?

11 A I THINK THERE WERE LIKE SIX OR SO.

12 Q WHERE -- WERE THEY ALL IN THE SAME PLACE?

13 A YES.

14 Q IN A ROOM THAT WAS IDENTIFIED AS BEING HIS
15 ROOM?

16 A AS I GUESS IT WAS HIS ROOM AND ONE OF THE
17 ROOMS THAT THEY LET HIM SLEEP IN. AND A COUPLE OTHER
18 PEOPLE, I THINK.

19 Q DID THOSE PICTURES HAVE ANY DATES ON THEM,
20 ANYTHING LIKE THAT?

21 A NO. THEY WERE POLAROID. IT APPEARED FROM
22 LOOKING AT HIM THAT IT WASN'T LIKE -- I MEAN IT DIDN'T SEEM
23 LIKE IT WAS OBVIOUSLY TEN YEARS OLD OR THINGS LIKE THAT.
24 IT APPEARED LIKE IT WAS PRETTY RECENT.

25 Q HOW MANY OF THOSE PICTURES WAS HE SHOWING
26 HAND SIGNS IN?

1 A I THINK TWO OR THREE.

2 Q . AND WERE THEY CLEARLY WEST MYRTLE HAND
3 SIGNS, OR COULD THEY HAVE BEEN SOMEBODY ELSE'S?

4 A IN MY EXPERIENCE THEY LOOKED LIKE THEY WERE
5 WEST MYRTLE.

6 Q WHAT DOES THAT HAND SIGN LOOK LIKE, WEST
7 MYRTLE?

8 A WELL, UNFORTUNATELY I CAN'T SHOW YOU THE
9 WHOLE THING.

10 Q IT'S A TWO-HANDED?

11 A ONE SIDE BEING A W, THE OTHER SIDE BEING AN
12 M. WEST MYRTLE COMPARED TO CM, WHICH IS CENTRAL MYRTLE, A
13 LITTLE BIT EAST OF THERE.

14 Q EACH HAND WOULD USE THREE FINGERS AS YOU DID
15 IT?

16 A YEAH. YEAH.

17 Q AND ARE THERE ANY OTHER GANGS THAT YOU KNOW
18 OF THAT ARE SIMILAR TO THAT IN SIGNING?

19 A I'M SURE THERE'S OTHERS. I MEAN THERE'S NOT
20 TOO MANY WAYS YOU CAN MANIPULATE YOUR FINGERS. THERE'S
21 OTHERS I'M SURE THROUGHOUT SOUTHERN CALIFORNIA THAT
22 PROBABLY HAVE THE SAME TYPE OF HAND SIGN.

23 Q JUST TALKING GENERALLY IN ORANGE COUNTY, ARE
24 THERE ANY THAT COME TO MIND?

25 A NOT THAT I CAN THINK OF. ESPECIALLY IN THAT
26 AREA. THAT'S THE ONLY ONE THAT WOULD USE THAT HAND SIGN.

1 MR. LAZ: NO FURTHER QUESTIONS.

2 THE COURT: MR. REED, DO YOU HAVE A BUNCH OF
3 QUESTIONS?

4 MR. REED: NO, I DO NOT, YOUR HONOR.

5 THE COURT: ANYONE?

6 MR. BAILEY: I HAVE A FEW QUESTIONS FOR YOU, SIR.

7 #CROSS-EXAMINATION

8 BY MR. BAILEY: Q AS RELATES TO SEVERO
9 DE LA RIVA, YOU TALKED ABOUT A REPORT AND A NOTICE THAT
10 WERE COLLECTED?

11 A YES, SIR.

12 Q BY CORPORAL RUIZ, R-U-I-Z?

13 A YES.

14 Q THOSE INVOLVED THE SAME INCIDENT, DIDN'T
15 THEY?

16 A YES, THEY DID.

17 Q SO, BACK IN JUNE OF, JUNE 3RD, 2004, YOUNG
18 MR. SEVERO JOSE DE LA RIVA, DATE OF BIRTH 8/5/88, IS OUT IN
19 FRONT OF HIS RESIDENCE. SOME GANG ENFORCEMENT OFFICERS
20 ROLL UP. AND WHEN THEY GET OUT OF THE CAR, IT LOOKS LIKE
21 SOMEBODY THROWS SOMETHING AND THEY SMELLED BURNT MARIJUANA;
22 IS THAT A FAIR STATEMENT?

23 A I BELIEVE SO. THAT'S HOW IT WENT.

24 Q AND MR. DE LA RIVA HAD LESS THAN AN OUNCE OF
25 MARIJUANA IN HIS BACK POCKET AND WAS ARRESTED FOR THAT; IS
26 THAT RIGHT?

1 A I BELIEVE SO.

2 Q AND BASED ON THAT INCIDENT, HE GETS ENTERED
3 INTO CAL GANGS AND PHOTOGRAPHED AND ULTIMATELY ENDS UP ON
4 PROBATION FROM THE ORANGE COUNTY JUVENILE COURT FOR
5 POSSESSION OF LESS THAN AN OUNCE OF MARIJUANA; IS THAT
6 CORRECT?

7 A SOMEWHAT. I BELIEVE KNOWING THE DETECTIVE
8 THAT WAS INVOLVED IN THE STOP, KNOWING THAT HE HAD A LOT
9 MORE INFORMATION AS FAR AS THE GENERATIONAL BACKGROUND AND
10 SOME SPECIFIC INFORMATION AS FAR AS SOME INFORMANTS TELLING
11 THEM ABOUT GANG ACTIVITY ON 5TH STREET.

12 Q OKAY, LET'S TALK ABOUT THAT, BECAUSE THAT
13 MAKES ITS WAY INTO THE NOTICE, AND IT'S THE NOTICE UPON
14 WHICH YOU'RE RELYING TO FORM YOUR OPINIONS; IS THAT
15 CORRECT?

16 A THAT IS CORRECT.

17 Q AND THE NOTICE TALKS, FIRST OF ALL, SAYS
18 THAT SEVERO DENIED AFFILIATION, HOWEVER, THE GENERAL --
19 GENERATIONAL BACKGROUND WITH 5TH STREET CAUSED THE OFFICER
20 TO CONCLUDE THAT HE WAS AFFILIATED WITH 5TH STREET; IS THAT
21 CORRECT? JUST GOING THROUGH THAT ONE AT A TIME?

22 A YES, THAT'S CORRECT.

23 Q OKAY. LET'S TALK ABOUT THE GENERATIONAL.
24 WE HEARD WHAT MIGHT BE REGARDED AS GRATUITOUS COMMENTS BY A
25 PREVIOUS WITNESS ABOUT THIS YOUNG MAN'S FATHER BEING A SHOT
26 CALLER IN CHINO AND HAVING THE SAME NAME, HAVING BEEN FROM

1 5TH STREET, AND HIS FATHER IS, IN YOUR OPINION, A 5TH
2 STREET GANG MEMBER, CORRECT?

3 A IN MY OPINION?

4 Q YES.

5 A I JUST HEARD, THE THINGS I'VE HEARD -- I
6 DON'T KNOW. I DON'T KNOW IF HE WAS OR NOT. I DIDN'T DO
7 ANY BACKGROUND ON HIS FATHER.

8 Q OKAY. YOU HAD AN ANONYMOUS STATEMENT
9 RECORDED IN THIS NOTICE THAT A CITIZEN WAS CONCERNED THAT
10 THE LOCATION BEING MR. DE LA RIVA'S RESIDENCE HAD BECOME
11 VERY ACTIVE WITH YOUNGSTERS; ISN'T THAT RIGHT?

12 A YES.

13 Q AND, IN FACT, THERE WERE ONE, TWO, THREE,
14 FOUR, FIVE YOUNGSTERS, INCLUDING SEVERO WHO WAS 15 AT THE
15 TIME; YOUNG ADRIAN CONTRERAS WHO WAS 14 AT THE TIME;
16 ROSALIS WHO WAS 14 AT THE TIME; JOEL MARTINEZ, 14; AND
17 SERGIO FRANK RAMIREZ WHO WAS 14, WHO WERE ALL WRITTEN UP AS
18 BEING IN VIOLATION OF 11357(B) AS PART OF THIS
19 INVESTIGATION ON THE 3RD OF JUNE, 2004, CORRECT?

20 A YES.

21 Q AND THEN THE THIRD INDICATION NOTED BY THIS
22 EXPERIENCED OFFICER WHO HAD AT LEAST AS OF THIS DATE OVER
23 27 YEARS IN LAW ENFORCEMENT EXPERIENCE; IS THAT RIGHT?

24 A YES.

25 Q HE NOTICED GRAFFITI IN FRONT STREET BY THE
26 HOUSE WHICH WOULD I ASSUME BE 5TH STREET GRAFFITI?

1 A YES, SIR.

2 Q AND THAT WAS CONSISTENT, AT LEAST THE PEOPLE
3 IN THE NEIGHBORHOOD BEING 5TH STREET, CORRECT?

4 A YES.

5 Q AND THAT'S THE HEART OF THE 5TH STREET GANG
6 TERRITORY; IS THAT A FAIR STATEMENT?

7 A YES, SIR.

8 Q SO, 15-YEAR OLD, NOW 16-YEAR OLD NOW BORN
9 INTO THAT NEIGHBORHOOD. YOU KNOW HIS FATHER IS IN PRISON
10 AND HE IS SMOKING SOME MARIJUANA. AND GIVEN THAT, WITH THE
11 EXPERIENCE OF CORPORAL RUIZ, DO YOU CONSIDER THAT
12 SUFFICIENT TO IDENTIFY HIM AS A GANG MEMBER?

13 A WELL, I BELIEVE CORPORAL RUIZ HAD CONTACT
14 WITH THESE OTHER SUBJECTS WHO WERE IDENTIFIED TO BE HANGING
15 AROUND THE 5TH STREET GANG. AND I BELIEVE IN THAT CONTEXT
16 I BELIEVE THAT HE WROTE THIS INFORMATION REPORT, AND PUT
17 THE INFORMATION THAT HE DID ON TO IT. SO THAT'S WHY I
18 BELIEVE HE CAME TO THAT CONCLUSION.

19 Q AND YOU TRUST HIS OPINION IN THAT REGARD?

20 A YES, SIR.

21 Q SO, THEN LET ME JUMP TO A-LITTLE DIFFERENT
22 AREA, IF WE CAN GET THE NEXT IN ORDER, WOULD BE C, YOUR
23 HONOR?

24 THE COURT: OKAY.

25 (WHEREUPON, DEFENDANT'S EXHIBIT NO. C,
26 CRIME SCENE PHOTOGRAPHS, WERE MARKED FOR IDENTIFICATION.)

1 BY MR. BAILEY: Q THIS ISN'T GOING TO TAKE TOO
2 LONG, BUT DO YOU RECOGNIZE WHAT WE'LL CALL C AS A GROUP OF
3 PHOTOGRAPHS OF THE CRIME SCENE IN THIS CASE?

4 A YES, SIR.

5 Q AND THE VEHICLE IT LOOKS LIKE IT HAS SOME
6 SORT OF TARP OVER IT SO YOU CAN'T SEE THE DECEASED?

7 A YES.

8 Q THAT'S THE CAR YOU'VE BEEN TALKING ABOUT?

9 A YES, SIR.

10 Q AND THEN AT THE TOP THERE'S A GROUP OF
11 PEOPLE APPEARS TO BE LOOKING OVER A WALL. AND THERE'S SOME
12 GRAFFITI ON THAT WALL. DO YOU RECOGNIZE WHAT THAT GRAFFITI
13 MIGHT IDENTIFY?

14 A YOU KNOW IN THIS PHOTO -- THIS PHOTO IT'S
15 HARD TO TELL.

16 Q OKAY. DOES THAT APPEAR TO BE GANG GRAFFITI,
17 THOUGH?

18 A IT'S HARD TO SAY.

19 Q OKAY. IS THAT -- IS THAT TYPE OF MARKING
20 THE SORT OF THING YOU'RE REFERRING TO WHEN YOU TALK ABOUT
21 GANG GRAFFITI AS THE 5TH STREET OR THE F-TROOP OR THE WEST
22 MYRTLE OR THOSE KIND OF MARKS?

23 A WELL, IT'S -- GRAFFITI IS OBVIOUSLY
24 GRAFFITI. I CAN'T REALLY TELL WHAT THAT SAYS FROM THAT
25 PHOTO. BUT, THAT'S THE TYPE OF THINGS THAT I'VE SEEN IN MY
26 PATROLS OR MY EXPERIENCE AS FAR AS GRAFFITI BEING WRITTEN

1 ON WALLS AND THINGS LIKE THAT.

2 Q LET ME SHOW YOU D AND SEE IF THAT HELPS YOU
3 IN ANY WAY.

4 (WHEREUPON, EXHIBIT NO. D, CRIME SCENE
5 PHOTOGRAPH, WAS MARKED FOR IDENTIFICATION.)

6 THE WITNESS: OKAY.

7 BY MR. BAILEY: Q I THINK IT'S A PICTURE OF THE
8 SAME, JUST A LITTLE CLOSER.

9 A YEAH, I STILL COULDN'T TELL WHAT THAT WAS.

10 Q FAIR ENOUGH, THANKS. AND WITH REGARD TO
11 HIT-UPS, YOU TALKED ABOUT HIT-UPS. HAVE YOU EVER
12 PERSONALLY HEARD A HIT-UP?

13 A HAVE I PERSONALLY HEARD SOMEBODY HIT ME UP?

14 Q HIT YOU UP OR A HIT-UP WHEN YOU WERE THERE
15 THAT YOU COULD HEAR?

16 A NO.

17 Q SO YOU'RE BASING YOUR TESTIMONY CONCERNING
18 HIT-UPS ON INFORMATION RECEIVED IN THE COURSE OF YOUR
19 EXPERIENCE AS A POLICE OFFICER, AND TRAINING?

20 A YES, SIR. CASES I'VE INVESTIGATED, THINGS
21 LIKE THAT.

22 Q AND FOR SEVERO DE LA RIVA TO GET OVER TO THE
23 PARK WE'VE BEEN TALKING ABOUT, EL SALVADOR PARK?

24 A YES.

25 Q DEPENDING ON HOW HE RODE HIS BICYCLE, HE
26 COULD HAVE GONE THROUGH AS MANY AS SIX OR SEVEN DIFFERENT

1 GANG NEIGHBORHOODS; ISN'T THAT A FAIR STATEMENT?

2 A DEPENDING ON WHERE HE RODE IT FROM. IF HE
3 WENT THE DIRECT ROUTE FROM HIS HOUSE ON 5TH STREET TO
4 EL SALVADOR PARK, LIKE I SAID, YOU GO A LITTLE BIT THROUGH
5 THE -- MIDDLESIDE IS A LITTLE BIT FURTHER SOUTH OF THERE,
6 BUT THE FIRST GANG YOU CAN RUN INTO, SILVER ACRES, WHICH IS
7 NORTH OF THERE, YOU COULD RUN INTO 17TH STREET. HARD
8 TIMES, YOU'RE NORTH OF THERE. IF YOU TOOK EUCLID UP TO
9 17TH STREET, IF YOU TOOK 5TH STREET OVER MAYBE A LITTLE
10 MIDDLESIDE, MAYBE SOME SANTA ANITA. AND THAT'S PRETTY
11 MUCH, THAT'S PRETTY MUCH IT.

12 Q AND DID SEVERO DE LA RIVA HAVE ANY
13 TATTOOS ON HIS BODY THAT WOULD IDENTIFY HIM AS A GANG
14 MEMBER?

15 A NO, I DON'T THINK HE DID.

16 Q AND ARE THERE COLORS THAT YOU WOULD
17 ASSOCIATE WITH A PERSON WHO WAS FLAUNTING HIS MEMBERSHIP AT
18 5TH STREET?

19 A YES.

20 Q AND WHAT ARE THOSE COLORS?

21 A WELL, WE SEE RED BEFORE, BUT WE'RE STARTING
22 TO SEE PEOPLE ALIGNING WITH BROWN, WHICH IS THE SAME COLOR
23 AS EL SALVADOR PARK F-TROOP.

24 Q HOW ABOUT ANY PROFESSIONAL FOOTBALL TEAMS
25 SUCH AS THE COWBOYS, OR GRAY OR SILVER COLORS?

26 A I HAVEN'T SEEN ANY. BUT POSSIBLY. THEY

1 CHANGE ALL THE TIME.

2 Q CHANGE ALL THE TIME. WITH REGARD TO THE
3 DECEASED, IN THIS CASE THERE WAS A BANDANA FOUND IN THE
4 VEHICLE, WASN'T THERE?

5 A I BELIEVE SO.

6 Q DO YOU REMEMBER THE COLOR?

7 A I DON'T.

8 MR. BAILEY: NOTHING FURTHER.

9 THE COURT: ANYONE?

10 MR. HARLEY: I HAVE A COUPLE, BUT WE'LL PROBABLY GO
11 DOWN A FEW MINUTES.

12 (PAUSE IN PROCEEDINGS.)

13 THE COURT: IS THIS GOING TO BE IT FOR THE PEOPLE?

14 MR. GELLER: YES.

15 THE COURT: AND THEN YOU GENTLEMEN WANT TO ARGUE
16 AND FOOL AROUND, OR ARE YOU GOING TO SUBMIT IT?

17 MR. DI GIACOMO: I'M GOING TO SUBMIT.

18 MR. HARLEY: I MIGHT BE ADDRESSING THE SPEEDY TRIAL
19 MOTION REALLY, AND BUT OTHER THAN THAT, NO SUBSTANTIAL
20 ARGUMENT.

21 THE COURT: WELL, IF YOU WANT TO CONTINUE, HOW LONG
22 CAN WE KEEP CONTINUING?

23 MR. REED: IT DOESN'T LOOK LIKE WE CAN GET DONE BY
24 5:00.

25 THE COURT: I CAN'T KEEP THESE PEOPLE HERE THAT
26 LONG.

1 MR. HARLEY: YEAH, THE CONSENSUS COME BACK
2 TOMORROW. I THINK I'LL BE DONE BEFORE 5:00, BUT I CAN'T
3 GUARANTEE IT. HOW DO I KNOW?

4 THE COURT: WE HAVE DONE THAT A LOT OF TIMES, AND
5 AT 5:00 WE'RE GOING BACK TO TOMORROW.

6 MR. HARLEY: OKAY.

7 THE COURT: WHAT TIME DO YOU WANT TO START
8 TOMORROW?

9 MR. GELLER: PREFER FIRST THING, IF THAT'S ALL
10 RIGHT WITH EVERYBODY.

11 MR. HARLEY: 10:30 IS GOOD.

12 THE COURT: THAT'S THE FIRST THING FOR THEM.

13 MR. GELLER: ALL RIGHT, AS LONG AS WE'RE STARTED BY
14 10:30. I HAVE TO BE OUT OF HERE BY NOON.

15 THE COURT: OKAY. WE'LL RECONVENE AT 10:30
16 TOMORROW.

17 MR. GELLER: DOES THE COURT WANT TO TAKE
18 CONTINUOUS PRELIM WAIVER JUST IN CASE THE COURT HAD OTHER
19 BUSINESS SINCE WE WON'T BE HERE UNTIL 10:30?

20 THE COURT: I HAVE ARRAIGNMENTS AND THINGS, AND I
21 WON'T BE STARTING TRIALS, BUT I'LL BE READY AT 10:30. AND
22 YOU HAVE MY SOLEMN OATH ON THAT, BUT YOU WILL BE WILLING TO
23 WAIVE A CONTINUOUS PRELIM?

24 MR. HARLEY: YES, SIR.

25 THE COURT: ANYBODY NOT?

26 MR. BAILEY, YOU DO?

1 MR. BAILEY: I'M FINE.

2 (WHEREUPON THE COURT WAS IN RECESS UNTIL
3 TUESDAY, APRIL 26, 2005, 10:30 A.M.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.

I, HEIDI K. STEWART, CSR #6058, DO HEREBY CERTIFY
THAT THE WITHIN AND FOREGOING TRANSCRIPT, IS A FULL, TRUE
AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES, AND A
FULL, TRUE AND CORRECT STATEMENT OF THE TESTIMONY AND
PROCEEDINGS HAD IN SAID CAUSE.

DATED: MAY 5, 2005


OFFICIAL COURT REPORTER

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : >= 04/25/2005 00:00:00 and <= 04/26/2005
2. Sequence Number Range : No sequence number range specified.
3. Docket Category : Minute Order

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
4/25/2005	1	Hearing held on 04/25/2005 at 08:30:00 AM in Department C55 for Preliminary Hearing.
	2	Officiating Judge: Cheryl L. Leininger, Commissioner
	3	Clerk: D. Brown
	4	Bailiff: Present
	5	Court Reporter: Jeanette Gillick
	6	Defendant remains in holding cell, not brought into courtroom.
	7	Defendant not present in Court represented by Frank DiGiacomo, Retained Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	Case called. People answer ready. Defense answers ready.
	10	Case assigned for all purposes to Department C50, Judge Byron K. Mc Millan. Time estimate 2 days. Preliminary Hearing set on 04/25/2005 at 10:45 AM.
	11	Current bail set for defendant to remain.
	12	Minutes entered by C. Anderson.
	13	Hearing held on 04/25/2005 at 10:45:00 AM in Department C50 for Preliminary Hearing.
	14	Officiating Judge: Byron K. Mc Millan, Judge
	15	Clerk: M. Torrez
	16	Bailiff: S. M. Kennedy
	17	Court Reporter: Heidi Stewart
	18	People represented by Mark Geller, Deputy District Attorney, present.
	19	Defendant present in Court with counsel DiGiacomo, Frank, Retained Attorney.
	20	Motion by People to exclude all witnesses from the courtroom except Investigating Officer granted.
	21	Witness, Officer David Rondou, sworn and testified.
	22	Witness identified the defendant.
	23	Defense Exhibit # A -- Hand drawn map with the number 208 in the corner marked for identification.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Lopez, Israel

Report Request Criteria

1. Docket Date Range : >= 04/25/2005 00:00:00 and <= 04/26/2005
2. Sequence Number Range : No sequence number range specified.
3. Docket Category : Minute Order

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
4/25/2005	24	Defense Exhibit # A -- Hand drawn map with the number 208 in the corner marked for identification.
	25	Witness, Corporal Rick Ashby, sworn and testified.
	26	At 11:45 AM, court declared a recess.
	27	Again in open court at 01:55 PM, Defendant present with counsel. People duly represented.
	28	Corporal Rick Ashby, previously sworn, resumes testimony.
	29	Witness excused.
	30	Witness, Officer Fidencio Zepeda, sworn and testified.
	31	People's Exhibit # 1 -- Predicate packet of case 02CF0135 for Francisco Melgoza (23 single-sided pages) marked for identification.
	32	People's Exhibit # 2 -- Predicate packet of case 03CF2307 for Peter Peter Paul Cabrera (66 single-sided pages) marked for identification.
	33	Witness, Investigator Bo Herter, sworn and testified.
	34	At 03:24 PM, court declared a recess.
	35	Again in open court at 03:37 PM, Defendant present with counsel. People duly represented.
	36	Investigator Bo Herter, previously sworn, resumes testimony.
	39	Defense Exhibit # C -- 3 photographson one page, 2 of a vehicle with covered windshield, 1 of block wall with graffiti marked for identification.
	40	Defense Exhibit # D -- 3 photographs on one page, closeup view of block wall with graffiti and 2 of vehicle with covered windshield marked for identification.
	41	Defendant waives his/her right to a continuous preliminary hearing.
	42	Preliminary Hearing trailed to 04/26/2005 at 10:30 AM in Department C50.
	43	Defendant remanded to the custody of the Sheriff.
	44	Current bail set for defendant to remain.
	45	Notice to Sheriff issued.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

MAY 06 2005

ALAN SLATER, Clerk of the Court

DEPARTMENT C50

ORIGINAL

THE PEOPLE OF THE
STATE OF CALIFORNIA,

PLAINTIFF,

VS.

FRANCISCO JOSE LOPEZ,
ISREAL LOPEZ,
ANDRES QUINONEZ REYES,
SEVERO JOSE DE LA RIVA,
LOUIS PEREZ,

DEFENDANTS.

) TRANSCRIPT OF
)
) PRELIMINARY EXAMINATION
)
) HON. BYRON K. MC. MILLAN
)
) JUDGE PRESIDING
)
) CASE NO. 04CF2780
)
)
)
)
)

TRANSCRIPT OF PROCEEDINGS

APRIL 26, 2005
VOLUME 2 OF 2

APPEARANCES:

MARK GELLER, DEPUTY DISTRICT ATTORNEY, APPEARED AS
COUNSEL FOR THE PEOPLE.

ROBISON HARLEY, ATTORNEY AT LAW, APPEARED AS
COUNSEL FOR DEFENDANT FRANCISCO LOPEZ.

CREIGHTON B. LAZ, ATTORNEY AT LAW, APPEARED AS
COUNSEL FOR DEFENDANT ISREAL LOPEZ.

FRANK DI GIACOMO, ATTORNEY AT LAW, APPEARED AS
FOR DEFENDANT REYES.

JULIAN BAILEY, ATTORNEY AT LAW, APPEARED AS
COUNSEL FOR DEFENDANT DE LA RIVA.

KENNETH REED, ATTORNEY AT LAW, APPEARED AS COUNSEL
FOR DEFENDANT PEREZ.

HEIDI K. STEWART, OFFICIAL COURT REPORTER, C.S.R.
NO. 6058.

INDEX OF WITNESSES

WITNESS

DIRECT CROSS REDIRECT RECROSS

FOR THE PEOPLE:

HERTER, BO

218

BY MR. LAZ:

215

BY MR. REED:

202

BY MR. HARLEY:

165

221

(THE DEFENDANTS WERE HELD TO ANSWER IN DEPARTMENT
C5 ON APRIL 26, 2005.)

E X H I B I T S

EXHIBIT

FOR I.D.

IN EVIDENCE

FOR THE PEOPLE:

1, MELGOZA PREDICATE

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2, CABRERA PREDICATE

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FOR THE DEFENSE:

A, DIAGRAM

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B, TRANSCRIPTS

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C, CRIME SCENE PHOTOS

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D, CRIME SCENE PHOTOGRAPH

223

1 SANTA ANA, CALIFORNIA - TUESDAY, APRIL 26, 2005

2 MORNING SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN
4 OPEN COURT:)

5 THE COURT: ARE YOU READY?

6 MR. HARLEY: YES, SIR.

7 THE COURT: DO YOU WANT TO GO AHEAD?

8 MR. HARLEY: THANK YOU, YOUR HONOR.

9 #BO HERTER,

10 RECALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN
11 PREVIOUSLY DULY SWORN, WAS EXAMINED AND TESTIFIED FURTHER
12 AS FOLLOWS:

13 #CROSS-EXAMINATION (CONTINUED)

14 BY MR. HARLEY: Q I WANT TO TALK ABOUT PEDRO
15 ROSARIO, THE VICTIM IN THIS CASE. YOU INDICATED YOU HAD NO
16 DOCUMENTATION ON HIM; IS THAT CORRECT?

17 A YES, SIR.

18 Q AND YOU HAD COMMUNICATED TO OTHER GANG
19 EXPERTS WHO KNOW A LOT ABOUT F-TROOP AND WEST MYRTLE?

20 A I'M SORRY?

21 Q HAVE YOU TALKED TO OTHER GANG EXPERTS ABOUT
22 WEST MYRTLE AND F-TROOP?

23 A PROBABLY.

24 Q AND DURING THE COURSE OF THOSE
25 CONVERSATIONS, HAS THE NAME PEDRO ROSARIO EVER SURFACED?

26 A NO, SIR.

1 Q OKAY. SO YOU HAD NOT EVEN KNOWN THE
2 EXISTENCE OF PEDRO ROSARIO PRIOR TO AUGUST 11TH, 2004; IS
3 THAT CORRECT?

4 A YES, THAT'S CORRECT.

5 Q AND AS A RESULT OF THIS HOMICIDE, YOU WENT
6 TO HIS, IS IT HIS BROTHER'S PLACE?

7 A NO. NO. HIS BROTHER CONTACTED US. HE WAS
8 OUT AT THE SCENE.

9 Q AND HIS BROTHER TOOK YOU TO A PLACE WHERE HE
10 WAS RESIDING?

11 A NO, ACTUALLY, WE LOOKED THROUGH HIS
12 PAPERWORK AND FOUND OUT WHERE HE RESIDED AT.

13 Q ALL RIGHT. AS A RESULT, THAT'S WHERE YOU
14 WENT?

15 A YES.

16 Q AND WHEN -- WHAT'S THE LOCATION OF WHERE HE
17 RESIDED?

18 A I DON'T KNOW THE EXACT ADDRESS, BUT IT'S
19 JUST SOUTH OF THAT INTERSECTION. IT'S A TRAILER PARK.

20 Q A TRAILER PARK JUST SOUTH OF THE
21 INTERSECTION?

22 A SOUTH OF THE INTERSECTION ON THE WEST SIDE
23 OF SULLIVAN.

24 Q ALL RIGHT. IS THAT IN ANY PARTICULAR AREA
25 AS FAR AS A GANG NEIGHBORHOOD IS CONCERNED?

26 A NOT REALLY. IT COULD HAVE BEEN THE OLD

1 SULLIVAN STREET AREA, BUT NOT THAT I KNOW OF.

2 Q OKAY. BUT IT'S NOT F-TROOP AREA AND IT'S
3 NOT WEST MYRTLE AREA?

4 A CORRECT.

5 Q YOU INDICATE IT'S JUST SOUTH OF THE
6 INTERSECTION WHERE THE SHOOTING TOOK PLACE?

7 A SOUTH AND WEST OF.

8 Q BY WAY OF THE CROW FLIES, HOW FAR ARE WE
9 TALKING ABOUT, 100 YARDS, 1,000 YARDS, A MILE?

10 A NO, IT -- I WANT TO SAY IT'S FIRST OR SECOND
11 DRIVEWAY SOUTH OF -- I DON'T KNOW. I'M JUST GUESSING.
12 MAYBE 40 YARDS, I GUESS. I DON'T KNOW. I COULD GIVE YOU A
13 SPECIFIC ADDRESS, IF YOU'D LIKE. IF I COULD REFER --

14 Q BUT IT'S BASICALLY 40 YARDS FROM THE
15 INTERSECTION WHERE THE SHOOTING TOOK PLACE?

16 A AGAIN, FROM WHAT MY MEMORY, IT'S -- I'M
17 TAKING A WILD GUESS, BUT IT'S CLOSE TO IT.

18 Q AND DID YOU GO TO THE TRAILER PARK THAT DAY?

19 A THAT NIGHT, YES, WE DID.

20 Q AND WHO DID YOU CONSULT THERE IN ORDER TO
21 DETERMINE WHICH ROOMS TO SEARCH?

22 A IT WAS THE OWNER OF THE RESIDENCE.

23 Q AND WHO WAS THE OWNER OF THE RESIDENCE?

24 A I DON'T RECALL HIS NAME OFFHAND. I DID NOTE
25 THAT IN -- OR CORPORAL ASHBY NOTED IN ONE OF THE REPORTS.

26 Q WAS THE OWNER RELATED TO PEDRO ROSARIO?

1 A I BELIEVE SO.

2 Q ALL RIGHT. NOW, YOU INDICATED YOU FOUND
3 DOCUMENTATION ON HIS PERSON, CORRECT?

4 A YES.

5 Q NOTHING TO CONNECT HIM UP WITH ANY
6 PARTICULAR STREET GANG, CORRECT?

7 A ON THIS PERSON, NO.

8 Q ALL RIGHT. AND YOU WENT TO HIS HOUSE
9 LOOKING FOR ANY FURTHER DOCUMENTATION, CORRECT?

10 A YES, SIR.

11 Q AND YOU TALKED ABOUT FINDING SIX
12 PHOTOGRAPHS?

13 A YEAH, I DON'T KNOW EXACTLY HOW MANY, BUT
14 SOME POLAROID. I THINK THERE WERE ABOUT SIX OR SEVEN.

15 Q ANY OTHER DOCUMENTATION --

16 A NO.

17 Q -- THAT YOU FOUND THAT WAS SIGNIFICANT?

18 A NO, SIR.

19 Q OKAY. SO THE ONLY DOCUMENTATION YOU FOUND
20 THAT WAS SIGNIFICANT WAS APPROXIMATELY SIX PHOTOGRAPHS?

21 A CORRECT.

22 Q ALL POLAROID?

23 A YES.

24 Q DEPICTING, DID THEY ALL DEPICT PEDRO ROSARIO
25 IN THEM?

26 A YES.

1 Q YOU INDICATED TWO OR THREE HAD HIM APPEARING
2 TO FLASH SOME HAND SIGNS?

3 A YES.

4 Q AND IS THAT THE ONLY OBSERVATIONS YOU MADE
5 THAT WOULD BE SOMEWHAT CONSISTENT WITH SOMEBODY BEING
6 CONNECTED TO A CRIMINAL STREET GANG?

7 A YES.

8 Q OKAY. SO -- AND WERE THESE PHOTOGRAPHS
9 DEPICTING HIM AS AN INDIVIDUAL, OR WAS HE IN THE COMPANY OF
10 SOMEBODY ELSE?

11 A NO, ALL AS AN INDIVIDUAL. AND I'M SORRY, I
12 BELIEVE THEY WERE TAKEN AT CENTENNIAL PARK.

13 (PAUSE IN PROCEEDINGS.)

14 BY MR. HARLEY: Q SO OTHER THAN THE HAND SIGNALS
15 THAT APPEAR TO BE SHOWN IN THESE PHOTOGRAPHS THAT THE
16 VICTIM WAS DOING, THERE'S NOTHING ELSE THAT WOULD EVEN BE
17 REMOTELY CONSISTENT WITH ANY CONNECTION WITH ANY CRIMINAL
18 STREET GANG, CORRECT?

19 A BESIDES HIS BROTHER TELLING US.

20 Q OKAY. BUT I'M JUST TALKING ABOUT THE
21 OBJECTIVE DOCUMENTS YOU SEIZED, NOTHING ELSE CONTAINED IN
22 THOSE PHOTOGRAPHS THAT WOULD IN ANY WAY CONNECT THIS GUY UP
23 WITH ANY CRIMINAL STREET GANG, CORRECT?

24 A YES.

25 Q AND THEN YOU ASKED HIS BROTHER ABOUT ANY
26 TYPE OF GANG ASSOCIATION, CORRECT?

1 A YEAH, WE DID. BUT I DON'T KNOW IF THAT WAS
2 BEFORE WE WENT OR -- I THINK IT WAS BEFORE WE EVEN WENT TO
3 HIS RESIDENCE.

4 Q OKAY. BUT THAT WAS THE ONLY TIME YOU
5 CONTACTED HIS BROTHER ABOUT HIS GANG ASSOCIATION, CORRECT?

6 A YES, SIR.

7 Q AND ALL HIS BROTHER COULD SAY WAS HE THOUGHT
8 HE MIGHT BE HANGING OUT WITH SOME GANG MEMBERS, BUT DIDN'T
9 KNOW WHO THEY WERE OR WHAT GANG THEY BELONGED TO?

10 A NO, HE TOLD US THAT IT WAS WEST MYRTLE
11 STREET.

12 Q OKAY, THE BROTHER DID?

13 A YES.

14 Q DID YOU ASK HIM WHY HE FELT THOSE PEOPLE
15 WERE WEST MYRTLE?

16 A YOU KNOW WHAT, I'M SURE WE DID. ALL HE
17 COULD TELL US THAT'S WHAT HE HEARD, THAT HIS BROTHER WAS
18 HANGING OUT WITH THEM.

19 Q OKAY. SO HE TOLD YOU HE HEARD HIS BROTHER
20 WAS HANGING OUT WITH THEM AS OPPOSED TO MAKING A DIRECT
21 OBSERVATION THAT HIS BROTHER WAS HANGING OUT WITH WEST
22 MYRTLE STREET PEOPLE, CORRECT?

23 A YES.

24 Q AND OTHER THAN THAT ONE STATEMENT, THERE IS
25 NOTHING ELSE TO CONNECT HIM UP WITH WEST MYRTLE; CORRECT?

26 A THAT'S CORRECT.

1 Q ARE YOU PREPARED TO STATE THE RESULT OF WHAT
2 YOU FOUND, THAT HE IS AN ACTIVE PARTICIPANT IN WEST MYRTLE?

3 A WELL, I DON'T KNOW ABOUT HIS ACTIVE
4 PARTICIPATION. LIKE I SAID, I COULDN'T FIND ANY
5 DOCUMENTATION OR ANYTHING. I'M PREPARED TO MAKE AN OPINION
6 THAT HE IS, HE HANGS AROUND THE WEST MYRTLE STREET GANG
7 FROM THE CLOTHING HE IS WEARING AND DEPICTED IN THE
8 PHOTOGRAPHS, AND ALSO HIS HAND SIGNS THAT HE WAS THROWING
9 UP IN THE PHOTOGRAPHS.

10 Q OKAY. NOW, YOU'VE BROUGHT UP SOMETHING IN
11 ADDITION TO THE HAND SIGN, YOU'RE TALKING ABOUT THE
12 CLOTHING. WHAT TYPE OF CLOTHING DO YOU SEE IN THOSE
13 PHOTOGRAPHS?

14 A HE HAD A JERSEY ON WITH -- WITH A COLOR
15 BLUE, WHICH IS COMMONLY USED BY THE MYRTLE STREET GANG.

16 Q HOW MANY OF THOSE SIX PHOTOGRAPHS HAD THE
17 BLUE JERSEY ON?

18 A I DON'T KNOW. I CAN'T BE SPECIFIC.

19 Q BUT IT WAS LESS THAN ALL SIX?

20 A I'M SORRY?

21 Q HE WASN'T WEARING A BLUE JERSEY IN ALL SIX
22 OF THOSE PHOTOGRAPHS, CORRECT?

23 A I DON'T BELIEVE SO.

24 Q OKAY. SO HE WAS WEARING SOME OTHER GARMENTS
25 THAT WERE NOT CONSISTENT WITH BEING A WEST MYRTLE STREET
26 GANG MEMBER IN SOME OF THOSE PHOTOGRAPHS, CORRECT?

1 A I WOULD SAY THAT'S CORRECT.

2 Q . OKAY. SO OTHER THAN THE HAND SIGNS AND THE
3 BLUE JERSEY, NOTHING ELSE THAT WOULD SUGGEST TO YOU THAT HE
4 WAS CONNECTED IN ANY WAY, SHAPE OR FORM TO WEST MYRTLE IN
5 THOSE PHOTOGRAPHS?

6 A THAT'S CORRECT.

7 Q AND THEN YOU ALSO BASE YOUR OPINION THAT HE
8 ASSOCIATED WITH WEST MYRTLE BASED ON THE BROTHER'S
9 STATEMENT THAT HE HEARD HE WAS ASSOCIATING WITH WEST
10 MYRTLE, CORRECT?

11 A THAT WAS PART OF IT, YES, SIR.

12 Q SO OTHER THAN THE PHOTOGRAPHS AND OTHER THAN
13 THE HEARSAY STATEMENT COMMUNICATED TO YOU BY HIS BROTHER,
14 THAT'S THE EXTENT OF THE KNOWLEDGE YOU'RE RELYING UPON IN
15 ORDER TO CONCLUDE OR RENDER AN OPINION HERE TODAY IN COURT
16 THAT HE WAS ASSOCIATED WITH WEST MYRTLE STREET, CORRECT?

17 A YES.

18 Q AND WHEN YOU MAKE THE STATEMENT HE WAS
19 ASSOCIATED, THAT DOESN'T MEAN HE WAS AN ACTIVE PARTICIPANT
20 IN THIS PARTICULAR STREET GANG, CORRECT?

21 A YEAH, I DON'T KNOW WHAT HIS LEVEL OF
22 PARTICIPATION WAS.

23 Q OKAY. SO ALL YOU CAN SAY HE, YOU THINK HE
24 MIGHT HAVE ASSOCIATED WITH THEM, BASED ON WHAT HIS BROTHER
25 TOLD YOU, AND THE FACT OF THESE PHOTOGRAPHS, CORRECT?

26 A YES.

1 Q SO YOU CAN'T TELL -- YOU CAN'T TELL US
2 WHETHER HE WAS JUMPED IN, CRIMED IN, WALKED IN?

3 A NO, I CAN'T.

4 Q NOTHING LIKE THAT?

5 A NO.

6 Q NOW, SINCE THIS MURDER WENT DOWN ON AUGUST
7 11TH, 2004, HAVE YOU TALKED TO ANY GANG INVESTIGATORS OR
8 MEMBERS OF WEST MYRTLE IN ORDER TO SEE WHETHER OR NOT THEY
9 KNEW THIS GUY, PEDRO ROSARIO?

10 A BRIEFLY. YOU MEAN AUGUST 10TH, JUST TO
11 CLARIFY?

12 Q DID I SAY AUGUST 11TH?

13 A I THINK SO.

14 Q FINE, AUGUST 10TH. WHATEVER DATE IT WAS,
15 I'M TALKING ABOUT THE DATE OF THE MURDER, YOU UNDERSTAND
16 THAT?

17 A YES. I JUST WANTED TO MAKE SURE WE'RE
18 TALKING ABOUT THE SAME THING.

19 Q OKAY. DO YOU REMEMBER MY QUESTION?

20 A YES, SIR.

21 Q OKAY.

22 A I HAVE TALKED TO A FEW DETECTIVES THAT WORK
23 THE STOP TEAM TO SEE IF THEY HAD HAD ANY CONTACT WITH THE
24 VICTIM AT ALL.

25 Q AND YOU'VE TALKED TO THEM. DID YOU LEARN
26 ANYTHING FROM THEM?

1 A NO, I DID NOT.

2 Q OKAY. SO THEY HAD ABSOLUTELY NO KNOWLEDGE
3 OF THIS PEDRO ROSARIO, CORRECT?

4 A THAT'S CORRECT.

5 Q AND THEN ALSO YOU'VE TALKED -- HAVE YOU
6 COMMUNICATED TO WEST MYRTLE STREET GANG MEMBERS BEFORE OR
7 AFTER THIS CRIME WENT DOWN?

8 A NO. I HAVE NOT.

9 Q OKAY. BUT THROUGH GANG MEMBERS, EITHER WEST
10 MYRTLE STREET, F-TROOPERS OR ANY OTHER GANG MEMBERS, HAS
11 HIS NAME SURFACED DURING YOUR CONVERSATION WITH THESE GANG
12 MEMBERS?

13 A NO. I'VE NOT SPOKEN WITH THEM, BUT I DID
14 RECEIVE SOME INFORMATION FROM A CAREER CRIMINAL UNIT THAT
15 APPARENTLY HAD THE SAME WORD THAT APPARENTLY HE WAS HANGING
16 AROUND THE WEST MYRTLE STREET GANG.

17 Q ALL RIGHT. YOU SAY THIS IS FROM CAREER
18 CRIMINAL?

19 A YES.

20 Q DID YOU EXPLORE THAT FURTHER TO DEVELOP THE
21 SOURCE OF THAT INFORMATION THAT CAME BY WAY OF CAREER
22 CRIMINAL?

23 A NO, I DID NOT. NO, I DID NOT.

24 Q OKAY. SO OTHER THAN THAT, THAT'S THE EXTENT
25 OF YOUR KNOWLEDGE ABOUT THIS GUY, PEDRO ROSARIO, CORRECT?

26 A THAT'S CORRECT.

1 Q AND DURING YOUR INVESTIGATION IN THIS CASE
2 SUBSEQUENT TO THAT, SUBSEQUENT TO THIS CRIME, HAVE YOU
3 DEVELOPED ANY INFORMATION THAT ANY ONE OF THE
4 PARTICIPANTS -- EXCUSE ME, ALLEGED PARTICIPANTS IN THIS
5 HOMICIDE IN ANY WAY, SHAPE OR FORM HAD EVER ASSOCIATED WITH
6 THIS GUY ROSARIO, OR KNEW HIM?

7 A JUST SO I UNDERSTAND THE QUESTION, DID I
8 DEVELOP ANY INFORMATION THAT ANY OF THESE GENTLEMEN
9 ASSOCIATED WITH THE VICTIM?

10 Q RIGHT. OR HAD ANY CONTACT WHATSOEVER WITH
11 THE VICTIM?

12 A I DID NOT DEVELOP ANY OF THAT INFORMATION.

13 Q OKAY. AND I'M SURE YOU ATTEMPTED TO DO
14 THAT; IS THAT CORRECT?

15 A SURE. ABSOLUTELY.

16 Q OKAY. AND BASED ON YOUR INVESTIGATION, YOU
17 HAVE NO INFORMATION ONE WAY OR THE OTHER, HEARSAY OR
18 OTHERWISE, THAT CONNECTS ANY ONE OF THESE DEFENDANTS UP
19 WITH THIS GUY, PEDRO ROSARIO, CORRECT?

20 A THAT'S CORRECT.

21 Q OKAY, THE INTERSECTION OF SULLIVAN AND
22 WILLITS, WERE THE -- WHERE THE SHOOTING TOOK PLACE --
23 STRIKE THAT.

24 COULD I HAVE A MOMENT?

25 (PAUSE IN PROCEEDINGS.)

26 MR. HARLEY: MAY I APPROACH THE WITNESS?

1 THE COURT: SURE.

2 BY MR.. HARLEY: Q COULD THE RECORD REFLECT I'M
3 SHOWING THE WITNESS WHAT'S BEEN MARKED AS DEFENDANT'S A.
4 AND JUST FOR REFERENCE, IT'S 208 OF DISCOVERY.

5 DO YOU SEE THAT?

6 A YES, SIR.

7 Q DO YOU RECOGNIZE THAT?

8 A YES, I DO.

9 Q OKAY, AND THAT APPEARS TO BE THE
10 INTERSECTION OF WHERE THE SHOOTING TOOK PLACE; IS THAT
11 CORRECT?

12 A YES, SIR.

13 Q ALL RIGHT. AND IF YOU REMIND -- JUST GIVE
14 ME A NORTH, SOUTH, EAST AND WEST.

15 A OKAY. LET ME SEE. OKAY. IT'S HARD -- LET
16 ME SEE, DOES THIS SAY -- THIS COULD BE NORTH OR THIS,
17 DEPENDING ON WHERE 1ST STREET IS, AND I'M ASSUMING, OKAY,
18 THIS IS THE VEHICLE THAT WAS -- THAT WOULD BE ON THE WRONG
19 SIDE. I CAN'T TELL YOU WHICH WAY IS NORTH, SOUTH, EAST OR
20 WEST BECAUSE IT DOESN'T INDICATE 1ST -- OH, WAIT. HERE IT
21 IS. DO YOU SEE THE 1ST STREET, DOES THAT SAY 1ST STREET,
22 RIGHT? I BELIEVE THAT'S 1ST STREET?

23 Q YEAH, IT LOOKS LIKE IT.

24 A OKAY. SO THIS WOULD BE, THIS WOULD BE
25 NORTH.

26 Q WHY DON'T YOU JUST PUT A NORTH.

1 IS IT OKAY, CREIGHTON?

2 MR. LAZ: SURE.

3 THE WITNESS: ACCORDING TO THIS MAP, NORTH IS THAT
4 WAY.

5 BY MR. HARLEY: Q AND, OKAY, AND HOW ABOUT PUTTING
6 WEST AND EAST.

7 A OKAY. THIS WOULD BE WEST. THAT WOULD BE
8 EAST. AND THAT WOULD BE SOUTH.

9 Q OKAY. AND THEN FOR -- BASED ON YOUR
10 BACKGROUND, TRAINING AND EXPERIENCE, WHAT AREAS AT OR NEAR
11 THAT LOCATION ARE F-TROOP TERRITORY, BASED ON YOUR
12 BACKGROUND, TRAINING AND EXPERIENCE?

13 A OKAY. JUST ABOUT SOUTHEAST OF THIS
14 INTERSECTION, SO WE'RE LOOKING AT THE SAME THING, ARE A FEW
15 STREETS MONTE VISTA, MARK STREET, GOLDEN WEST STREET,
16 DIAMOND. ALL ARE BY THIS SOUTHEAST QUADRANT HERE. AND
17 THAT'S WHERE WE HAVE A LOT OF THE F-TROOPERS LIVING IN THIS
18 AREA. WE ALSO HAVE A COUPLE FEW NORTH OF THERE, ON DIAMOND
19 STREET. BUT THIS AREA HERE.

20 Q FOR THE RECORD, YOU'RE REFERRING TO THE
21 NORTHEAST?

22 A THE NORTHEAST CORNER.

23 Q OKAY.

24 A THIS AREA SCHOOL HERE WAS CLAIMED BY THE
25 WEST MYRTLE STREET GANG AREA. AND THEN THE CORE AREA IS
26 ABOUT THE 2100 BLOCK OF WEST MYRTLE, WHICH IS ABOUT WEST OF

1 RAITT STREET, WHICH IS A MAJOR STREET EAST OF THIS
2 LOCATION..

3 Q AND THAT'S F-TROOP?

4 A NO, THAT'S WEST MYRTLE STREET. F-TROOP IS
5 PRETTY MUCH IN THE SOUTHEAST PORTION OF THIS -- HERE IS
6 WILLITS AND SULLIVAN. IT WOULD BE THE SOUTHEAST AREA ABOUT
7 LIKE 2200, 2100 WEST OF MARK STREET, SOUTH OF WILLITS.

8 Q OKAY. AND THEN ON THE SOUTHWEST AND THE
9 SOUTHEAST CORNER?

10 A SOUTHWEST --

11 Q YEAH. WHO CLAIMS THAT?

12 A SOUTHEAST CORNER IS F-TROOP.

13 Q SOUTHWEST?

14 A SOUTHWEST CORNER IS KIND OF NO MAN'S
15 TERRITORY.

16 Q ALL RIGHT. AND THEN GOING UP TO THE
17 NORTHWEST CORNER?

18 A THERE'S A FEW MYRTLE STREETERS THAT LIVE IN
19 THIS AREA. BUT, THAT KIND OF, KIND OF IS NO MAN'S LAND UP
20 THERE.

21 Q OKAY. SO AT LEAST ACCORDING TO THIS
22 DOCUMENT, THE SHOOTING TOOK PLACE BETWEEN NO MAN'S LAND,
23 AND F-TROOP AREA; IS THAT CORRECT?

24 A AND WEST MYRTLE, WHO KIND OF WE SEE A LOT OF
25 THAT. THEY'RE TAGGING UP HERE AT THE SCHOOL.

26 Q ALL RIGHT. IS THAT -- DO YOU REMEMBER THE

1 PHOTOGRAPH BEING SHOWN TO YOU YESTERDAY?

2 A YES.

3 Q IN REGARDS TO TAG, WAS THAT MYRTLE STREET
4 GRAFFITI, OR SOME OTHER?

5 A I REALLY COULDN'T TELL. IT LOOKED LIKE IT
6 WAS SOME TYPE OF MAYBE SOME REGULAR TAGGERS THE WAY IT WAS
7 DRAWN, BUT I COULDN'T TELL FROM THAT. AND I THINK IT
8 DEPICTED THE SOUTHWEST WALL OF THAT INTERSECTION.

9 Q OKAY. AND THAT'S WHAT YOU FEEL IS NO MAN'S
10 LAND, AS OPPOSED TO BEING CLAIMED BY F-TROOP OR --

11 A YES.

12 Q MYRTLE?

13 A YES.

14 Q OKAY. OKAY. FRANK LOPEZ, YOU GAVE THE
15 CONCLUSION YOU FELT HE WAS ASSOCIATED WITH F-TROOP?

16 A YES, SIR.

17 Q AND YOU RELY ON THREE DOCUMENTS IN ORDER TO
18 MAKE THAT DETERMINATION?

19 A YES, SIR.

20 Q ALL RIGHT. AND WHAT THREE DOCUMENTS ARE YOU
21 RELYING ON?

22 A WELL, I HAD THE SANTA ANA POLICE DEPARTMENT
23 CRIME ARREST REPORT BY OFFICER GALIANA 04-37502.

24 Q ARREST REPORT FOR WHAT TYPE OF OFFENSE?

25 A I HAVE THAT. I JUST HAVE IT IN MY NOTES. I
26 CAN LOOK AT THAT, IF YOU'D LIKE.

1 Q GO THROUGH THIS.

2 A . OKAY, HERE IT IS. 3750 -- YES, OFFICER
3 GALIANA, IT'S OBSTRUCTING AND POSSESSION OF PARAPHERNALIA
4 ARREST. 2200 BLOCK OF WEST 10TH STREET.

5 Q DOES THAT APPEAR TO BE GANG-RELATED AT ALL?

6 A WELL, THE CRIMES IN ITSELF, I CAN'T SAY, BUT
7 AS FAR AS THE ITEMS THAT WERE FOUND INSIDE AND THE LOCATION
8 WHERE IT OCCURRED, IT'S IN THE 2000 BLOCK OF WEST 10TH
9 STREET, IS PROBABLY IN THE CORE AREA EL SALVADOR F-TROOP.

10 Q ANY OTHER FACTOR THAT YOU FEEL IS
11 SIGNIFICANT WHEN YOU EVALUATE THIS SANTA ANA POLICE REPORT?

12 A YES, THAT THERE WAS A -- PARTLY A BLUE
13 BASEBALL CAP WITH THE THING OF F-TROOP ON IT, AND A BROWN
14 BANDANA, WHICH IS A COLOR OF THE F-TROOP.

15 Q AND THIS WAS FOUND WHERE?

16 A INSIDE OF THE VEHICLE.

17 Q AND WHICH VEHICLE WAS THIS?

18 A THE VEHICLE THAT MR. LOPEZ WAS IN.

19 Q ALL RIGHT. AND WAS HE -- WAS THERE ANYBODY
20 ELSE IN THAT VEHICLE?

21 A YES.

22 Q IT LOOKS LIKE YOU'VE PREPARED SOME NOTES IN
23 ORDER TO HELP YOU TESTIFY; IS THAT CORRECT?

24 A YES, SIR.

25 Q AND I CAN GET A COPY OF THAT?

26 A SURE.

1 Q AND IS THAT THE EXTENT -- HOW MANY PAGES DO
2 YOU HAVE?

3 A IT -- THESE NOTES ARE THE SAME ITEMS THAT
4 YOU HAVE.

5 Q OKAY. AND, FOR THE RECORD, I HAVE ITEMS
6 B1 TO B42; IS THAT CORRECT?

7 A YES.

8 Q YOU REVIEWED B1 TO B42, AND YOU'VE MADE
9 THESE NOTES AS A RESULT OF THOSE PAGES?

10 A SOME OF IT, YES.

11 Q ALL RIGHT. AND IS THAT A DETAILED
12 EVALUATION THAT YOU MADE AS A RESULT OF REVIEWING THE
13 DOCUMENTS CONTAINED IN B1 TO B42?

14 A NO, SIR.

15 Q ALL RIGHT. WHAT DID YOU LEAVE OUT IN YOUR
16 LITTLE MEMORANDUM?

17 A WELL, I TOOK OUT THE THINGS THAT I -- I JUST
18 PUT IN THE THINGS THAT I THOUGHT THAT -- WELL, AN EXAMPLE
19 OF THAT THERE'S A WHOLE PAGE OF THINGS RESULTING IN THE --
20 THAT WERE LED UP TO THE TRAFFIC STOP. I DIDN'T PUT THAT IN
21 THERE. I DIDN'T PUT THINGS -- I THOUGHT THINGS THAT WERE
22 PERTINENT TO WHAT THEY FOUND INSIDE, AND THE HAT INSIDE.

23 Q OKAY. WHAT I'M GETTING AT IS WHAT DID YOU
24 LEAVE OUT THAT WAS PERTINENT TO YOU IN RENDERING YOUR
25 OPINION THAT MR. LOPEZ WAS ASSOCIATING HIMSELF WITH
26 F-TROOP? THAT'S WHAT I NEED TO KNOW.

1 A WHAT DID I -- I DON'T UNDERSTAND.

2 Q STRIKE THAT.

3 IS THIS A FULL PAGE OF NOTES YOU REVIEWED AS
4 A RESULT OF B1 TO B42?

5 A YES.

6 Q OKAY. AND YOU PREPARED WHAT APPEARS TO BE
7 JUST ONE PAGE OF NOTES TO --

8 A TWO PAGES.

9 Q OKAY, TWO PAGES OF NOTES TO YOURSELF THAT
10 YOU PREPARED AS A RESULT OF REVIEWING THESE DOCUMENTS,
11 CORRECT?

12 A THAT'S SOME OF THEM. THAT'S -- I PUT ALSO
13 SOME OTHER NOTES WHICH I TOOK FROM THE ENTIRE
14 INVESTIGATION. SOME EXCERPTS FROM THE ENTIRE
15 INVESTIGATION.

16 Q OKAY. RIGHT NOW ALL I'M TRYING TO DO IS
17 FOCUS YOU IN ON THE NOTES YOU TOOK AS A RESULT OF THESE
18 MATERIALS YOU REVIEWED, CORRECT?

19 A UH-HUH.

20 Q CAN YOU RELY ON THE FACT THESE ARE THE ONLY
21 MATERIALS YOU REVIEWED?

22 A YES.

23 Q IN ORDER TO COMPILE YOUR NOTES IN THIS BOOK,
24 CORRECT?

25 A YES.

26 Q OKAY. AND THE NOTES THAT YOU COMPILED WERE

1 PREPARED WITH A DESIGN TO REFRESH YOUR RECOLLECTION AS TO
2 WHAT YOU RELIED UPON IN ORDER TO RENDER AN OPINION THAT
3 MR. LOPEZ WAS ASSOCIATED WITH F-TROOP; IS THAT CORRECT?

4 A JUST TO REMIND MYSELF, YES.

5 Q OKAY. NOW, YOU HAVE YOUR NOTES, YOU
6 REVIEWED THOSE NOTES IN ORDER TO PREPARE FOR TRIAL --
7 EXCUSE ME, PRELIMINARY HEARING, CORRECT?

8 A YES, SIR.

9 Q IS THERE ANYTHING YOU LEFT OUT OF YOUR NOTES
10 THAT I SHOULD BE AWARE OF WHEN YOU MAKE THIS OPINION THAT
11 MR. LOPEZ IS ASSOCIATED WITH F-TROOP?

12 A NO.

13 Q OKAY. SO THE NOTES YOU HAVE PREPARED PRETTY
14 MUCH ARE EXHAUSTIVE OF ALL THE FACTS YOU RELY UPON TO
15 SUPPORT YOUR OPINION THAT YOU RENDERED YESTERDAY THAT HE'S
16 ASSOCIATED WITH F-TROOP CRIMINAL STREET GANG?

17 A YES.

18 Q THEN YOU INDICATED YOU MADE SOME OTHER NOTES
19 IN THERE THAT SUPPORT YOUR OPINION -- STRIKE THAT.

20 THERE ARE SOME OTHER NOTES YOU PREPARED THAT
21 SUPPORT YOUR OPINION THAT ARE NOT CONTAINED IN THIS
22 INFORMATION I'VE BEEN REFERRING TO?

23 A THAT'S CORRECT.

24 Q AND WHAT ARE THOSE?

25 A THOSE ARE JUST THE EXCERPTS, SUPPLEMENTAL
26 REPORTS FROM THIS CASE, WHICH WE WENT OVER SOME OF THE

1 WITNESS STATEMENTS MADE BY SOME OF THE WITNESSES ON PRIOR
2 INTERVIEWS. . .

3 MR. HARLEY: OKAY. CAN I JUST PEEK OVER HIS
4 SHOULDER, YOUR HONOR?

5 THE COURT: OF COURSE.

6 MR. HARLEY: BECAUSE I DIDN'T SEE THIS.

7 BY MR. HARLEY: Q IF I HAD TO ENTITLE THIS
8 TWO-PAGE DOCUMENT YOU PREPARED, WHAT WOULD I ENTITLE IT,
9 JUST NOTES SUPPORTING MY OPINION THAT LOPEZ IS AN F-TROOP
10 GANG MEMBER?

11 A WHATEVER YOU'D LIKE, SIR.

12 Q NO, I'M ASKING WHAT YOU WOULD LIKE TO REFER
13 TO?

14 A OH, I'M SORRY.

15 Q I'M ASKING YOU TO DESCRIBE IT.

16 A YEAH, JUST, YEAH, JUST MY NOTES THAT JUST
17 REFRESHED MY MEMORY TO SOME OF THE DOCUMENTS THAT I
18 REVIEWED.

19 Q IN ORDER TO SUPPORT YOUR OPINION THAT HE'S
20 THE F-TROOP GUY, RIGHT?

21 A YES, SIR.

22 Q OKAY. 9/9/04 THERE'S A SEARCH WARRANT BY
23 DETECTIVE NUNEZ. YOU INDICATE A GRAY ANGEL WOODEN BAT AND
24 A RED BASEBALL JERSEY?

25 A YES.

26 Q WHAT SIGNIFICANCE DOES THAT HAVE TO YOU WHEN

1 YOU RENDER AN OPINION THAT MR. LOPEZ IS AN F-TROOPER?

2 A AGAIN, IN ITSELF YOU LOOK AT THE TOTAL
3 CIRCUMSTANCES. IT'S COMMON FOR -- ESPECIALLY FROM THE
4 F-TROOP, THE ARTESIA FACTION THEM TO WEAR ANGEL BASEBALL
5 CAPS, ANGEL PARAPHERNALIA FOR THE A FOR ARTESIA.

6 Q IS THAT UNIQUE TO F-TROOP AS OPPOSED TO ANY
7 OTHER CRIMINAL STREET GANG IN SANTA ANA?

8 A NO. AS FAR AS -- YOU MEAN AS FAR AS THE
9 FACT THAT THEY WEAR DIFFERENT SPORTING -- ITS'S NOT UNIQUE
10 TO THE FACT, HERE IS AN EXAMPLE, DELHI WILL WEAR DETROIT,
11 DETROIT SPORTING GEAR. ARTESIA FACTION OF F-TROOP WILL
12 WEAR ANGELS FOR THE A, THINGS LIKE THAT.

13 Q WELL, JUST REFRESHING OR LOOKING AT THIS
14 TWO-PAGE DOCUMENT, WHAT'S THE MOST SIGNIFICANT THING TO
15 SUPPORT YOUR OPINION THAT HE'S SOMEHOW ASSOCIATED WITH
16 F-TROOP?

17 A WELL, EVERYTHING TOGETHER, YOU TAKE THE
18 WHOLE, THE TOTALITY OF THE CIRCUMSTANCES OF THE
19 INVESTIGATION. AND WHETHER ONE THING IS MORE SIGNIFICANT,
20 I LOOK AT THE ENTIRE THING. WHETHER IT'S WITNESS
21 STATEMENTS, MAYBE ITEMS THAT WERE FOUND, ET CETERA. THINGS
22 LIKE THAT OF THAT NATURE.

23 Q OKAY. SO LOOKING AT THAT TWO-PAGE REPORT
24 THAT YOU PREPARED, THERE'S NOTHING THAT YOU CAN RANK AS
25 MOST IMPORTANT?

26 A YOU GOT TO LOOK AT EVERYTHING, AND

1 EVERYTHING IS IMPORTANT.

2 Q . . . OKAY. SO NOTHING -- EVERYTHING IN THAT
3 DOCUMENT IS EQUALLY IMPORTANT AS FAR AS YOU'RE CONCERNED IN
4 RENDERING YOUR OPINION, CORRECT?

5 A I THINK YOU LOOK AT THE, YEAH, ABSOLUTELY
6 YOU LOOK AT EVERYTHING. I MEAN ONE MIGHT SHOW OBVIOUSLY
7 THE VIDEO OF SOMEBODY THROWING HAND SIGNS AND SAYING I'M
8 FROM F-TROOP. WELL, THAT'S -- THAT'S OBVIOUSLY GREAT
9 EVIDENCE.

10 Q BUT YOU HAVE NONE OF THAT IN THIS REPORT?

11 A NO. NONE AT ALL.

12 Q ALL RIGHT. BASED ON YOUR BACKGROUND,
13 TRAINING AND EXPERIENCE, WHAT'S THE MOST CRITICAL THING YOU
14 LOOK FOR IN ORDER TO BE ABLE TO HELP YOU RENDER AN OPINION
15 SOMEBODY IS A MEMBER OF A CRIMINAL STREET GANG?

16 A AGAIN, YOU LOOK FOR EVERYTHING, SIR.

17 Q OKAY. SO IF I HEAR YOU CORRECTLY,
18 EVERYTHING IS ALL EQUAL. NOTHING IS MORE IMPORTANT TO YOU,
19 CORRECT?

20 A WELL, I GUESS THERE'S EVIDENCE THAT WOULD
21 PROBABLY SHOW THAT THE PERSON, LIKE I SAID, IF YOU HAD A
22 VIDEO, THAT'S OBVIOUSLY PRETTY IMPORTANT, YOU KNOW, OF
23 SOMEBODY, I'M FROM F-TROOP OR WRITINGS OR THINGS LIKE
24 THAT. THAT'S PRETTY IMPORTANT.

25 Q ALL RIGHT. WHAT ELSE IS PRETTY IMPORTANT?

26 A PHOTOGRAPHS ARE IMPORTANT. STATEMENTS MADE

1 ARE REAL IMPORTANT. PERSONS, MAYBE THEY WERE STOPPED WITH,
2 ARE VERY IMPORTANT. SEVERAL THINGS ARE IMPORTANT.

3 Q ALL RIGHT. WELL, YOU SAY SEVERAL THINGS.
4 WHAT ELSE? HAVE YOU PRETTY MUCH EXHAUSTED THE LIST OF
5 WHAT'S REALLY IMPORTANT TO YOU WHEN YOU RENDER YOUR OPINION
6 SOMEBODY IS A MEMBER OF A CRIMINAL STREET GANG?

7 A WHICH ONES DID I GIVE YOU?

8 Q VIDEOTAPES, STATEMENTS, PERSONS YOU'RE
9 STOPPED WITH?

10 A UH-HUH, BEING IN A CERTAIN AREA.

11 Q ANYTHING ELSE --

12 A TATTOOS.

13 Q -- THAT'S REALLY IMPORTANT TO YOU?

14 A TAGGING. TATTOOS. OTHER PEOPLE'S
15 OBSERVATIONS. AND IF THEY'VE TALKED TO SOMEBODY,
16 ESPECIALLY FAMILY MEMBERS SAYING THAT THEIR SON, DAUGHTER,
17 WHOEVER MIGHT BE FROM A GANG THAT KNOW THE PERSON
18 PERSONALLY. IT'S ALL PRETTY IMPORTANT.

19 Q SO ALL THOSE ITEMS YOU JUST MENTIONED ARE
20 PRETTY DARN IMPORTANT TO YOU?

21 A SURE.

22 Q AND THESE ARE THINGS YOU'D LIKE TO HEAR
23 ABOUT IN ORDER TO RENDER AN OPINION THAT SOMEBODY IS A
24 MEMBER OF A CRIMINAL STREET GANG, CORRECT?

25 A YES, SIR.

26 Q NOW, BASED ON YOUR REVIEW OF THE FACTS IN

1 THIS CASE, DO YOU HAVE ANY IDEA OF HOW, WHETHER MR. LOPEZ
2 WAS JUMPED IN, WALKED IN OR CRIMED IN?

3 A I DON'T KNOW.

4 Q OKAY.

5 A I DON'T KNOW THAT.

6 Q AND THERE'S NOTHING IN YOUR NOTES THAT HELP
7 YOU ANSWER THAT QUESTION; IS THAT CORRECT?

8 A NO, SIR. I HAVEN'T HAD A CHANCE TO TALK
9 WITH HIM.

10 Q DO YOU REMEMBER WHEN HE BECAME -- OR DO YOU
11 HAVE ANY IDEA WHEN HE BECAME -- STRIKE THAT.

12 ARE YOU SAYING HE IS A MEMBER OF A CRIMINAL
13 STREET GANG, OR HE'S AN ASSOCIATE, OR DO YOU KNOW?

14 A I BELIEVE IN LOOKING AT THE ENTIRE CASE,
15 THAT DURING THIS HE WAS A MEMBER OF THE CRIMINAL STREET
16 GANG.

17 Q ALL RIGHT. AND DO YOU KNOW WHEN HE BECAME A
18 MEMBER? CAN YOU GIVE ME A MONTH AND YEAR?

19 A WELL, IN SOME OF THE STATEMENTS THAT WERE
20 GIVEN TO ME BY I BELIEVE IT WAS ONE OF HIS RELATIVES, THAT
21 THEY THOUGHT THAT HE WAS IN THERE FOR APPROXIMATELY FOUR
22 MONTHS OR SO. AND FROM ANOTHER --

23 Q ONE OF HIS RELATIVES, WHICH RELATIVE?

24 A MR. MICHAEL CONTRERAS. AND ALSO FROM SOME
25 OF HIS CODEFENDANTS' STATEMENTS.

26 Q SO ABOUT FOUR MONTHS?

1 A I'D SAY APPROXIMATELY.

2 Q ALL RIGHT. BUT YOU DIDN'T FOLLOW UP INTO
3 QUESTIONS TO ASCERTAIN HOW HE BECAME A MEMBER OF THE
4 CRIMINAL STREET GANG, I.E., JUMPED IN, WALKED IN, CRIMED
5 IN?

6 A DID I? I DID.

7 Q OKAY. AND WHAT DID HE SAY?

8 A I DON'T KNOW. I COULDN'T FIND THAT
9 INFORMATION OUT. THEY DIDN'T KNOW THAT INFORMATION, OR I
10 CAN'T REMEMBER.

11 Q DID YOU FOLLOW UP WITH THE INFORMATION BY
12 SAYING HOW DO YOU KNOW, OR THEY WERE JUST RELYING ON
13 COMMUNICATIONS FROM OTHER PEOPLE IN ORDER TO MAKE THAT
14 DETERMINATION, OR DO YOU KNOW?

15 A YOU KNOW WHAT, I CAN'T RECALL IN OUR
16 CONVERSATION. I'M SURE I USUALLY DO, BUT RIGHT NOW I CAN'T
17 RECALL IF I ASKED THEM HOW DID YOU KNOW, OR DO YOU KNOW.

18 Q DO YOU HAVE ANY NOTES THAT HELP YOU
19 REMEMBER?

20 A NO.

21 Q ANY FOLLOW-UP QUESTIONS YOU DID?

22 A NO. WELL, THERE'S OBVIOUSLY THE AUDIOTAPES
23 THAT GIVE ALL THE INTERVIEWS.

24 Q OKAY. SO WOULD IT BE A FAIR STATEMENT TO
25 SAY THAT IF THERE'S ANY FOLLOW-UP QUESTIONS YOU MADE IN
26 ORDER TO DETERMINE FROM CONTRERAS OR ANY OTHER RELATIVES

1 THAT HE WAS A MEMBER OF A CRIMINAL STREET GANG, IT WOULD
2 APPEAR ON THE TAPES?

3 A I'M ASSUMING SO. I DON'T KNOW. I DON'T
4 KNOW.

5 Q WHEN YOU SAY "ASSUME," THAT MAKES ME
6 NERVOUS. IS THERE A POSSIBILITY SOME STUFF OFF THE RECORD?

7 A NO. NO. I'M JUST SAYING IN THE TAPES I'M
8 ASSUMING THAT IT IS ON THE TAPE, BECAUSE I BELIEVE I DID
9 ASK THOSE.

10 Q REFERRING TO B-9?

11 A YES, SIR.

12 Q THAT APPEARS TO BE AN F.I. CARD?

13 A YES.

14 Q AND WHAT IS SIGNIFICANT ABOUT THAT? I
15 NOTICE THERE'S SOME ASSOCIATES THERE?

16 A YES.

17 Q WHO WERE THEY?

18 A MR. MATURINO AND PISCIL. APPARENTLY OFFICER
19 MIRANDA SPOKE WITH THEM BEFORE AND CONFIRMED THAT THEY WERE
20 F-TROOP GANG MEMBERS.

21 Q OKAY. NOW, HAVE YOU CONFIRMED THAT PISCIL
22 AND MATURINO ARE F-TROOP GANG MEMBERS?

23 A I RAN SOME OF YOUR RECORDS, AND I COULDN'T
24 FIND ANY DOCUMENTATION ON THESE TWO INDIVIDUALS.

25 Q AND WE'RE SPECIFICALLY TALKING ABOUT
26 MATURINO AND PISCIL?

1 A CORRECT.

2 Q YOU'VE DONE YOUR INVESTIGATION AND YOU HAVE
3 NO DOCUMENTATION OF EITHER ONE OF THOSE GUYS?

4 A I HAVE NONE.

5 Q YOU'RE JUST RELYING ON WHAT MIRANDA TOLD
6 YOU?

7 A YES.

8 Q I ASSUME MIRANDA TOLD YOU THIS BECAUSE HE
9 DIDN'T MAKE ANY DOCUMENTATION ON THIS F.I. CARD?

10 A CORRECT.

11 Q AGAIN, FOR THE RECORD, REFERRING TO B-9 AND
12 B-10, OKAY. SO THERE'S NO INDICATION OF GANG ASSOCIATION
13 ON THE F.I. CARD THAT APPEARS ON B-9, B-10, CORRECT?

14 A CORRECT.

15 Q YOU HAD TO GO TO OFFICER MIRANDA AND ASK HIM
16 ABOUT IT, CORRECT?

17 A CORRECT.

18 Q AND WHAT SPECIFIC DID HE TELL YOU -- WELL,
19 DID HE GIVE YOU ANY REASON WHY HE DIDN'T INCLUDE ANY GANG
20 REFERENCES ON THIS F.I. CARD?

21 A NO.

22 Q WHAT SPECIFIC INFORMATION DID HE GIVE YOU
23 THAT WAS NOT CONTAINED IN THIS F.I. CARD THAT CAUSED YOU TO
24 BELIEVE THERE'S SOMEHOW SOME GANG CONNECTION?

25 A HE TOLD ME THAT HE SPOKE TO THEM BEFORE.

26 Q AND "THEM," WHO IS THEM?

1 A REFERRING TO THE TWO SUBJECTS I JUST
2 MENTIONED.
3 Q YOU'RE NOT REFERRING TO MR. LOPEZ?
4 A CORRECT.
5 Q YOU'RE JUST REFERRING TO MATURINO, PISCIL?
6 A YES.
7 Q YOU TALKED TO BOTH OF THEM BEFORE?
8 A HAVE I?
9 Q NO, HE TOLD YOU HE TALKED TO THEM?
10 A YES.
11 Q HE TOLD YOU HE TALKED TO THEM BEFORE,
12 CORRECT?
13 A YES.
14 Q AND THIS IS OFFICER MIRANDA?
15 A YES.
16 Q AND HE TOLD YOU PISCIL AND MATURINO SAID
17 WHAT?
18 A I DON'T KNOW HIS EXACT WORDS, BUT APPARENTLY
19 THAT THEY WERE F-TROOP GANG MEMBERS.
20 Q OKAY. SO ACCORDING TO MIRANDA, THESE GUYS
21 SELF-ADMITTED THEIR F-TROOP GANG MEMBERSHIP?
22 A YES.
23 Q AND DID HE TELL YOU WHEN THESE
24 SELF-ADMISSIONS OCCURRED?
25 A NO.
26 Q DID YOU ASK HIM?

1 A YES.

2 Q AND WHAT DID MIRANDA TELL YOU WHEN YOU ASKED
3 HIM WHEN DID THESE SELF-ADMISSIONS OCCUR?

4 A I DON'T KNOW. I DON'T KNOW.

5 Q DID HE GIVE YOU THE CIRCUMSTANCES, THE
6 CONTACT HE HAD WITH MATURINO AND PISCIL WHERE THEY
7 SELF-ADMITTED?

8 A NO.

9 Q DID HE GIVE YOU A MONTH AND A YEAR WHEN THAT
10 CONTACT OCCURRED?

11 A I BELIEVE IT WAS IN '04. BUT NO, HE DIDN'T.
12 IF HE DID, I DON'T REMEMBER HIM GIVING ME A MONTH.

13 Q OKAY. AND IS THERE SOME PROCEDURE IN SANTA
14 ANA P.D. WHEN YOU GET A SELF-ADMISSION FROM SOME GANG
15 MEMBERS, DON'T YOU FILL OUT SOME SORT OF F.I. CARD OR
16 186.22 NOTIFICATION?

17 A WE USUALLY DO, YES.

18 Q OKAY. BUT THAT APPARENTLY WASN'T DONE IN
19 THIS CASE, CORRECT?

20 A CORRECT.

21 Q DID YOU ASK HIM WHY HE DIDN'T BOTHER TO DO
22 IT?

23 A NO.

24 Q DID IT MATTER TO YOU WHY HE DIDN'T BOTHER TO
25 DO IT?

26 A WELL, YEAH, IT DID.

1 Q AND DID YOU ASK HIM WHY HE DIDN'T BOTHER TO
2 DO IT? . . .

3 A NO.

4 Q SO IT DIDN'T MATTER THAT MUCH?

5 A WELL, NO, IT DID, BUT I DIDN'T ASK HIM.

6 Q OKAY. NOW, DIRECTING COURT AND COUNSEL'S
7 ATTENTION TO B11 AND B12. THAT APPEARS TO BE ANOTHER F.I.
8 CARD, CORRECT?

9 A YES.

10 Q DO YOU KNOW HOW THAT WAS PREPARED?

11 A HOW IT WAS PREPARED?

12 Q YEAH.

13 A IT WAS --

14 Q STRIKE THAT.

15 WHO PREPARED IT? THE OFFICER'S NAME IS
16 BLANK.

17 A ESPARZA.

18 Q OKAY. IS THAT NORMALLY THE WAY IT IS
19 SPELLED OUT?

20 A WELL, IT SHOULD BE ACTUALLY RIGHT NEXT TO
21 THE LINE, BUT --

22 Q OKAY. WELL, DID -- THIS IS ESPARZA'S
23 SIGNATURE. DO YOU RECOGNIZE HIS HANDWRITING?

24 A YES.

25 Q THAT'S THE WAY HE NORMALLY WRITES?

26 A THAT'S ESPARZA, AND THAT'S HIS SERIAL NUMBER

1 RIGHT THERE.

2 Q . . . OKAY. BUT AT LEAST THE ASSOCIATES APPEAR TO
3 BE IN A DIFFERENT HANDWRITING, CORRECT?

4 IF THAT'S THE WAY ESPARZA NORMALLY WRITES,
5 DON'T YOU THINK THAT'S A LITTLE BIT DIFFERENT THAN THE WAY
6 THE ASSOCIATES' NAMES ARE WRITTEN IN THERE?

7 A IT DOES LOOK DIFFERENT, BUT I'M NOT A
8 HANDWRITING EXPERT. BUT --

9 Q NO PROBLEM.

10 A IT LOOKS DIFFERENT.

11 Q USING YOUR COMMON SENSE, IT LOOKS A LOT
12 DIFFERENT, CORRECT?

13 A WELL, IT LOOKS DIFFERENT.

14 Q OKAY. DO YOU KNOW WHO FILLED OUT THAT?

15 A ESPARZA.

16 Q OKAY. AND DID YOU TALK TO HIM ABOUT WHY THE
17 WAY HE WRITES HIS NAME AND HIS BADGE NUMBER APPEARS TO BE
18 DIFFERENT THAN THE WAY ANYTHING ELSE IS WRITTEN IN THIS
19 OTHER F.I. CARD?

20 A NO, SIR.

21 Q OKAY. NOW, WHAT ABOUT THIS F.I. CARD
22 SUPPORTS YOUR OPINION THAT MR. LOPEZ IS AN F-TROOPER?

23 A WELL, JUST THE FACT THAT WHERE THE STOP WAS
24 MADE. THE 2000 BLOCK OF WEST MONTE VISTA.

25 Q THAT'S THE ONLY THING THAT POPS UP IN YOUR
26 MIND THAT DRAWS YOUR ATTENTION THAT THIS MIGHT BE

1 CONSISTENT WITH SOMEBODY WHO IS AN F-TROOPER, WAS THE
2 LOCATION OF THE STOP?

3 A YES, SIR.

4 Q DID YOU INQUIRE AS TO ESPARZA WHEN THAT STOP
5 WAS MADE?

6 A NO. BUT I BELIEVE IT'S WRITTEN ON THE F.I.
7 CARD. 2/21 OF '03.

8 Q OKAY. DID YOU INQUIRE OF ESPARZA THE REASON
9 FOR THE STOP, OR IS IT ON HERE?

10 A CAN I SEE THE BACK OF THAT, PLEASE?

11 Q SURE.

12 A WELL, IT SAYS TRAFFIC STOP AND SAYS GOING TO
13 A GANG PARTY. MARK AND CLARA. SAID NO GANG AFFILIATION.
14 TRAFFIC STOP.

15 Q OKAY. BUT HE --

16 A BUT HE DOESN'T INDICATE WHAT THE TRAFFIC
17 STOP WAS FOR, WHAT THE REASON FOR THE TRAFFIC STOP.

18 Q OKAY. NOW, HOW ABOUT GERHAUSER, SHEM SHUN,
19 DO YOU KNOW THAT PERSON?

20 A NO.

21 Q HAS THAT PERSON EVER SURFACED DURING THE
22 INVESTIGATION, YOUR INVESTIGATION AS A GANG EXPERT?

23 A NO.

24 Q AND HOW ABOUT JUAN CARLOS CALDERON?

25 A NO.

26 Q AND DID YOU CHECK THEM OUT? YOU HAVE A DATE

1 OF BIRTH THERE, RIGHT?

2 A YES.

3 Q DID YOU CHECK THEM OUT?

4 A YES.

5 Q THEY DON'T SURFACE AS BEING GANG MEMBERS IN
6 ANY WAY, SHAPE OR FORM, CORRECT?

7 A CORRECT.

8 Q AT LEAST ON THIS PARTICULAR LOCATION
9 MR. LOPEZ WAS NOT IN THE COMPANY OF ANYBODY ASSOCIATED
10 WITH, AS BEING A GANG MEMBER?

11 A CORRECT, AS FAR AS 2 -- 2/21/03 TO MAKE SURE
12 OF THE DATE, YEAH.

13 Q AND ALL YOU KNOW IS THIS WAS A TRAFFIC STOP
14 AS OPPOSED TO SOME GANG-RELATED ACTIVITY, CORRECT?

15 A CORRECT.

16 Q I'M AGAIN REFERRING TO -- B12 AND B11,
17 CORRECT?

18 A CORRECT. AND I -- IF I COULD ADD.

19 Q GO AHEAD.

20 A AFTER THE TRAFFIC STOP, HE MAKES SOME
21 INDICATIONS AS FAR AS GOING TO A GANG PARTY, BUT I DON'T
22 KNOW WHAT THE CONVERSATION WAS FOR HIM TO COME UP WITH
23 THAT. THAT HE WAS COMING UP WITH GOING, THAT THEY WERE
24 GOING TO A GANG PARTY.

25 Q OKAY.

26 A MARK AND CLARA, HOWEVER, IS WITHIN THE

1 F-TROOP AREA THAT I WAS TALKING ABOUT.

2 Q . . . OKAY. AND HAVE YOU TALKED TO ESPARZA TO
3 DECIDE HOW HE CAME UP WITH THE CONCLUSION THAT THEY'RE
4 GOING TO A GANG PARTY?

5 A NO, I DID NOT.

6 Q OKAY. SO HE COULD HAVE BEEN MAKING THAT
7 ASSUMPTION OR JUMPING TO THAT CONCLUSION SIMPLY BECAUSE OF
8 THE LOCATION, CORRECT?

9 A WELL, I DON'T KNOW. I DON'T KNOW.

10 I DON'T KNOW IF HE HAD SPECIFIC INFORMATION
11 OR NOT, AS FAR AS THAT PARTY THAT WAS GOING ON.

12 Q HAVE YOU TALKED TO ESPARZA AT ALL?

13 A NO.

14 Q ABOUT THIS CASE?

15 A NO, I DID NOT.

16 Q OKAY. AND NORMALLY IF THERE WAS ANY SELF --
17 STRIKE THAT.

18 THERE'S NO GANG AFFILIATION; IS THAT
19 CORRECT?

20 A YES.

21 Q NOW, BASED ON YOUR BACKGROUND, TRAINING AND
22 EXPERIENCE, THAT MEANS ESPARZA ASKED THESE PEOPLE WHETHER
23 THEY'RE ASSOCIATED WITH GANGS, AND THEY SAID NO?

24 A YES. I WOULD ASSUME HE ASKED THEM, THAT'S
25 WHY HE NOTED THAT.

26 Q AND THAT INCLUDES MR. FRANK LOPEZ, AS WELL

1 AS THE TWO ASSOCIATES, CORRECT?

2 A . . . THAT'S CORRECT. I WOULD, AGAIN, JUST
3 ASSUMING.

4 Q RIGHT. BASED ON YOUR BACKGROUND, TRAINING
5 AND EXPERIENCE, THAT'S THE NORMAL WAY THINGS ARE DONE WHEN
6 YOU'RE FILLING OUT THESE F.I. CARDS, CORRECT?

7 A YEAH, PRETTY MUCH.

8 Q OKAY. AND THEN ALSO --

9 A AND THE REASON WHY THERE'S A COUPLE THINGS I
10 DO A LITTLE BIT DIFFERENTLY, BUT PRETTY MUCH IT'S WITHIN
11 LINE OF HOW WE DO AN F.I. CARD.

12 Q AND THEN B-9, B-10, I'M TALKING ABOUT THE
13 FIRST F.I. CARD. OTHER THAN THE FACT THAT THERE APPEARS TO
14 BE SOME SORT OF OFF-THE-RECORD SELF-ADMISSION, THESE GUYS
15 ARE F-TROOPERS, THERE'S NO OTHER GANG ACTIVITY CONNECTED TO
16 THIS PARTICULAR CASE; IS THAT CORRECT?

17 A CORRECT.

18 Q THIS APPEARS TO BE ANOTHER TRAFFIC STOP?

19 A YES, SIR.

20 Q THOUGH YOU HAVE NO IDEA WHAT THE CITE WAS
21 FOR?

22 A NO. BUT THERE'S A CITE NUMBER THERE WHICH I
23 COULD FIND OUT, IF WE NEED THAT.

24 Q OKAY. ANY OTHER F.I. CARDS OR STEP
25 NOTIFICATIONS?

26 A NO, SIR.

1 Q ALL RIGHT. AND THEN THE REST OF THIS
2 INFORMATION I HAVE IN MY HAND IS THE EXTENT OF WHAT YOU
3 RELIED UPON IN ORDER TO RENDER YOUR OPINION IN CONNECTION
4 WITH MR. LOPEZ?

5 A THAT'S CORRECT. F.I., F.I., OFFICER
6 GALIANA, AND THIS SUPPLEMENTAL FROM THIS CASE NUMBER.

7 Q OKAY. SO EVEN THOUGH YOU LOOK AT THE
8 TOTALITY OF THE CIRCUMSTANCES, YOU'RE NOT PREPARED OR
9 YOU'RE UNABLE TO GIVE US THE OPINION OF WHAT THE MOST
10 SIGNIFICANT THING IS IN CONNECTION WITH MR. LOPEZ THAT
11 LEADS YOU TO OPINE THAT HE IS AN F-TROOPER; YOU JUST CAN'T
12 DO THAT FOR US?

13 A WELL, I THINK EVERYTHING IS SIGNIFICANT, IF
14 I'M UNDERSTANDING YOUR QUESTION RIGHT.

15 Q NOW, MY QUESTION IS WHAT IS THE MOST
16 SIGNIFICANT OF THE TOTALITY OF THE CIRCUMSTANCES? IF YOU
17 CAN'T SAY, JUST YOU CAN'T SAY.

18 A I WOULD SAY THE FACTS OF THIS CASE.
19 EVERYTHING THAT WAS TESTIFIED TO AS WE HEARD THE
20 TESTIMONY. SOME OF THE PEOPLE THAT HE WAS WITH AT THE TIME
21 OF THIS INCIDENT AND SOME OF THE STATEMENTS MADE --

22 Q OKAY. SO --

23 A -- IN THIS CASE.

24 Q OKAY. THE ONLY GANG-RELATED STATEMENT I
25 RECALL BEING MADE IN CONNECTION WITH THIS CASE IS "WHERE
26 ARE YOU FROM"; IS THAT CORRECT?

1 A I'M SORRY?

2 MR. REED: OBJECTION, YOUR HONOR, THAT MAY OR MAY
3 NOT HAVE BEEN STATED, AND I THINK THAT MISSTATES THE
4 EVIDENCE.

5 THE COURT: OVERRULED.

6 BY MR. HARLEY: Q THAT WHAT ARE THE STATEMENTS
7 YOU'RE REFERRING TO WHEN YOU SAY SOME OF THE STATEMENTS IN
8 THIS CASE?

9 A THE STATEMENTS THAT WERE MADE BY SOME OF THE
10 WITNESSES AS FAR AS, WELL, MR. REYES'S INTERVIEW, AS FAR AS
11 SOME OF THE PEOPLE WHO KNOW MR. LOPEZ, MICHAEL CONTRERAS,
12 HIS COUSIN. THOSE STATEMENTS.

13 Q NOW, YOU TESTIFIED YESTERDAY THAT HIT-UP --
14 STRIKE THAT.

15 THE WORDS "WHERE ARE YOU FROM" COULD BE A
16 HIT-UP; IS THAT CORRECT?

17 A YES, SIR.

18 Q IS IT ALWAYS A HIT-UP?

19 A IF YOU'RE TALKING ABOUT GANGS?

20 Q RIGHT. 100 PERCENT OF THE TIME?

21 A NOTHING IS 100 PERCENT.

22 Q WELL, GIVE ME A RANGE. YOU'RE THE EXPERT.

23 A WELL, I'LL TELL YOU THIS: EVERY CASE I'VE
24 INVESTIGATED THE "WHERE ARE YOU FROM," HAS BEEN A HIT-UP.

25 Q NOW, ARE THERE ANY OTHER STATEMENTS BESIDES
26 "WHERE ARE YOU FROM" OR WORDS TO THAT EFFECT THAT YOU ARE

1 AWARE OF, BASED ON YOUR INVESTIGATION IN THIS PARTICULAR
2 CASE YOU FEEL IS CONSISTENT WITH A GANG ALTERCATION?

3 A NO.

4 Q OKAY. NOW, BECAUSE YOU'RE AN EXPERT, I'M
5 GOING TO ASK YOU TO ASSUME THAT THOSE WORDS DID NOT EXIST,
6 "WHERE ARE YOU FROM." ARE YOU STILL PREPARED TO STATE THAT
7 THIS WAS A GANG-RELATED CONFRONTATION?

8 A WELL, LOOKING AT THE BACKGROUND OF THE
9 DEFENDANTS THAT WE'VE PULLED AND SOME OF THE STATEMENTS
10 THAT WERE MADE IN THE INVESTIGATION OF THIS CASE, I
11 WOULD -- I WOULD PROBABLY SAY IT WAS A GANG-MOTIVATED
12 CRIME.

13 Q OKAY. YOU SAY YOU WOULD PROBABLY SAY IT.
14 SO THERE'S SOME DOUBT CREEPING IN?

15 A NO, SIR, I WOULD SAY IT.

16 Q YOU DEFINITELY, POSITIVELY, ABSOLUTELY WOULD
17 SAY IT?

18 A YES.

19 Q SO IT'S NO LONGER PROBABLY YOU WILL SAY
20 THAT?

21 MR. GELLER: OBJECTION. ARGUMENTATIVE.

22 THE COURT: SUSTAINED.

23 MR. HARLEY: I HAVE NOTHING FURTHER.

24 #CROSS-EXAMINATION

25 BY MR. REED: Q THE TATTOOS ON THE VICTIM, WHERE
26 WERE THEY?

1 A I BELIEVE THEY WERE UP ON HIS NECK. THERE
2 WAS ---

3 Q LET ME STOP YOU THERE. WHAT WAS ON HIS
4 NECK?

5 A IF I COULD REFER TO MY --

6 Q SURE. IF IT WOULD ASSIST YOU.

7 A OKAY. LET ME TURN TO THAT PAGE.

8 Q WELL, I CAN ASK THE QUESTION AN EASIER WAY.
9 WERE THE TATTOOS AFFILIATED WITH THE MYRTLE STREET GANG?

10 A THERE WAS NOTHING THAT HAD MYRTLE STREET
11 GANG ON. NO TATTOOS.

12 Q WAS IT -- DO YOU KNOW THE DIFFERENCE BETWEEN
13 PRISON INK AND STREET INK?

14 A YES.

15 Q WAS IT PRISON INK OR STREET INK?

16 A WELL, THERE WAS -- IT LOOKED LIKE IT WAS
17 PRETTY -- SOME OF THE TATTOOS WERE PRETTY, HOW WOULD YOU
18 SAY, PRETTY WELL DONE. SO, IT LOOKED LIKE SOMEBODY MAYBE
19 THAT HAD DONE A LITTLE BIT, MY OPINION, DONE A LITTLE BIT
20 OF MAYBE TIME IN PRISON OR SOMETHING, HAD DONE THE
21 TATTOOS. BECAUSE IT WAS PRETTY REFINED ACTUALLY ON A
22 COUPLE OF THEM, IF I CAN RECALL.

23 Q DID IT HAVE COLOR?

24 A DID THAT ANSWER YOUR QUESTION?

25 Q DID IT HAVE COLOR?

26 A I BELIEVE THERE WERE -- ALL THE TATTOOS WERE

1 THE BLUE COLOR.

2 Q YOU MEAN -- OKAY. SO IT DIDN'T HAVE ANY
3 REDS OR ANY COLORING?

4 A I DON'T THINK SO.

5 Q AND I'M ASSUMING SINCE YOU WERE SHOWN THE
6 TATTOOS BELOW HIS SHIRT AREA AT THE TIME OF HIS DEATH, HE
7 HAD A SHIRT ON?

8 A YES.

9 Q DO YOU REMEMBER WHAT KIND OF SHIRT IT WAS?

10 A NO, SIR, I DON'T.

11 Q SO ANY TATTOOS HE HAD THAT WOULD HAVE BEEN
12 COVERED BY A SHIRT, WERE OBVIOUSLY COVERED BY WHATEVER THE
13 PERSON, WHOEVER IT WAS THAT SHOT HIM, THAT PERSON WOULD NOT
14 BE ABLE TO SEE THE TATTOOS ON HIS BACK OR SHOULDER AREA?

15 A JUST UPPER TATTOOS ON HIS NECK.

16 Q THE TATTOOS ON HIS NECK DID NOT INDICATE HE
17 WAS A MEMBER OF MYRTLE STREET GANG?

18 A I DON'T BELIEVE.

19 Q THE CLOTHING AT THE TIME OF HIS DEATH, WHAT
20 TYPE OF CLOTHING DID HE HAVE ON, OR COLORS?

21 A YOU KNOW, IT WAS -- HE WAS PRETTY BLOODY,
22 SO -- I THINK I REMEMBER A PAIR OF PROBABLY JEANS, BUT I
23 CAN'T RECALL WHAT THE COLOR ANYTHING WAS.

24 Q AGAIN, NOTHING THAT STOOD OUT AS BEING GANG
25 COLORS AT THAT TIME?

26 A CORRECT.

1 Q AND OBVIOUSLY THERE'S NO INDICATION THAT HE
2 THREW ANY HAND SIGNS AT THE TIME OF HIS DEATH. YOU HAVE
3 MULTIPLE WITNESSES THAT TALK, BUT NO ONE EVER SAID THAT HE
4 THREW A HAND SIGN?

5 A I DIDN'T HEAR ANYBODY SAY THAT.

6 Q THAT'S THE TYPE OF THING YOU WOULD ASK
7 ABOUT, CORRECT?

8 A YES.

9 Q THAT'S THE TYPE OF THING YOU WOULD HAVE MADE
10 NOTE OF HAD SOMEONE SAID THAT?

11 A YES.

12 Q AT THE TIME OF HIS DEATH, DID YOU HAVE ANY
13 INDICATION FROM ANY OF THE VARIOUS WITNESSES THAT YOU
14 INTERVIEWED THAT HE CLAIMED A GANG, I.E., "WHERE ARE YOU
15 FROM?" "I'M FROM MYRTLE." AND THREW A SIGN AND JUST KEPT
16 DRIVING?

17 A JUST SO I UNDERSTAND, DID I TALK TO ANYBODY
18 AT THE SCENE? WAS THAT THE QUESTION?

19 Q I'LL BREAK IT DOWN THEN. AT THE SCENE DID
20 YOU TALK TO ANY WITNESSES WHO SAID THAT THE PERSON THAT WAS
21 KILLED THREW A HAND SIGN, OR CLAIMED A GANG?

22 A NO.

23 Q PRIOR TO HIS DEATH?

24 A NO.

25 Q AFTER THE SCENE, DID ANYONE SAY HE THREW A
26 HAND SIGN OR CLAIMED A GANG JUST BEFORE HE WAS KILLED?

1 A NO.

2 Q AND DO YOU HAVE ANY INDICATION THAT THE
3 DEFENDANTS KNEW OF HIS ALLEGED AFFILIATION -- ACTUALLY,
4 FORGET ALL THE DEFENDANTS. I'LL JUST WORRY ABOUT MY
5 CLIENT. THAT MR. PEREZ --

6 MR. HARLEY: PUT MY CLIENT IN THERE.

7 MR. LAZ: YOU CAN DO MY CLIENT.

8 MR. REED: I'LL STRIKE THAT.

9 BY MR. REED: Q DID YOU HAVE ANY INDICATION THAT
10 ANY OF THE DEFENDANTS KNEW THAT HE WAS ALLEGEDLY POSSIBLY A
11 MYRTLE STREET GANG BANGER?

12 A WELL, I HAVE MY SUSPICIONS OF WHAT THE
13 VICTIM MIGHT HAVE SAID TO --

14 Q YOU KNOW, I'M NOT GOING TO LET YOU GET AWAY
15 WITH THAT. SUSPICIONS DOESN'T WORK.

16 A NO, I DID NOT.

17 Q ALL RIGHT. SO -- AND JUST TO CLEAR IT UP,
18 YOU DON'T KNOW WHAT HE SAID?

19 A NO, I DON'T.

20 Q AND ASSUMING THAT THE PERSON WHO SHOT HIM
21 KNOWS WHAT HE SAID, THAT'S THE ONLY PERSON ALIVE WHO SEEMS
22 TO KNOW WHAT HE SAID?

23 A YES.

24 Q CORRECT.

25 A WELL, OBVIOUSLY UNLESS THERE'S A WITNESS WHO
26 NEVER WANTED TO COME FORWARD.

1 Q OKAY. WELL, WE DON'T KNOW WHO THAT PERSON
2 IS.

3 A CORRECT.

4 Q IF HE EXISTS, OR DOESN'T EXIST. AT THE TIME
5 OF HIS DEATH, IT'S MY UNDERSTANDING THAT THE SHOOTING
6 ITSELF DID NOT OCCUR IN MYRTLE STREET TERRITORY, IT
7 BASICALLY WAS ON THE LINE?

8 A I'D SAY THAT'S PROBABLY -- THAT'S FAIR TO
9 SAY.

10 Q AND THE DEFENDANTS ARE ON BICYCLES?

11 A YES.

12 Q AND EVEN THOUGH WE'RE CALLING THEM THE
13 DEFENDANTS, AT LEAST THREE OF THEM WERE MINOR AT THE TIME?

14 A CORRECT.

15 Q AND THEY WERE MORE MINOR THAN THEY ARE NOW?

16 A YES.

17 Q THEY WERE YOUNGER?

18 A YES, THEY WERE YOUNGER.

19 Q AND THEY WEREN'T HAVING A GANG MEETING JUST
20 PRIOR TO THE SHOOTING; IS THAT CORRECT?

21 A THEY HAD A MEETING PRIOR TO THE SHOOTING.

22 Q WELL, OKAY, THEY WERE ON BIKES AND THEY WERE
23 TOGETHER?

24 A YES.

25 Q DOES THAT MEAN THEY HAD A MEETING?

26 A WELL, I GUESS YOUR DEFINITION OF WHAT A

1 MEETING IS.

2 Q THE COMMON TERM, A SCHEDULED EVENT WHEREIN
3 PEOPLE DISCUSS TERMS AND CONDITIONS OF THEIR GROUP.

4 A THEY WERE TOGETHER WHERE THE GUN WAS SHOWN
5 TO EVERYBODY.

6 Q YEAH, BUT THEY CAN DO THAT WHEN THEY'RE
7 DRINKING 40'S?

8 A THEY COULD.

9 Q AND THAT'S NOT A MEETING, RIGHT?

10 A WELL, THEY'RE GETTING TOGETHER.

11 Q RIGHT.

12 A AND THEY'RE TALKING.

13 Q THEY CAN DO THAT WHEN THEY'RE AT PARTIES
14 WITH GIRLS?

15 A SURE.

16 Q THE WHOLE THING OF A GUN GANG BANGER OR, YOU
17 KNOW, KIND OF BRAGGING THING, I HAVE A .357?

18 A PRIOR.

19 Q AND SOME GUYS SHOW THOSE TO GUYS?

20 A CORRECT.

21 Q SOME GUYS SHOW THOSE TO GIRLS, RIGHT?

22 THAT'S NOT UNCOMMON IN SANTA ANA AMONG YOUNG MEN WHO CARRY
23 GUNS; FAIR STATEMENT?

24 A PROBABLY NOT UNCOMMON.

25 Q SO IT DOESN'T HAVE TO BE A MEETING, BUT THEY
26 WERE TOGETHER?

1 A YES.

2 Q PRIOR TO THE SHOOTING?

3 A YES.

4 Q AND THEY -- SOMEONE SAID LET'S GO TO WEST,
5 CORRECT?

6 A YES.

7 Q AND THEY WERE LOOKING FOR THIS GUY CROW?

8 A YES.

9 Q DIDN'T FIND CROW, CORRECT?

10 A CORRECT.

11 Q ON THEIR WAY BACK, ONE OF THE GUYS ALLEGEDLY
12 SAID SOMETHING TO THIS GUY DRIVING DOWN THE STREET, RIGHT?

13 A YES.

14 Q AT A GUY DRIVING DOWN THE STREET THAT AT
15 LEAST OBJECTIVELY NOBODY KNOWS IS A GANG BANGER, RIGHT?

16 OKAY. I'LL PUT IT THIS WAY.

17 A CORRECT.

18 Q ONE VERSION OF THE FACTS IS NOBODY KNOWS
19 THAT GUY IS A GANG BANGER?

20 A CORRECT.

21 Q THAT GUY SAYS SOMETHING SMART, SOMETHING
22 DUMB, SAYS SOMETHING TO THEM, AND THE ONE GUY WHO ASKED HIM
23 THE QUESTION THEN PULLS OUT A GUN AND SHOOTS HIM, FAIR
24 STATEMENT?

25 A YES.

26 Q OKAY. THE OTHER GUYS WERE STILL ON THEIR

1 BIKES AT VARIOUS DISTANCES AWAY FROM THE SHOOTING?

2 A- . YES.

3 Q THAT'S BASICALLY WHAT OCCURRED?

4 A YES, SIR.

5 Q DID MR. PEREZ GIVE YOU ANY INDICATION THAT

6 HE KNEW THAT THE PERSON WHO DID THE SHOOTING WAS GOING TO

7 SHOOT THAT GUY?

8 A GIVE ME ANY INDICATION?

9 Q YES.

10 A I NEVER TALKED TO MR. PEREZ.

11 Q WEREN'T YOU PRESENT WHEN HE WAS SPOKEN TO

12 BY --

13 A NO.

14 Q BUT YOU READ THE REPORTS THAT WERE DONE BY

15 THE OTHER TWO OFFICERS?

16 A YES.

17 Q DID YOU READ ANYTHING WHEREIN MR. PEREZ GAVE

18 THE INDICATION, YEAH, I KNEW HE WAS GOING TO BLAST HIM?

19 A I DIDN'T READ ANYTHING OF THAT.

20 Q AND IN YOUR TRAINING AND EXPERIENCE AS A

21 GANG INVESTIGATOR, THOSE ARE THE TYPE OF THINGS THAT YOU

22 WOULD ASK, CORRECT?

23 A YES.

24 Q BECAUSE YOU WANT TO TIE A GUY DOWN WHEN THEY

25 END UP -- AFTER THEY GET LAWYERS AND WE HAVE TO DEAL WITH

26 THOSE ISSUES, RIGHT?

1 A YES.

2 Q AND WHEN YOU'RE STILL TALKING TO THEM, THE
3 SANTA ANA P.D., THERE'S NO LAWYER?

4 A WHEN WE TALKED, NO.

5 Q SO THERE'S NO LAWYER TO GET IN THE WAY OF
6 THOSE KIND OF QUESTIONS, AND YOU TRY TO ASK THOSE
7 QUESTIONS, IF YOU CAN?

8 A YES.

9 Q WHICH IS ONE OF THE REASONS THAT YOU RECORD
10 THE STATEMENTS, TO MAKE SURE THAT YOU MEMORIALIZE WHAT
11 THESE YOUNG MEN TELL YOU WHILE THEY'RE BEING FORTHCOMING IN
12 THEIR FACTUAL SCENARIO?

13 A YES, SIR. AND I DON'T THINK YOU GUYS ARE
14 EVER IN THE WAY. BUT I'M SORRY, GO AHEAD.

15 Q YOU GUYS SPEND MORE TIME AROUND THEM. SO,
16 IT'S YOUR OPINION THAT THE SHOOTER COMMITTED THIS CRIME FOR
17 THE BENEFIT OF THE GANG?

18 A YES.

19 Q AND FOR NO OTHER PURPOSE?

20 A CORRECT.

21 Q SO IT'S FOR THE BENEFIT OF THE GANG TO THE
22 EXCLUSION OF ALL OTHER PURPOSES?

23 A FROM LOOKING AT ALL THE FACTS, MY OPINION IS
24 THAT HE COMMITTED FOR THE BENEFIT OF THE GANG.

25 Q ASSUMING YOU KNOW ALL THE FACTS?

26 A YES.

1 Q DID YOU TALK TO THE SHOOTER, OR THE PERSON
2 YOU THINK IS THE SHOOTER?

3 A I WOULD HAVE LIKED TO, BUT NO, I DIDN'T.

4 Q DO YOU KNOW WHETHER OR NOT HE AND THE
5 ALLEGED VICTIM HAD ANY PERSONAL PROBLEM WITH EACH OTHER?

6 A NO, I DON'T.

7 Q YOU'VE DONE GANG CASES IN THE PAST, AND IT'S
8 A FAIR STATEMENT THAT ON OCCASION GANG MEMBERS HAVE
9 PERSONAL PROBLEMS WITH OTHER PEOPLE WHO MAY ALSO BE GANG
10 MEMBERS OF EITHER THEIR GANG, OR ANOTHER GANG; IS THAT
11 CORRECT?

12 A SURE.

13 Q AND ON OCCASION THEY HANDLE THEIR ISSUES AND
14 THEY MAKE IT AND IT'S A PERSONAL PROBLEM; ISN'T THAT
15 CORRECT?

16 A SURE.

17 Q IN FACT, ISN'T IT ALSO CORRECT AND ON
18 OCCASION GANG MEMBERS PUT IT OUT THERE THAT MY PROBLEMS
19 WITH HIM ARE PERSONAL?

20 A WELL, THAT COULD BE TAKEN A LOT OF WAYS. I
21 HEARD THAT.

22 Q BUT YOU'VE HEARD THAT BEFORE, HAVEN'T YOU?

23 A YES.

24 Q YOU DON'T KNOW IN THIS PARTICULAR CASE THAT
25 THE PERSON WHO DID THE SHOOTING DID NOT ACT FOR PERSONAL
26 PURPOSES; ISN'T THAT CORRECT?

1 A WELL, I THINK FROM WHAT WAS THE STATEMENT
2 THAT WAS MADE, "WHERE ARE YOU FROM," OBVIOUSLY WILL SHOW
3 THAT THE PERSON DIDN'T KNOW WHO THE VICTIM WAS. IN OTHER
4 WORDS, THE HIT, THE "WHERE ARE YOU FROM" STATEMENT ASKING
5 WHERE HE'S FROM. SO, IN MY OPINION I DON'T -- I DON'T
6 BELIEVE THAT IT WAS A PERSONAL PROBLEM BECAUSE OF THE
7 STATEMENT THAT WAS MADE.

8 Q WELL, IT DEPENDS, "WHERE ARE YOU FROM"
9 ACTUALLY HAS A DIFFERENT CONNOTATION, SO IT DEPENDS ON WHAT
10 WAS -- WHAT PRECEDED AND WHAT CAME AFTER "WHERE ARE YOU
11 FROM"; FAIR STATEMENT?

12 I MEAN YOU'RE LOOKING AT ALL THIS FROM THE
13 PRISM OF A GANG INVESTIGATOR LOOKING AND TRYING TO PIECE
14 TOGETHER A MURDER --

15 A RIGHT.

16 Q -- THAT ALREADY HAPPENED, RIGHT?

17 A CORRECT.

18 Q AND YOU'RE BASING THIS ON YOUR EXPERIENCE AS
19 A GANG INVESTIGATOR LOOKING FROM IT WITH THE GLASSES OF A
20 GANG INVESTIGATOR, RIGHT?

21 A LOOKING AT IT AS A GANG INVESTIGATOR, YES.

22 Q WELL, DID YOU EVEN LOOK AT THE QUESTION OF
23 WHETHER OR NOT IT WAS PERSONAL?

24 PUT IT THIS WAY: DID YOU GO THROUGH IT AND
25 YOU IMMEDIATELY DISCOUNTED IT?

26 A NO, OBVIOUSLY YOU HAVE TO THINK ABOUT

1 EVERYTHING WHEN YOU'RE DOING IT. EVERYTHING IS POSSIBLE.
2 EVERYTHING IS POSSIBLE. NOTHING IS SET IN STONE.

3 Q SO BACK TO MY ORIGINAL STATEMENT. WHEN I
4 ASKED YOU THAT, IT WAS FOR THE PURPOSE OF A GANG AND FOR NO
5 OTHER PURPOSE, HOW DOES THAT RECONCILE WITH THE STATEMENT
6 THAT EVERYTHING IS POSSIBLE?

7 A WELL, I'M JUST SAYING WITH THE FACTS OF THIS
8 CASE AND THE STATEMENT "WHERE ARE YOU FROM," FROM MY
9 TRAINING AND EXPERIENCE, THAT'S A HIT-UP. IT'S THINGS THAT
10 GANG MEMBERS SAY WHEN THEY CHALLENGE SOMEBODY ELSE. I'VE
11 SEEN IT, YOU KNOW, SEVERAL TIMES. SO, I'M SAYING FROM
12 THAT, FROM MY TRAINING THAT'S WHERE I COME UP WITH THE
13 OPINION THAT IT'S A COMMON THING WITH GANGS, DUE TO
14 CHALLENGE, THEY SAY, "WHERE ARE YOU FROM"?

15 Q WELL, GANGS ARE MADE UP OF GUYS OR PEOPLE,
16 COULD BE WOMEN, BUT FOR THE MOST PART THEY ARE MADE UP OF
17 INDIVIDUAL PEOPLE?

18 A YES.

19 Q THEY ACT AS A GROUP, YES OR NO, DEPENDING ON
20 THE SITUATION, RIGHT?

21 A SURE.

22 Q BUT FOR THE MOST PART, THE ONLY PERSON THAT
23 HIT-UP ANYBODY, THE ONLY PERSON THAT DID ANYTHING
24 AGGRESSIVE IN THIS CASE IS THE PERSON THAT SHOT THE GUY;
25 FAIR STATEMENT?

26 A FROM MY INVESTIGATION SO FAR, THAT APPEARS

1 TO BE CORRECT.

2 Q I MEAN IT APPEARS THAT OTHER THAN THE
3 OBLIGATORY LIES THAT THEY TELL YOU AT THE BEGINNING, THE
4 GUYS THAT YOU SPOKE TO TOLD YOU WHAT HAPPENED, THE GUYS --
5 WELL, YOU DIDN'T SPEAK TO PERSONALLY?

6 A I UNDERSTAND.

7 Q THE GUYS AT THE TABLE THAT TALKED, THEY SAID
8 WHAT HAPPENED?

9 A YES.

10 Q IT WASN'T "WE HIT THEM UP"?

11 A NO.

12 Q IT WASN'T "WE PULLED THE TRIGGER"?

13 A NO.

14 Q IT WASN'T "WE BLASTED THAT GUY AND HE KEPT
15 DRIVING"?

16 A NO.

17 MR. REED: THANK YOU. NO FURTHER QUESTIONS.

18 MR. LAZ: I HAVE A COUPLE MORE.

19 #RE CROSS-EXAMINATION

20 BY MR. LAZ: Q WITH RESPECT TO PEDRO ROSARIO, DID
21 YOU VIEW ANY OF THE PICTURES THAT WERE TAKEN OF THE CAR AND
22 HIM IN IT?

23 A I MIGHT HAVE, SIR. IT'S AWHILE BACK.

24 Q YOU WERE ON SCENE, THOUGH?

25 A YES.

26 Q AND YOU LOOKED AT THE CAR AND HIS BODY; IS

1 THAT TRUE?

2 A YES.

3 Q HE WAS WEARING A HAT, CORRECT?

4 A YES.

5 Q WAS THERE ANY SIGNIFICANCE ABOUT THE HAT
6 DETERMINING WHETHER OR NOT HE WAS A GANG MEMBER?

7 A I KNOW IT WAS BLOODY AND I DIDN'T LOOK AT
8 THE HAT ALL THAT WELL. BUT I DON'T REMEMBER SEEING
9 ANYTHING THAT WOULD INDICATE THE ASSOCIATION WITH A GANG.

10 Q THERE WAS ANOTHER HAT IN THE CAR, DO YOU
11 REMEMBER THAT? AND A HANDKERCHIEF?

12 A I THINK SO.

13 Q WAS THERE ANYTHING SIGNIFICANT ABOUT THE
14 OTHER HAT AND THE HANDKERCHIEF TO YOU DETERMINING WHETHER
15 OR NOT HE WAS A GANG MEMBER?

16 A I CAN'T RECALL.

17 Q I MEAN THOSE THINGS DIDN'T INDICATE ANY
18 MYRTLE STREET AFFILIATION, CORRECT?

19 A WELL, THE HANDKERCHIEF MIGHT HAVE, AS FAR AS
20 THE COLOR. I MEAN JUST ONE FACTOR. BUT I CAN'T RECALL
21 RIGHT NOW.

22 Q YOU DON'T KNOW WHAT COLOR IT IS AS YOU SIT
23 THERE, CORRECT?

24 A NO, I'D BE GUESSING IF I DID, AND I DON'T
25 WANT TO DO THAT.

26 Q JUST REAL BRIEFLY, I WILL SHOW YOU A PICTURE

1 OF A HAT AT PAGE P-9, AND IT'S GOT FIVE SYMBOLS ON THE
2 FRONT OF THE HAT; DO YOU SEE THAT?

3 A YES, SIR.

4 Q IT'S LIKE FIVE DIFFERENT SHAPES. ALL ARE
5 THREE SIDES OF A SQUARE?

6 A YES.

7 Q IS THAT SIGNIFICANT TO YOU IN ANY WAY?

8 A NO. NOT AT ALL.

9 Q AND WHEN YOU SAY NO --

10 A AT LEAST WITH THE TRAINING AND EXPERIENCE
11 I'VE HAD FOR THAT PARTICULAR GANG OR ANY GANGS, I'VE NEVER
12 SEEN THAT SYMBOL YET.

13 Q AND WHEN YOU SAID THAT THE NORTHWEST CORNER
14 AND THE SOUTHWEST CORNER OF WILLITS AND SULLIVAN WERE NO
15 MAN'S LAND, CORRECT?

16 A YES, SIR.

17 Q AND WHAT YOU MEANT BY THAT WAS THERE'S NO
18 GANG THAT CLAIMS THOSE TWO CORNERS OR THE TERRITORY RIGHT
19 AT THOSE TWO CORNERS; IS THAT CORRECT?

20 A YES.

21 Q AND WHO IN SANTA ANA POLICE DEPARTMENT IS
22 THE MOST KNOWLEDGEABLE ABOUT WEST MYRTLE STREET?

23 MR. GELLER: OBJECTION. DISCOVERY. RELEVANCE.

24 THE COURT: SUSTAINED.

25 BY MR. LAZ: Q DID YOU TALK TO THE PERSON WHO IS
26 CONSIDERED BY SANTA ANA P.D. TO BE MOST KNOWLEDGEABLE ABOUT

1 WEST MYRTLE STREET?

2 A I WANT TO ANSWER YOUR QUESTION, BUT I DON'T
3 KNOW -- I DON'T KNOW WHO HAS THE MOST KNOWLEDGE AND WHO
4 DOESN'T. I'M ASSUMING DETECTIVE RUIZ WHO HAS BEEN IN GANGS
5 FOR SEVERAL YEARS PROBABLY HAD A LOT OF KNOWLEDGE. I KNOW
6 SOME OF THE DIRECTED PATROL UNITS THAT WORK THAT AREA HAVE
7 A LOT OF KNOWLEDGE ABOUT THE GANGS DOWN THERE ALSO.

8 Q DID YOU TALK TO DETECTIVE RUIZ?

9 A YES.

10 Q DID YOU TALK TO THOSE PATROL OFFICERS?

11 A YES.

12 MR. LAZ: NO FURTHER QUESTIONS.

13 MR. GELLER: I HAVE SOME BRIEF REDIRECT, IF I MAY.

14 #REDIRECT EXAMINATION

15 BY MR. GELLER: Q SO WE'RE CLEAR FOR THE RECORD,
16 THE THREE INDIVIDUALS, ANDY REYES, LOUIS PEREZ, SEVERO
17 DE LA RIVA, THEY WERE 14 OR OVER AT THE TIME OF THIS CRIME;
18 IS THAT CORRECT?

19 A YES, SIR.

20 Q COUPLE OF THE FACTORS THAT -- ARE THESE SOME
21 OF THE FACTORS THAT YOU'RE RELYING ON TO, A, ESTABLISH ALL
22 FIVE OF THESE INDIVIDUALS ARE ACTIVE PARTICIPANTS IN THE
23 F-TROOP GANG; AND B, THAT THIS CRIME IS GANG-MOTIVATED,
24 THAT THEY INITIALLY MET AT THE EL SALVADOR PARK; IS THAT
25 CORRECT?

26 A YES.

1 Q AND WHAT IS SO SIGNIFICANT ABOUT EL SALVADOR
2 PARK VERSUS ANYWHERE ELSE?

3 A EL SALVADOR PARK IS THE CORE AREA OF
4 EL SALVADOR PARK F-TROOP.

5 Q WOULD YOU EXPECT A NON-F-TROOP PERSON TO BE
6 IN EL SALVADOR PARK WITH A HANDGUN?

7 A NO.

8 Q WHY NOT?

9 A IT'S PRETTY -- IT'S A DISRESPECT. YOU
10 COMING INTO SOMEBODY ELSE'S TERRITORY WITH A HANDGUN, IT
11 PROBABLY WOULDN'T HAPPEN.

12 Q WOULD YOU EXPECT A NON-F-TROOP GANG MEMBER
13 TO BE IN EL SALVADOR PARK WITH A HANDGUN SHOWING IT TO
14 F-TROOP GANG MEMBERS?

15 A WELL, MAYBE IF THEY WERE ALLIES. BUT A
16 RIVAL, DEFINITELY NOT.

17 Q WHAT ABOUT JUST A CIVILIAN, SOMEBODY WHO IS
18 NOT ASSOCIATING WITH ANY GANG IN EL SALVADOR PARK SHOWING
19 OFF A HANDGUN TO F-TROOP GANG MEMBERS?

20 A IT'S POSSIBLE. EVERYTHING IS POSSIBLE. BUT
21 PROBABLY NOT.

22 Q AND YOU MIGHT EXPECT A VIOLENT
23 CONFRONTATION, IF THAT'S THE CASE, RIGHT?

24 A YES.

25 Q WOULD YOU EXPECT A NON-F-TROOP GANG MEMBER
26 TO BE HANGING AROUND WITH BAM BAM, CHEWY, LITTLE SOLDIER,

1 BOUNCER AND ANDY REYES?

2 A NO.

3 Q WOULD YOU EXPECT A NON-F-TROOP GANG MEMBER
4 TO BE HANGING AROUND WITH THOSE INDIVIDUALS DOING A HIT-UP
5 IN FRONT OF THOSE INDIVIDUALS?

6 A NO.

7 Q WOULD YOU EXPECT A NON-F-TROOP GANG MEMBER
8 THEN AFTER BEING WITH THOSE INDIVIDUALS DOING THE HIT-UP,
9 SHOOTING SOMEBODY IN THE BACK OF THE HEAD IN THE IMMEDIATE
10 PRESENCE OF THOSE F-TROOP GANG MEMBERS?

11 A NO.

12 Q ARE ALL THOSE FACTORS CONSISTENT WITH
13 SOMEBODY WHO IS AN ACTIVE PARTICIPANT IN F-TROOP?

14 A YES.

15 Q ARE ALL THOSE FACTORS CONSISTENT WITH THIS
16 BEING A GANG-MOTIVATED OFFENSE?

17 A YES.

18 Q DOES IT DIMINISH THAT PERSON'S RESPECT IF --
19 THE SHOOTER'S RESPECT IF THE VICTIM IS NOT A GANG MEMBER IN
20 THIS CASE?

21 A DOES IT DIMINISH IT?

22 Q YEAH, DOES HE GET LESS RESPECT BECAUSE HE
23 DIDN'T WHACK ANOTHER GANG MEMBER?

24 A NO.

25 Q DOES HE GET RESPECT IF THE VICTIM IS A GANG
26 MEMBER OR NOT A GANG MEMBER?

1 A YES.

2 Q WOULD YOU EXPECT EACH AND EVERY ONE OF THE
3 INDIVIDUALS WHO WAS WITH FRANK LOPEZ AT THAT POINT IN TIME
4 TO BACK HIM UP, FOR INSTANCE, IF THE VICTIM GOT THE DROP ON
5 HIM?

6 A OH, YES, DEFINITELY.

7 Q WHY?

8 A IT'S PART OF THE REASON OF GOING TOGETHER.
9 IT'S TO BACK EACH OTHER UP.

10 MR. GELLER: THANK YOU. I HAVE NOTHING FURTHER.

11 MR. LAZ: NO FURTHER.

12 MR. DE GIACOMO: I HAVE NOTHING.

13 #RE CROSS-EXAMINATION

14 BY MR. HARLEY: Q NON-F-TROOP PEOPLE WHO ARE NOT
15 F-TROOP GANG MEMBERS ALSO HANG AROUND EL SALVADOR PARK,
16 THOUGH; IS THAT CORRECT?

17 A YES, SIR.

18 Q NOW, YOU'VE TALKED ABOUT IN YOUR OPINION YOU
19 FELT THIS IS COMMITTED FOR THE BENEFIT OF A STREET GANG; IS
20 THAT CORRECT?

21 A YES.

22 Q BUT YOU'VE ALSO SAID REPEATEDLY THAT
23 EVERYTHING IS POSSIBLE, CORRECT?

24 A SURE.

25 Q SO, WOULD IT BE A FAIR STATEMENT TO SAY THAT
26 IT'S REASONABLY POSSIBLE THIS SHOOTING COULD HAVE OCCURRED

1 WITHOUT THE STREET GANG MOTIVATION?

2 A WELL, AGAIN, EVERYTHING IS POSSIBLE. LOOK
3 AT THE PROBABILITY OF THAT FROM THE FACTS OF THIS CASE, AND
4 I WOULD SAY MY OPINION, NO ON THIS CASE.

5 Q OKAY. I KNOW YOUR OPINION IN THIS CASE IS
6 NO. BUT I'M ASKING YOU A DIFFERENT QUESTION. IS IT
7 REASONABLY POSSIBLE, RECOGNIZING THE FACT YOU'VE EXPRESSLY
8 STATED IN COURT THAT EVERYTHING IS POSSIBLE?

9 A SURE.

10 Q IS IT POSSIBLE THAT IT COULD HAVE BEEN FOR A
11 DIFFERENT REASON, THAN FOR THE BENEFIT OF A CRIMINAL STREET
12 GANG?

13 A IT'S -- EVERYTHING IS POSSIBLE.

14 Q OKAY. AND WHEN YOU KEEP ON SAYING
15 EVERYTHING IS POSSIBLE, EVERYTHING IS POSSIBLE. EVERYTHING
16 IS REASONABLY POSSIBLE, CORRECT?

17 A YES.

18 MR. HARLEY: NOTHING FURTHER.

19 MR. DE GIACOMO: NOTHING FURTHER.

20 MR. GELLER: NO QUESTIONS.

21 MR. LAZ: NO FURTHER QUESTIONS.

22 MR. REED: NO QUESTIONS.

23 THE COURT: THANK YOU. I THINK YOU'RE DONE.

24 MR. GELLER: I HAVE NO FURTHER TESTIMONY. I WOULD
25 ASK THAT MY EXHIBITS BE ADMITTED INTO EVIDENCE, THE
26 CERTIFIED COPIES OF THE PREDICATES.

1 THE COURT: RECEIVED.

2 (WHEREUPON, EXHIBITS NO. 1 THROUGH 2
3 WERE RECEIVED IN EVIDENCE.)

4 MR. GELLER: PEOPLE REST.

5 MR. BAILEY: NO AFFIRMATIVE DEFENSE ON BEHALF OF
6 MR. DE LA RIVA, BUT I WOULD ASK THAT A, B AND C BE OFFERED
7 INTO EVIDENCE.

8 THE COURT: RECEIVED.

9 (WHEREUPON, EXHIBITS NO. A, C AND D
10 WERE RECEIVED IN EVIDENCE.)

11 MR. HARLEY: YOUR HONOR, I HAVE NO AFFIRMATIVE
12 DEFENSE, BUT I AM PREPARED TO SUBMIT SOME PRIOR TESTIMONY.
13 WE'VE BEEN OBJECTING ALL ALONG. WE HAVEN'T WAIVED THE
14 RIGHT TO A SPEEDY PRELIM. I'M TRYING TO MAKE THIS PART OF
15 THE PRELIM RECORD SO I CAN -- SO IT APPEARS THE FOUR
16 CORNERS IN THE PRELIM TRANSCRIPT, AND I CAN DO MY 995
17 MOTION UPSTAIRS.

18 SO I'D LIKE TO MARK THAT AS EXHIBIT B, IF
19 THAT'S OKAY WITH THE COURT, JUST FILE IT WITH THE COURT.

20 HANG ON, I MIGHT HAVE MISSPOKE.

21 THE COURT: WHAT IS THAT DOCUMENT?

22 MR. HARLEY: THIS IS A BUNCH OF TRANSCRIPTS. I'VE
23 BEEN OBJECTING ALL ALONG BECAUSE SINCE HE HAS BEEN
24 ARRAIGNED, AND IN DECEMBER OF LAST YEAR, WE'VE BEEN
25 DEMANDING OUR RIGHT TO A SPEEDY PRELIM. AND EVERY TIME
26 I'VE DEMANDED IT, I'VE BEEN DISRESPECTED. AND I TAKE NO

1 PERSONAL OFFENSE, YOUR HONOR. I'M GOING TO CALL IT B. I
2 JUST WANT IT LODGED WITH THE COURT.

3 THE COURT: OKAY.

4 MR. HARLEY: AND THE COURT UNDERSTANDS I'M STILL
5 MAKING MY MOTION TO DISMISS BECAUSE OF OUR STATUTORY SPEEDY
6 RIGHT. SPEEDY PRELIM VIOLATION, THAT'S ALL.

7 (WHEREUPON EXHIBIT B, TRANSCRIPTS, WERE
8 MARKED FOR IDENTIFICATION.)

9 THE COURT: IS THAT IT FOR YOU?

10 MR. HARLEY: YES, SIR.

11 MR. DE GIACOMO: NO AFFIRMATIVE DEFENSE AS TO
12 ANDRES REYES, YOUR HONOR. SUBMIT.

13 MR. LAZ: SUBMIT AS TO ISRAEL LOPEZ.

14 MR. REED: SUBMITTED AS TO MR. PEREZ, YOUR HONOR.

15 MR. GELLER: I THINK THE MOTION TO HAVE THE
16 DEFENDANTS BOUND OVER. THE ONLY CAVEAT, THE SPECIAL
17 CIRCUMSTANCE, I'M ONLY GOING TO ASK AS RELATES TO
18 MR. HARLEY'S CLIENT. I THINK MY BURDEN IS TO SHOW THAT HE
19 ACTUALLY, IN ORDER FOR THIS SPECIAL CIRCUMSTANCE, THAT WE
20 ALLEGED SOMEBODY ACTUALLY DID KILL SOMEBODY FOR THE BENEFIT
21 OF THE CRIMINAL STREET GANG. AND YOU HAVE TO ACTUALLY BE
22 THE KILLER TO BE HELD ACCOUNTABLE UNDER THAT SPECIAL
23 CIRCUMSTANCE.

24 SO, I WOULD MOVE TO STRIKE THAT FROM THE
25 ALLEGATION AS RELATES TO THE OTHER FOUR DEFENDANTS.

26 THE COURT: OKAY.

1 MR. GELLER: WHICH IN TURN IF THE COURT WAS TO BIND
2 OVER, WOULD ALLOW THEM TO BE ELIGIBLE FOR BAIL, AND I'D BE
3 ASKING FOR A MILLION DOLLARS ON EACH OF THEM.

4 THE COURT: OKAY. ANYBODY WANT TO BE HEARD?

5 MR. LAZ: NO.

6 MR. BAILEY: SUBMITTED.

7 MR. REED: SUBMITTED.

8 MR. HARLEY: SUBMITTED.

9 THE COURT: WELL, THE COURT WILL FIND THAT THE
10 OFFENSES ALLEGED IN COUNTS 1, 2 OF THE 2780 COMPLAINT WERE
11 COMMITTED, PROBABLY. AND 1, 2 AND 3 OF THE 2720 COMPLAINT,
12 WERE COMMITTED. AND THAT THE DEFENDANTS PROBABLY COMMITTED
13 THE SAME.

14 AS TO THE SPECIAL CIRCUMSTANCE, THAT'S TRUE
15 AS TO LOPEZ.

16 MR. GELLER: FRANK LOPEZ, YES, SIR.

17 THE COURT: ONLY. AND ORDER THE DEFENDANTS TO
18 ANSWER TO INFORMATION TO BE FILED IN 5 ON THE 10TH OF MAY,
19 AT 9:00 A.M. BAIL REMAINS AT A MILLION.

20 MR. GELLER: BAIL HAS NOT BEEN SET BECAUSE THEY
21 HAVE ALL BEEN HELD WITHOUT BAIL BECAUSE OF THE SPECIAL
22 CIRCUMSTANCE. SO, I THINK THE COURT WOULD NEED TO ORDER
23 BAIL AT A MILLION DOLLARS.

24 THE COURT: OKAY. 1 MILLION.

25 MR. GELLER: AND I PRESUME THE COURT ALSO DID FIND
26 TRUE THE ENHANCEMENTS THAT I'VE ALLEGED.

1 THE COURT: TRUE. TRUE. AND THERE'S A COUPLE OF
2 OTHER PV'S OR THINGS THAT GO ALONG WITH THIS, THEY'LL JUST
3 STAY TAGGING ALONG.

4 MR. LAZ: OKAY.

5 THE COURT: I HAVE A RESISTING.

6 MR. GELLER: I'LL MAKE A MOTION TO DISMISS.

7 THE COURT: IT'S GONE. DO YOU WANT THE EXHIBITS
8 RETURNED?

9 MR. HARLEY: I WANT MINE MADE PART OF THE RECORD.
10 I JUST WANT TO INCORPORATE IT INTO THE PRELIM TRANSCRIPT
11 SENT UP TO C5.

12 THE COURT: THAT WAS YOUR MEMO, RIGHT.

13 MR. HARLEY: IT'S JUST PRIOR REPORTER'S TRANSCRIPTS
14 OF PROCEEDINGS WHERE I SHOWED UP AND OBJECTED CONTINUOUSLY
15 TO THE SETTING BEYOND THE 10-DAY AND THE 60 DAYS FOR
16 PRELIMINARY HEARING PURPOSES.

17 THE COURT: RIGHT, OKAY.

18 MR. HARLEY: I JUST NEED IT PART OF THE RECORD.

19 THE COURT: HOW ABOUT THE OTHER EXHIBITS, DO YOU
20 ALL WANT THEM BACK?

21 MR. GELLER: I CAN HOLD ON TO MY PREDICATE
22 OFFENSES.

23 DO YOU GUYS MIND IF WE RETURN THE REST?

24 MR. LAZ: THAT'S FINE.

25 THE COURT: OKAY. EVERYBODY STIPULATES TO RETURN
26 OF THE EXHIBITS EXCEPT FOR MR. HARLEY'S.

1 MR. DE GIACOMO: SO STIPULATED.

2 MR. REED: SO STIPULATED.

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.

I, HEIDI K. STEWART, CSR #6058, DO HEREBY
CERTIFY THAT THE WITHIN AND FOREGOING TRANSCRIPT, IS A
FULL, TRUE AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES
THEREOF, AND A FULL, TRUE AND CORRECT STATEMENT OF THE
TESTIMONY AND PROCEEDINGS HAD IN SAID CAUSE.

DATED: APRIL 30, 2005


OFFICIAL COURT REPORTER

MINUTE ORDER

Case Number 04CF2780.F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|-------------------|
| 1. Docket Date Range | : Date filter |
| 2. Sequence Number Range | : Sequence filter |
| 3. Docket Category | : Category filter |

<u>Docket Dt</u>	<u>Seg</u>	<u>Text</u>
4/26/2005	1	Hearing held on 04/26/2005 at 10:30:00 AM in Department C50 for Preliminary Hearing.
	2	Officiating Judge: Byron K. Mc Millan, Judge
	3	Clerk: M. Torrez
	4	Bailiff: S. M. Kennedy
	5	Court Reporter: Heidi Stewart
	6	People represented by Mark Geller, Deputy District Attorney, present.
	7	Defendant present in Court with counsel DiGiacomo, Frank, Retained Attorney.
	8	Investigator Bo Herter, previously sworn, resumes testimony.
	9	Witness excused.
	10	People's Exhibit # 1 and 2 received into evidence.
	11	People rest.
	12	No affirmative defense.
	13	Defense Exhibit # A, C, and D received into evidence.
	14	Motion by People that defendant be Held To Answer as charged in the complaint as to count(s) 1, 2.
	15	Defense submits.
	16	It appearing to the Court that a felony has been committed and there being sufficient and probable cause to believe that the Defendant committed said felony, Defendant is hereby ordered HELD TO ANSWER on 05/10/2005 at 09:00 AM in Department C5 as to count(s) 1, 2. Defendant ordered to appear.
	17	Court orders bail reset in the amount of \$1, 000, 000.00.
	18	Defendant remanded to the custody of the Sheriff.
	19	Notice to Sheriff issued.
	20	Counsel stipulate to the return of all exhibits to each party with the exception of Defense Exhibit #B (for defendant Francisco Jose Lopez).

#19-23

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 09 2005

ALAN SLATER, Clerk of the Court

1 TONY RACKAUCKAS, DISTRICT ATTORNEY
2 COUNTY OF ORANGE, STATE OF CALIFORNIA
3 POST OFFICE BOX 808 SANTA ANA, CALIFORNIA 92702 BY: TINA EBBERT DEPUTY
4 TELEPHONE: (714) 834-3600

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Filed this 10th day of May, 2005

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO. <u>04CF2780</u>
)	CONSOLIDATED FROM
Plaintiff,)	04CF2720
)	
vs.)	
)	INFORMATION
FRANCISCO JOSE LOPEZ	12/11/83)	"SPECIAL
D3034718)	CIRCUMSTANCES"
ISRAEL LOPEZ	02/14/83)	
X5180732)	
ANDRES QUINONEZ REYES	01/14/89)	
AKA ANDY REYES)	
SEVERO JOSE DE LA RIVA	08/05/88)	
LOUIS PEREZ	02/24/88)	
)	
	Defendant(s))	

THE DISTRICT ATTORNEY OF ORANGE COUNTY hereby accuses the
aforenamed defendant(s) of violating the law at and within the
County of Orange as follows:

COUNT 1: On or about August 10, 2004, in violation of Section
187(a) of the Penal Code (MURDER), a FELONY, FRANCISCO JOSE
LOPEZ, ISRAEL LOPEZ, ANDRES QUINONEZ REYES, SEVERO JOSE DE LA
RIVA and LOUIS PEREZ did unlawfully and with malice aforethought
murder PEDRO JAVIER ROSARIO, a human being.

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*See m.d. of 5-24-06
Re. Defendant
Amendments. jh*

1 COUNT 2: On or about August 10, 2004, in violation of Section
2 186.22(a) of the Penal Code (STREET TERRORISM), a FELONY,
3 FRANCISCO JOSE LOPEZ, ISRAEL LOPEZ, ANDRES QUINONEZ REYES and
4 LOUIS PEREZ did unlawfully actively participate in F-TROOP, a
5 criminal street gang, with knowledge that its members engage in
6 and have engaged in a pattern of criminal gang activity, and did
7 willfully and unlawfully promote, further, and assist in felony
8 criminal conduct by members of that gang.

9 COUNT 3: On or about August 10, 2004, in violation of Section
10 186.22(a) of the Penal Code (STREET TERRORISM), a FELONY, SEVERO
11 JOSE DE LA RIVA did unlawfully actively participate in 5th
12 STREET, a criminal street gang, with knowledge that its members
13 engage in and have engaged in a pattern of criminal gang
14 activity, and did willfully and unlawfully promote, further, and
15 assist in felony criminal conduct by members of that gang.

16 SPECIAL ALLEGATION(s)

17 As to Count(s) 1, it is further alleged pursuant to Penal Code
18 section 190.2(a)(22) (MURDER COMMITTED FOR CRIMINAL STREET GANG
19 PURPOSE), that defendant LOUIS PEREZ intentionally murdered
20 PEDRO JAVIER ROSARIO while the defendant was an active
21 participant in F-TROOP, a criminal street gang, and the
22 murder was carried out to further the activities of that
23 criminal street gang.

24 JURISDICTIONAL ALLEGATION(s)

25 As to Count(s) 1, it is further alleged within the meaning of
26 Welfare and Institutions Code section 707(d) (DIRECT FILE OF
27 JUVENILE) that the minor(s) was sixteen (16) years of age and
28 older when the minor(s) committed: 187(a). 14

CONDUCT ENHANCEMENT(s)

As to Count(s) 1, it is further alleged pursuant to Penal Code
section 186.22(b)(1) (CRIMINAL STREET GANG ACTIVITY), defendants
FRANCISCO JOSE LOPEZ, ISRAEL LOPEZ, ANDRES QUINONEZ REYES, LOUIS
PEREZ and SEVERO JOSE DE LA RIVA committed the above offense for
the benefit of, at the direction of, and in association with F-
TROOP, a criminal street gang, with the specific intent to
promote, further, and assist in criminal conduct by members of
that gang.

1 As to Count(s) 1, it is further alleged pursuant to Penal Code
2 section 12022.53(d) (PERSONAL DISCHARGE OF FIREARM CAUSING
3 DEATH), and within the meaning of Penal Code sections 1192.7 and
4 667.5, that defendant FRANCISCO JOSE LOPEZ intentionally and
5 personally discharged a firearm proximately causing death to
6 PEDRO JAVIER ROSARIO, who was not an accomplice, during the
7 commission and attempted commission of the above offense.


8 As to Count(s) 1, it is further alleged pursuant to Penal Code
9 sections 12022.53(d) and (e)(1) (GANG MEMBER VICARIOUS DISCHARGE
10 FIREARM CAUSING DEATH), and within the meaning of Penal Code
11 sections 1192.7 and 667.5, defendants ISRAEL LOPEZ, ANDRES
12 QUINONEZ REYES, SEVERO JOSE DE LA RIVA and LOUIS PEREZ was a
13 principal in the commission of a felony, which the defendants
14 committed for the benefit of, at the direction of, and in
15 association with a criminal street gang, with the specific
16 intent to promote, further, and assist in criminal conduct by
17 gang members, within the meaning of Penal Code section 186.22
18 (b), and that during the commission and attempted commission of
19 the above offense, another principal intentionally discharged a
20 firearm causing great bodily injury and death to PEDRO JAVIER
21 ROSARIO, who was not an accomplice.

22 As to Count(s) 1, it is further alleged pursuant to Penal Code
23 section 186.22(b)(1) (CRIMINAL STREET GANG ACTIVITY), defendant
24 SEVERO JOSE DE LA RIVA committed the above offense for the
25 benefit of, at the direction of, and in association with 5TH
26 STREET, a criminal street gang, with the specific intent to
27 promote, further, and assist in criminal conduct by members of
28 that gang.

DATED:

TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF CALIFORNIA

BY:


Deputy District Attorney

04F10373

1 NOTICES:

2 The People request that defendant and counsel disclose, within
3 15 days, all of the materials and information described in Penal
4 Code section 1054.3, and continue to provide any later-acquired
5 materials and information subject to disclosure, and without
6 further request or order.

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MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/10/2005	1	Hearing held on 05/10/2005 at 09:00:00 AM in Department C5 for Arraignment.
	2	# 23 on calendar.
	3	Officiating Judge: Daniel J. Didier, Judge
	4	Clerk: C. Neuenschwander
	5	Bailiff: C. J. Thurber
	6	Court Reporter: Marlene Iannello
	7	Richard H Coombs Jr makes a special appearance for Frank DiGiacomo, Retained Attorney. Defendant present.
	8	Steven Baric made a special appearance for District Attorney Mark Geller.
	9	Arraignment continued to 06/14/2005 at 08:00 AM in Department C5 at request of Defense.
	10	Defendant waives statutory time for Arraignment.
	11	Counsel joins in waivers.
	12	Hearing of 6/14/05 is designated Day 0 of 60 with the time waiver.
	13	Defendant ordered to return.
	14	Defendant remanded to the custody of the Sheriff.
	15	Current bail set for defendant to remain.
	16	Notice to Sheriff issued.
	17	Minutes entered by T. Ebbert.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/14/2005	1	Hearing held on 06/14/2005 at 08:00:00 AM in Department C5 for Arraignment.
	2	# 21 on calendar.
	3	Officiating Judge: Daniel J. Didier, Judge
	4	Clerk: C. Neuenschwander
	5	Bailiff: J. J. Hager
	6	Court Reporter: Marlene Iannello
	7	Frank DiGiacomo relieved as Counsel of Record.
	8	Court appoints James Brott, Conflict Attorney, to represent Defendant.
	9	Julian W. Bailey makes a special appearance for James Brott, Conflict Attorney. Defendant present.
	10	Steven Baric made a special appearance for District Attorney Mark Geller.
	11	Copy of Original Information given to defendant.
	12	Defendant waives reading and advisement of the Original Information.
	13	To the Original Information defendant pleads NOT GUILTY to all counts.
	14	Defendant denies all enhancements.
	15	Counsel joins in waivers and plea.
	16	Case assigned for all purposes to Department C45, Judge Francisco P. Briseno. Time estimate 20 days. Pre Trial re: Trial Setting Conference set on 06/24/2005 at 08:00 AM.
	17	Defendant ordered to appear.
	18	Defendant remanded to the custody of the Sheriff.
	19	Current bail set for defendant to remain.
	20	Notice to Sheriff issued.
	21	Minutes entered by T. Ebbert.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/24/2005	1	Copy of transcripts Vol 1 and 2 given to Attorney James W. Brott.
	2	Hearing held on 06/24/2005 at 08:00:00 AM in Department C45 for Pre Trial Trial Setting Conference.
	3	Officiating Judge: Francisco P. Briseno, Judge
	4	Clerk: S. Hauer
	5	Bailiff: J. M. Croom
	6	Court Reporter: Aaron Mintz
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	Defendant remains in holding cell, not brought into courtroom.
	9	Jennifer Contini made a special appearance for District Attorney Mark Geller.
	10	Jury Trial set on 08/01/2005 at 08:30 AM in Department C45.
	11	8-1-05 is day 47 of 60.
	12	Defendant and Counsel ordered to appear.
	13	Defendant remanded to the custody of the Sheriff.
	14	Current bail set for defendant to remain.
	15	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
8/1/2005	1	Hearing held on 08/01/2005 at 08:30:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: J. M. Croom
	5	Court Reporter: Aaron Mintz
	6	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	7	People represented by Mark Geller, Deputy District Attorney, present.
	8	Court and counsel confer, informally, in chambers.
	9	Defendant waives statutory time for Jury Trial.
	10	Counsel joins in waivers.
	11	Jury Trial trailed to 11/28/2005 at 09:00 AM in Department C45.
	12	Defendant and Counsel ordered to appear.
	13	Defendant remanded to the custody of the Sheriff.
	14	Current bail set for defendant to remain.
	15	Notice to Sheriff issued.

SUPERIOR COURT THE STATE OF CALIFORNIA, COUNTY OF ORANGE

MINUTE ORDER

Case Number 04CF2780.F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
11/28/2005	1	Hearing held on 11/28/2005 at 09:00:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: J. M. Croom
	5	No Court Reporter present at proceedings.
	6	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	7	Defendant remains in holding cell, not brought into courtroom.
	8	On the Court's own motion matter is to be trailed until tomorrow afternoon
	9	Jury Trial trailed to 11/29/2005 at 01:30 PM in Department C45.
	10	Defendant and Counsel ordered to appear.
	11	Defendant remanded to the custody of the Sheriff.
	12	Current bail set for defendant to remain.
	13	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
11/29/2005	1	Hearing held on 11/29/2005 at 01:30:00 PM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: J. M. Croom
	5	Court Reporter: Aaron Mintz
	6	Randy Ladisky makes a special appearance for James Brott, Conflict Attorney. Defendant present.
	7	Daniel Wagner made a special appearance for District Attorney Mark Geller.
	8	Defendant waives Counsel's presence for this hearing only.
	9	Defendant waives statutory time for Jury Trial.
	10	Counsel joins in waivers.
	11	Jury Trial trailed to 03/06/2006 at 09:00 AM in Department C45.
	12	Defendant and Counsel ordered to appear.
	13	Defendant remanded to the custody of the Sheriff.
	14	Current bail set for defendant to remain.
	15	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
3/6/2006	1	Hearing held on 03/06/2006 at 09:00:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff:. Present
	5	Court Reporter: Aaron Mintz
	6	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	7	People represented by Mark Geller, Deputy District Attorney, present.
	8	Defendant waives statutory time for Jury Trial.
	9	Counsel joins in waivers.
	10	Jury Trial trailed to 05/15/2006 at 09:00 AM in Department C45.
	11	Defendant and Counsel ordered to appear.
	12	Defendant remanded to the custody of the Sheriff.
	13	Current bail set for defendant to remain.
	14	Notice to Sheriff issued.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/15/2006	1	Hearing held on 05/15/2006 at 09:00:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: Present
	5	No Court Reporter present at proceedings.
	6	No appearances
	7	Jury Trial trailed to 05/16/2006 at 09:00 AM in Department C45.
	8	Defendant and Counsel ordered to appear.
	9	Defendant remanded to the custody of the Sheriff.
	10	Current bail set for defendant to remain.
	11	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780_F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/16/2006	1	Hearing held on 05/16/2006 at 09:00:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: Present
	5	Court Reporter: Aaron Mintz
	6	Julian W. Bailey makes a special appearance for James Brott, Conflict Attorney. Defendant present. Defendant remains in holding cell.
	7	Mr. Brott was present prior to Court taking the bench
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	Case called. People answer ready. Defense answers ready.
	10	Department C5 notify that counsel are answering ready for trial. Case needs to be reassigned for trial
	11	Matter to trail day to day in this department pending reassignment
	12	Jury Trial trailed to 05/17/2006 at 09:00 AM in Department C45.
	13	Defendant and Counsel ordered to appear.
	14	Defendant remanded to the custody of the Sheriff.
	15	Current bail set for defendant to remain.
	16	Notice to Sheriff issued.

SUPERIOR COURT - THE STATE OF CALIFORNIA, COUNTY OF ORANGE

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/17/2006	1	Hearing held on 05/17/2006 at 09:00:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: Present
	5	No Court Reporter present at proceedings.
	6	No appearances
	7	Matter continues to trail in this department pending reassignment for trial
	8	Hearing held on 05/17/2006 at 02:00 PM in Department C5 for Further Proceedings.
	9	Officiating Judge: Kazuharu Makino, Judge
	10	Clerk: S. Hauer
	11	Court Reporter: Colleen Flynn
	12	Bailiff: C. J. Thurber
	13	No appearance by defense counsel
	14	Defendant remains in holding cell, not brought into courtroom.
	15	People represented by Mark Geller, Deputy District Attorney, present.
	16	Witness Angelica Contreras ordered to return on 05/23/2006 at 09:00 AM in Department C45.
	17	Witness Michael Contreras ordered to return on 05/23/2006 at 09:00 AM in Department C45.
	18	Witness Leticia Reyes ordered to return on 05/23/2006 at 09:00 AM in Department C45.
	19	Witness Eddie Reyes ordered to return on 05/23/2006 at 09:00 AM in Department C45.
	20	Jury Trial trailed to 05/18/2006 at 09:00 AM in Department C45.
	21	Defendant and Counsel ordered to appear.
	22	Defendant remanded to the custody of the Sheriff.
	23	Current bail set for defendant to remain.
	25	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/18/2006	1	Hearing held on 05/18/2006 at 09:00:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: Present
	5	No Court Reporter present at proceedings.
	6	No appearances
	7	Matter continues to trail in Department C45 pending reassignment for trial
	8	Jury Trial trailed to 05/22/2006 at 09:00 AM in Department C45.
	9	Defendant and Counsel ordered to appear.
	10	Current bail set for defendant to remain.
	12	Copy of jail paper faxed to Santa Ana Jail this date
	13	Notice to Sheriff issued.
	14	Notice to Sheriff issued.

IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 22 2006

ALAN SLATER, Clerk of the Court

BY S. HAUER DEPUTY

People

Plaintiff/Petitioner

Case No. 04CF2780

v.

DECLARATION IN SUPPORT OF MOTION
RE DISQUALIFICATION OF JUDGE
(C.C.P. 170.6)

Andres Reyes

Defendant/Respondent

James Brott

declares

that DECLARANT is the attorney for Andres Reyes
a party to the within action, and in support of DECLARANT'S motion to disqualify judge, states
as follows:

That Michael Stamford, the judge before whom the
(NAME OF JUDGE)
trial or hearing in the aforesaid action or special proceeding is pending, or to whom it is
assigned, is prejudiced against the party or party's attorney, or the interest of the party or
party's attorney, so that DECLARANT cannot, or believes that he/she cannot, have a fair and
impartial trial or hearing before such judge.

The aforementioned judge has/has not presided over a hearing, motion, or proceeding
in the past in this case.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

Dated: 5/22/06

[Signature]

(SIGNATURE OF DECLARANT)

1 TONY RACKAUCKAS, DISTRICT ATTORNEY
2 COUNTY OF ORANGE, STATE OF CALIFORNIA
3 MARK GELLER,
4 DEPUTY DISTRICT ATTORNEY
5 700 CIVIC CENTER DR. W.
6 SANTA ANA, CA 92701
7 (714) 834-3600

8 Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 22 2006

ALAN SLATER, Clerk of the Court

By: R. Healy, Deputy *RH*

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF ORANGE

11 THE PEOPLE OF THE STATE OF CALIFORNIA,)

12 Plaintiff,)

13 vs.)

14 ANDRES QUINONEZ REYES)

15 Defendant(s),)

CASE NO. 04CF2780

WITNESS LIST

16 The People hereby submit the following names as potential witnesses at trial:

17 SANTA ANA POLICE DEPARTMENT OFFICERS:

18 KEVIN RUIZ

19 FIDENCIO ZEPEDA

20 ROCKY EDWARDS

21 BO HERTER

22 RICK ASHBY

23 DAVE RONDOU

24 JEFF LAUNI

25 STEVE HAHM

26 GARTH BRACKMAN

27 EDDIE NUNEZ

28 RON CASTILLO

1 MAURICIO ESTRADA
2 FRANK GOMEZ
3 DAVE YETTAW
4 COSTA MESA POLICE DEPARTMENT OFFICERS:
5 MATT SELINSKE
6 BRYAN GLASS
7 ROBERT BLAIR
8 MIKE GINTHER
9
10 ORANGE COUNTY SHERIFF'S CRIME LAB EMPLOYEES:
11 KEVIN ANDERA
12 MARY STANDFORD
13 OMAR LAZO
14 TOM DICKAN
15 CIVILIANS:
16 STEVE GARCIA
17 EDDIE REYES
18 STEVEN SILBAS
19 ESTHER RODRIGUEZ
20 ANNA DESANTOS
21 FELIX NIEVES
22 EDGAR LOPEZ
23 MICHAEL CONTRERAS
24 FELIX JAIMES
25 EDGAR CASTRO
26 OLGA CASTRO
27
28

1 **NOTE:** This is only a list of potential witnesses, and the People are not representing and/or
2 guaranteeing that these witnesses will be under subpoena for trial purposes. Should the defense
3 require testimony from any of these witnesses for their case, they should serve them with appropriate
4 subpoenas to appear in court.

5
6 DATED: May 15, 2006

7 Respectfully submitted,

8 TONY RACKAUCKAS, DISTRICT ATTORNEY
9 COUNTY OF ORANGE, STATE OF CALIFORNIA

10 BY:

11 
12 MARK GELLER

13 DEPUTY DISTRICT ATTORNEY

14 F:\WITLIST.2

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/22/2006	1	Hearing held on 05/22/2006 at 09:00:00 AM in Department C45 for Jury Trial.
	2	Officiating Judge: Francisco P. Briseno, Judge
	3	Clerk: S. Hauer
	4	Bailiff: Present
	5	No Court Reporter present at proceedings.
	6	No appearances by counsel.
	7	Defendant remains in holding cell, not brought into courtroom.
	8	Matter trailing for reassignment for trial
	9	Matter to be reassigned to North Justice Center, Department N10, Judge Stanford. Counsel notified. Counsel for defendant James Brott advised the clerk he will file a 170.6 Penal Code against Judge Stanford.
	10	Affidavit of prejudice pursuant to Civil Code of Procedure 170.6 filed by James Brott for defendant against Richard W. Stanford Jr, Judge.
	11	Department C5 notified of Affidavit of Prejudice by defense
	12	Jury Trial reassigned for 05/22/2006 at 03:00 PM in Department C36, Judge Carla M. Singer, for all purposes.
	21	Defendant and Counsel ordered to appear.
	22	Defendant remanded to the custody of the Sheriff.
	23	Current bail set for defendant to remain.
	24	Notice to Sheriff issued.
	25	Hearing held on 05/22/2006 at 03:00:00 PM in Department C36 for Jury Trial.
	26	Officiating Judge: Carla M. Singer, Judge
	27	Clerk: B. Healy
	28	Bailiff: J. Hanson
	29	No Court Reporter present at proceedings.
	30	Defendant remains in holding cell, not brought into courtroom.
	31	Defendant not present in Court represented by James Brott, Conflict Attorney.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/22/2006	32	People represented by Mark Geller, Deputy District Attorney, present.
	33	Court conferred off record in chambers with Deputy D.A. Geller and defendant's counsel Brott. Jury selection to commence tomorrow morning; Evidence Code 402 hearings reserved for 5-24-06.
	34	Jury Trial continued to 05/23/2006 at 09:00 AM in Department C36 upon Court's own motion.
	35	Defendant ordered to return.
	36	Defendant remanded to the custody of the Sheriff.
	37	Current bail set for defendant to remain.
	38	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/23/2006	1	Hearing held on 05/23/2006 at 09:00:00 AM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 09:20 AM
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	People's witness Eddie Reyes, a minor, present with his mother Leticia Reyes.
	10	People's witness Michael Contreras, a minor, present with his mother Angelica Contreras. With agreement of Mrs. Contreras, witness placed on call to the District Attorney's office.
	11	Witness Eddie Reyes ordered to return on 05/31/2006 at 09:00 AM in Department C36.
	12	Court in recess at 9:30 a.m. to await prospective jurors.
	13	This case came on regularly for trial.
	14	Roll call having been taken, prospective jurors were sworn for examination.
	15	In open court at 09:45 AM
	16	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	17	People represented by Mark Geller, Deputy District Attorney, present.
	18	Prospective jurors are present and in their proper places.
	19	Voir Dire examination commenced.
	20	The Court heard individual hardship excuses before calling prospectives to jury box. Two prospective jurors were granted deferrals of service, two were excused for financial hardship, and one pursuant to stipulation and order.
	21	At 10:10 AM, Court admonishes prospective jurors and declares a recess.
	22	Again in open court at 10:30 AM, Defendant present with counsel. People duly represented. Prospective Jurors present in their proper places.

MINUTE ORDER

Case Number 04CF2780 F A

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

People Vs Reyes, Andres Quinonez

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/23/2006	23	Voir Dire examination resumed.
	24	Prospective jurors were called by the clerk to fill the jury box.
	25	One prospective juror who did not speak English was excused pursuant to stipulation and order.
	26	At 11:55 AM, Court admonishes prospective jurors and declares a recess.
	27	Proceedings held outside the presence and hearing of the jurors.
	28	The Court requested prospective juror #1 to remain and she was examined about English-as-second-language concerns before she was excused for the lunch hour.
	29	Defendant's counsel challenged six prospective jurors for cause, only two of which the People opposed. All six challenges granted and the prospective jurors will be excused after the noon recess. Defendant's counsel requested that the Court instruct further on "vicarious vs personal use" and in response to one prospective juror's comment that a non-deliberating juror can be gotten rid of. The Court refused the requests and declared a recess until 1:30 p.m.
	30	Again in open court at 01:35 PM, Defendant present with counsel. People duly represented. Prospective Jurors present in their proper places.
	31	Court excused 5 prospective juror(s) for cause.
	32	Peremptory challenge exercised by People.
	33	Seven names called from random list of prospective jurors to re-fill box and chairs; voir dire resumed.
	34	Peremptory challenge exercised by People and Defense.
	35	Defense accepted the jury as presently constituted.
	36	Peremptory challenge exercised by People.
	37	At 02:10 PM, Court and Counsel confer in chambers with Court Reporter present.
	38	In chambers, counsel Brott brought Wheeler motion and requested that the People be admonished or that the panel be stricken. Arguments heard, but the Court recess for research before any ruling. Court, counsel and staff returned to open court where prospective jurors were excused for brief recess.
	39	At 02:20 PM, Court admonishes prospective jurors and declares a recess.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/23/2006	40	Again in open court at 02:40 PM, Defendant present with counsel. People duly represented.
	41	The Court denied the Wheeler motion and cautioned the People against excusing any or all prospective jurors just for youthfulness.
	42	Again in open court at 02:45 PM, Defendant present with counsel. People duly represented. Prospective Jurors present in their proper places.
	43	Seven more prospective jurors called to box and chairs; voir dire resumed.
	44	At 03:10 PM, Court and Counsel confer in chambers with Court Reporter present.
	45	In chambers, defendant's two challenges for cause granted without objection of the People. Court, counsel and staff returned to open court.
	46	Court excused 2 prospective juror(s) for cause.
	47	Peremptory challenge exercised by People.
	48	Both sides accepted the jury as presently constituted.
	49	Motion by Defense to re-open peremptory challenges granted.
	50	Peremptory challenge exercised by Defense.
	51	People accepted the jury as presently constituted.
	52	Peremptory challenge exercised by Defense.
	53	At 03:20 PM, Court and Counsel confer in chambers without Court Reporter present.
	54	Both sides accepted the jury as presently constituted.
	55	Twelve jurors accepted and sworn.
	56	Voir Dire examination for alternates commences.
	57	At 03:50 PM, court admonished jurors and declared a recess.
	58	Proceedings held outside the presence and hearing of the jurors.
	59	Defendant's challenge for cause as to three prospective jurors granted without opposition. The People's challenge for cause was opposed and denied. Court in recess. During the recess and off record, counsel stipulated to excuse three prospective jurors, one due to illness and two who had been examined as prospective alternate jurors; so ordered.
	60	Again in open court at 04:15 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/23/2006	61	Prospective jurors present for continued alternate voir dire.
	62	Court excused 3 prospective juror(s) for cause.
	63	Five more prospective jurors called to chairs and voir dire for alternates resumed.
	64	At 04:30 PM, Court and Counsel confer in chambers without Court Reporter present.
	65	At unreported sidebar, counsel stipulated to three specific jurors as alternates; so ordered and all returned to open court.
	66	Both sides accepts the alternate jurors.
	67	12 jurors and 3 alternates were sworn by the clerk to hear this matter. Disposition of panel jurors is reported on the random list and included by reference.
	68	Court thanked and excused remaining prospective jurors to Jury Assembly Room.
	69	At 04:40 PM, Court admonished jurors and declared a recess to reconvene on 05/25/2006 at 09:00 AM in Department C36 for Jury Trial.
	70	Jury Trial continued to 05/24/2006 at 09:00 AM in Department C36 by stipulation of all parties.
	71	Defendant ordered to return.
	72	Defendant remanded to the custody of the Sheriff.
	73	Current bail set for defendant to remain.
	74	Notice to Sheriff issued.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/24/2006	1	Hearing held on 05/24/2006 at 09:00:00 AM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 09:15 AM
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	No jurors present for the motions in limine heard this date.
	10	Motion by People to amend the Information by interlineation on page 2, lines 20-22 granted.
	11	Original Information amended by interlineation to read;Correct the JURISDICTIONAL ALLEGATION(s) code section to "707(d)(2)" Welfare & Institutions Code. Delete "the minor(s) was sixteen (16) years" and insert in lieu thereof "the minor(s) was fourteen (14) years"..
	12	Discussion re the interviews of the defendant that are the subject of admissibility motions. Counsel stipulated that the People's Investigating Officer Rondou has gang expertise; stipulation accepted.
	13	Witness, David Rondou of Santa Ana Police Department, sworn and testified.
	14	The Court indicated a tentative ruling to allow the People to offer the defendant's statement in the police car on the way to Juvenile Hall. After some argument and offers of citations, the Court recessed to consider the motion to exclude or admit at 10:05 a.m.
	15	Again in open court at 10:30 AM, Defendant present with counsel. People duly represented.
	16	Counsel stipulated that defendant was given his Miranda rights advisement at the initial police interview, taped at the station; accepted by the Court.
	17	Counsel stipulate that defendant invoked his right to remain silent, not the right to an attorney at the conclusion of the initial taped police interview; accepted by the Court.
	18	Motion by Defense to preclude evidence of defendant's statement in the police car on the way to Juvenile Hall overruled; tentative ruling before the recess affirmed.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/24/2006	19	Motion by Defense to exclude under Evidence Code 352 evidence of uncharged offense by the defendant argued and overruled; Court finds subject evidence to be more probative than prejudicial.
	20	Defendant's counsel objects to inconsistent theories of liability by the People as to who was the actual shooter in this murder. Arguments presented. The Court cautioned strongly and finally ordered the People not to argue at any time in this trial that this defendant was the shooter.
	21	Dave Rondou, previously sworn, resumes testimony.
	22	Pursuant to agreement of counsel, Officer Rondou was examined by the defense on the question of grounds for believing defendant is a member of F-troop street gang.
	23	Witness excused.
	24	Court in recess at 11:30 a.m.
	25	Jury Trial for 05/25/2006 09:00 AM in C36 to remain.
	26	Defendant ordered to return.
	27	Defendant remanded to the custody of the Sheriff.
	28	Current bail set for defendant to remain.
	29	Notice to Sheriff issued.

CALCRIM 100. TRIAL PROCESS (BEFORE OR DURING VOIR DIRE)

People vs Reyes 04CF2780

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	MAY 25 2006	<input checked="" type="checkbox"/> Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	<i>Carla M. Singer</i> CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

Jury service is very important and I would like to welcome you and thank you for your service. Before we begin, I am going to describe for you how the trial will be conducted, and explain what you and the lawyers and I will be doing. When I refer to "the People," I mean the attorneys from the (district attorney's office/ [REDACTED] who (is/ [REDACTED]) trying this case on behalf of the People of the State of California. When I refer to defense counsel, I mean the attorney who (is/ [REDACTED]) representing the defendant [REDACTED].

The first step in the trial is the People's opening statement. The defense may choose to give an opening statement then or at the beginning of the defense case. The purpose of an opening statement is to give you an overview of what the attorneys expect the evidence will show.

Next, the People will offer their evidence. Evidence usually includes witness testimony and exhibits. After the People present their evidence, the defense may also present evidence but is not required to do so. Because (he/ [REDACTED] is/ [REDACTED] presumed innocent, the defendant (does/ [REDACTED] not have to prove that (he/ [REDACTED] is/ [REDACTED] not guilty.

After you have heard all the evidence and before the attorneys (give/ [REDACTED]) their final arguments, I will instruct you on the law that applies to the case.

After you have heard the arguments and instructions, you will go to the jury room to deliberate.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 25 2006


ALAN SLATER, Clerk of the Court

By: *R. Healy*
R. HEALY, Deputy

Page 1 of 1

Judicial Council of California Jury Instructions

**CALCRIM 101. CAUTIONARY ADMONITIONS: JURY CONDUCT (AFTER
JURY IS SELECTED)**

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	MAY 25 2006 <input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

I will now explain some basic rules of law and procedure. These rules ensure that both sides receive a fair trial.

During the trial, do not talk about the case or about any of the people or any subject involved in the case with anyone, not even your family, friends, spiritual advisors, or therapists. You must not talk about these things with the other jurors either, until the time comes for you to begin your deliberations.

As jurors, you may discuss the case together only after all of the evidence has been presented, the attorneys have completed their arguments, and I have instructed you on the law. After I tell you to begin your deliberations, you may discuss the case only in the jury room, and only when all jurors are present.

You must not allow anything that happens outside of the courtroom to affect your decision unless I tell you otherwise. During the trial, do not read, listen to, or watch any news report or commentary about the case.

Do not do any research on your own or as a group. Do not use a dictionary or other reference materials, investigate the facts or law, conduct any tests or experiments, or visit the scene of any event involved in this case. If you happen to pass by the scene, do not stop or investigate.

During the trial, do not speak to any party, witness, or lawyer involved in the trial. Do not listen to anyone who tries to talk to you about the case or about any of the people or subjects involved in it. If someone asks you about the case, tell him or her that you cannot discuss it. If that person

keeps talking to you about the case, you must end the conversation.

When the trial has ended and you have been released as jurors, you may discuss the case with anyone. But under California law, you must wait at least 90 days before negotiating or agreeing to accept any payment for information about the case.


If you receive any information about this case from any source outside of the trial, even unintentionally, do not share that information with any other juror. If you do receive such information, or if anyone tries to influence you or any juror, you must immediately tell the bailiff.

Some words or phrases that may be used during this trial have legal meanings that are different from their meanings in everyday use. These words and phrases will be specifically defined in the instructions. Please be sure to listen carefully and follow the definitions that I give you. Words and phrases not specifically defined in the instructions are to be applied using their ordinary, everyday meanings.

Keep an open mind throughout the trial. Do not make up your mind about the verdict or any issue until after you have discussed the case with the other jurors during deliberations. Do not take anything I say or do during the trial as an indication of what I think about the facts, the witnesses, or what your verdict should be.

Do not let bias, sympathy, prejudice, or public opinion influence your decision.

CALCRIM 102. NOTE-TAKING

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	MAY 25 2006	<input checked="" type="checkbox"/> Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You have been given notebooks and may take notes during the trial. Do not remove them from the courtroom. You may take your notes into the jury room during deliberations. Here are some points to consider if you take notes:

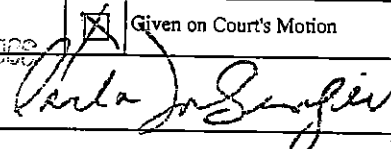
1. Note-taking may tend to distract you. It may affect your ability to listen carefully to all the testimony and to watch the witnesses as they testify;

AND

2. You may use your notes only to remind yourself of what happened during the trial, but remember, your notes may be inaccurate or incomplete.

I do not mean to discourage you from taking notes. I believe you may find it helpful.

CALCRIM 103. REASONABLE DOUBT

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge CARLA M. SANDER			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

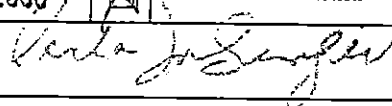
I will now explain the presumption of innocence and the People's burden of proof. The defendants (has/they) pleaded not guilty to the charges. The fact that a criminal charge has been filed against the defendant is not evidence that the charge is true. You must not be biased against the defendants just because (he/she/they)(has/has been) arrested, charged with a crime, or brought to trial.

A defendant in a criminal case is presumed to be innocent. This presumption requires that the People prove each element of a crime and special allegation beyond a reasonable doubt. Whenever I tell you the People must prove something, I mean they must prove it beyond a reasonable doubt unless I specifically tell you otherwise.

Proof beyond a reasonable doubt is proof that leaves you with an abiding conviction that the charge is true. The evidence need not eliminate all possible doubt because everything in life is open to some possible or imaginary doubt.

In deciding whether the People have proved their case beyond a reasonable doubt, you must impartially compare and consider all the evidence that was received throughout the entire trial. Unless the evidence proves the defendants guilty beyond a reasonable doubt, (he/she/they)(is/are) entitled to an acquittal and you must find (him/her/them) not guilty.

CALCRIM 104. EVIDENCE

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	MAY 25 2006	<input checked="" type="checkbox"/> Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You must decide what the facts are in this case. You must use only the evidence that is presented in the courtroom. "Evidence" is the sworn testimony of witnesses, the exhibits admitted into evidence, and anything else I tell you to consider as evidence.

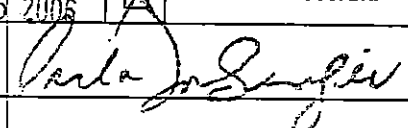
Nothing that the attorneys say is evidence. In their opening statements and closing arguments, the attorneys will discuss the case, but their remarks are not evidence. Their questions are not evidence. Only the witnesses' answers are evidence. The attorneys' questions are significant only if they help you understand the witnesses' answers. Do not assume that something is true just because one of the attorneys asks a question that suggests it is true.

During the trial, the attorneys may object to questions asked of a witness. I will rule on the objections according to the law. If I sustain an objection, the witness will not be permitted to answer, and you must ignore the question. If the witness does not answer, do not guess what the answer might have been or why I ruled as I did. If I order testimony stricken from the record, you must disregard it and must not consider that testimony for any purpose.

You must disregard anything you see or hear when the court is not in session, even if it is done or said by one of the parties or witnesses.

The court reporter is making a record of everything said during the trial. If you decide that it is necessary, you may ask that the court reporter's notes be read to you. You must accept the court reporter's notes as accurate.

CALCRIM 105. WITNESSES

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/> MAY 25 2006	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You alone must judge the credibility or believability of the witnesses. In deciding whether testimony is true and accurate, use your common sense and experience. The testimony of each witness must be judged by the same standard. You must set aside any bias or prejudice you may have, including any based on the witness's gender, race, religion, or national origin.

. You may believe all, part, or none of any witness's testimony. Consider the testimony of each witness and decide how much of it you believe.

In evaluating a witness's testimony, you may consider anything that reasonably tends to prove or disprove the truth or accuracy of that testimony. Among the factors that you may consider are:

- > How well could the witness see, hear, or otherwise perceive the things about which the witness testified?
- > How well was the witness able to remember and describe what happened?
- > What was the witness's behavior while testifying?
- > Did the witness understand the questions and answer them directly?
- > Was the witness's testimony influenced by a factor such as bias or prejudice, a personal relationship with someone involved in the case, or a personal interest in how the case is decided?
- > What was the witness's attitude about the case or about testifying?
- > Did the witness make a statement in the past that is consistent or inconsistent with his or her testimony?
- > How reasonable is the testimony when you consider all the other evidence in the case?
- > Did other evidence prove or disprove any fact about which the witness testified?

- > Did the witness admit to being untruthful?
- > What is the witness's character for truthfulness?
- > Has the witness been convicted of a felony?
- > Has the witness engaged in other conduct that reflects on his or her believability?
- > Was the witness promised immunity or leniency in exchange for his or her testimony?

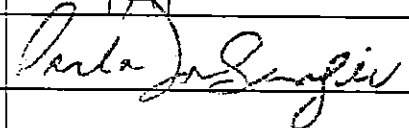
Do not automatically reject testimony just because of inconsistencies or conflicts. Consider whether the differences are important or not. People sometimes honestly forget things or make mistakes about what they remember. Also, two people may witness the same event yet see or hear it differently.

If the evidence establishes that a witness's character for truthfulness has not been established among the people who know him or her, you may conclude from the fact that the witness's character for truthfulness is good.

If you do not believe a witness's testimony that he or she no longer remembers something, that testimony is inconsistent with the witness's earlier statement on that subject.


If you decide that a witness deliberately lied about something significant in this case, you should consider not believing anything that witness says. Or, if you think the witness lied about some things, but told the truth about others, you may simply accept the part that you think is true and ignore the rest.

CALCRIM 121. DUTY TO ABIDE BY TRANSLATION PROVIDED IN COURT

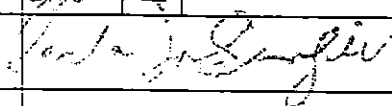
Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	MAY 25 2006	<input checked="" type="checkbox"/>	Given on Court's Motion
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
Judge					

Print date: 1/2006

Some testimony may be given in Spanish  description of language

 An interpreter will provide a translation for you at the time that the testimony is given. You must rely on the translation provided by the interpreter, even if you understand the language spoken by the witness. Do not retranslate any testimony for other jurors. If you believe the court interpreter translated testimony incorrectly, let me know immediately by writing a note and giving it to the (clerk/bailiff).

CALCRIM 124. SEPARATION ADMONITION

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified MAY 25 2006	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You may be permitted to separate during recesses and at the end of the day. I will tell you when to return. Please remember, we cannot begin the trial until all of you are in place, so it is important to be on time.

Remember, do not talk about the case or about any of the people or any subject involved in it with anyone, including the other jurors. Do not make up your mind about the verdict or any issue until after you have discussed the case with the other jurors during deliberations.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/25/2006	1	Hearing held on 05/25/2006 at 09:00:00 AM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 09:25 AM
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	David Rondou of the Santa Ana Police Department present at counsel as the People's investigating officer.
	10	In the unanticipated absence of the People's ballistics expert, counsel stipulate that the bullet that killed the victim came from the gun in defendant's possession later the date of the incident. Stipulation of fact accepted by the Court.
	11	Defendant advised of his absolute, personal right to testify or not in his trial. Defendant stated his intention to not testify and was informed by the Court that he may change his mind if he wishes during the trial.
	12	Sworn jurors are present and in their proper places.
	13	Court read Original Information to the sworn jurors and advised them of the defendant's plea of not guilty thereto.
	14	Court admonished sworn jurors as to their basic duties, function, and conduct.
	15	Copies of CALCRIM 100, 101, 102, 103, 104, 105, 121, 124 as modified and read by the Court to the jurors this date filed.
	16	Opening statement by People given.
	17	Opening statement by Defense reserved.
	18	At 10:30 AM, court admonished jurors and declared a recess.
	19	Again in open court at 10:42 AM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	20	Witness, David Rondou of Santa Ana Police Department, sworn and testified.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/25/2006	21	People's Exhibit # 1 Large map of section of Santa Ana marked for identification.
	22	People's Exhibit # 2 Large aerial photo of Willits Street and Sullivan Street, Santa Ana marked for identification.
	23	People's Exhibit # 3 Large color caricature of Willits and Sullivan Streets marked for identification.
	24	At 10:55 AM, Court and Counsel confer at side bar without Court Reporter present.
	25	At unreported sidebar, Court and counsel discussed defense foundation objection.
	26	People's Exhibit # 4 Color photo of intersection of Willits and Sullivan facing southbound and showing Honda Civic marked for identification.
	27	People's Exhibit # 5 Color photo of Willits and Sullivan northbound, showing school and stop sign marked for identification.
	28	People's Exhibit # 6 Color photo of victim's Honda Civic covered with yellow tarp marked for identification.
	29	People's Exhibit # 7 Color photo of front windshield of victim's Honda Civic marked for identification.
	30	People's Exhibit # 8 Color photo of rear of victim's car marked for identification.
	31	People's Exhibit # 9 Color photo of shattered rear window of victim's car marked for identification.
	32	People's Exhibit # 10 Color photo of driver side of victim's car marked for identification.
	33	People's Exhibit # 11 Color photo of victim's car from front marked for identification.
	34	People's Exhibit # 12 Color photo of victim's car from side marked for identification.
	35	People's Exhibit # 13 Color photo of revolver with open chamber showing bullets marked for identification.
	36	People's Exhibit # 14 357 magnum blue steel revolver in evidence box marked for identification.
	37	At 11:05 AM, Court and Counsel confer at side bar without Court Reporter present.
	38	At 11:10 AM, Court and Counsel confer in chambers with Court Reporter present.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

Docket Dt Seq Text

5/25/2006 39 In chambers, the defense objected to publishing to the jury the People's identification photo exhibits. The People offered Exhibits 4 through 13 into evidence; the defense objected on foundation. The Court heard foundation and Evidence Code 352 objections as to Exhibits 11 and 12; they were overruled and both received into evidence. Court, counsel and staff returned to open court where Exhibits 11 and 12 were published to the jurors.

40 Officer Rondou resumed testimony and was excused.

41 **Witness, Steven Garcia, a minor, sworn and testified.**

42 At 11:55 AM, court admonished jurors and declared a recess.

43 Proceedings held outside the presence and hearing of the jurors.

44 Witness Steven Garcia ordered to return on 05/25/2006 at 01:30 PM in Department C36.

45 Again in open court at 01:35 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.

46 Steven Garcia, previously sworn, resumes testimony.

47 Witness excused.

48 **Witness, Matthew Selinske of Costa Mesa Police Department, sworn and testified.**

49 Witness excused.

50 **David Rondou recalled to the stand.**

51 **Witness, Felix Jaimes Nieves, sworn and testified.**

52 Daniela McGovern, Spanish Interpreter, present to interpret for the witness.

53 At 02:47 PM, Court and Counsel confer in chambers without Court Reporter present.

54 At 02:55 AM, Court admonished jurors and declared a recess to reconvene on 05/30/2006 at 10:00 AM in Department C36 for Jury Trial.

55 Proceedings held outside the presence and hearing of the jurors.

56 Witness Felix Jaimes Nieves ordered to return on 05/30/2006 at 10:00 AM in Department C36.

57 Defendant ordered to return.

58 Defendant remanded to the custody of the Sheriff.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/25/2006	59	Current bail set for defendant to remain.
	60	Notice to Sheriff issued.

MAY 30 2006

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, JUSTICE CENTER By ALAN SLATER, Executive Officer/ Clerk AW DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

ANDRES REYES

Defendant.

Case No.: 04CF2780

PETITION FOR AN ORDER
COMPELLING TESTIMONY OF A
WITNESS (1324 Penal Code)

(Use Immunity)

COMES NOW the District Attorney of the County of Orange, pursuant to Section 1324 of the California Penal Code, and declares the following:

1. That there is now pending in the Superior Court of the Central Justice District, and above entitled criminal case, in which the defendant is charged with numerous charges including a violation of Section(s) 187 (a) of the Penal Code.

2. That Michael Contreras is a necessary witness for the People in said case, and the testimony of this witness is material, competent, and relevant. I expect the witness' testimony will be in substance as follows: That on August 10, 2004, Mr. Contreras was present at El Salvador park prior to the homicide when Frank Lopez showed a gun to amongst other people, the defendant Mr. Reyes. The gun was dark with a brown handle and was about 9" long. At least one other person was present at that time and that was Severo Delariva. Shortly thereafter, Frank Lopez, Severo Delariva, and Andres Reyes left the park on their bikes. Later that afternoon, Mr. Contreras was present when he overheard Andres Reyes "hit up" a young man near 10th and English in Santa Ana. Mr. Reyes exchanged words with the young man and chased after him. During a subsequent fight a handgun fell out of Mr. Reyes' pants.

3. That the use of said person as a witness is not contrary to the public interest and could not subject said person to criminal prosecution in another jurisdiction.

4. That said witness has been told by Petitioner, that if this Court grants use immunity, said witness will be ordered to testify or produce evidence in this case. If the witness complies with the order,

USE IMMUNITY

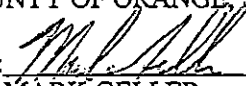
1 no testimony or other information compelled under the order or any information derived from the
2 testimony may be used against the witness in any criminal case. That witness has been told by Petitioner
3 that he may nevertheless be prosecuted or subjected to penalty or forfeiture of any perjury, false swearing
4 or contempt committed in answering, or failing to answer, or in producing, or failing to produce evidence
5 in accordance with the Court's order.

6 **WHEREFORE**, the District Attorney of Orange County respectfully requests that this court set a
7 date and time for hearing pursuant to Penal Code Section 1324. At such hearing the District Attorney for
8 the County of Orange will request this court to issue the order hereto attached.

9 I declare under penalty of perjury that the forgoing is true and correct.

10 DATED: May 30th, at Santa Ana, California

11 TONY RACKAUCKAS, DISTRICT ATTORNEY
12 COUNTY OF ORANGE, STATE OF CALIFORNIA

13 By: 
14 MARK GELLER
15 Deputy District Attorney
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MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/30/2006	1	Hearing held on 05/30/2006 at 10:00:00 AM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: C. Whitener
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 10:05 AM
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	Jury not present.
	10	Discussion held re: admissibility of twelve polaroid photographs found in victim's room.
	11	Objection by defense.
	12	Motion taken under submission.
	13	At 10:11 AM, court declared a recess.
	14	Again in open court at 10:13 AM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	15	Felix Jaimes Nieves, previously sworn, resumes testimony.
	16	Maria de la Luz Espinoza, Spanish Interpreter, present to interpret for the witness.
	17	Witness excused.
	18	At 11:01 AM, court admonished jurors and declared a recess.
	19	Proceedings held outside the presence and hearing of the jurors.
	20	Court finds twelve polaroid photographs that the People seek to admit are more probative than prejudicial and are admissible.
	21	At 11:09 AM, court declared a recess.
	22	Again in open court at 11:29 AM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	23	Witness, Investigator Jeff Launi, Santa Ana Police Department, sworn and testified.

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v.
REYES**

Case Number: **S270723**

Lower Court Case Number: **G059251**

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2. My email address used to e-serve: **Jennifer.Truong@doj.ca.gov**
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EXHIBITS	Exhibit A _Part 2 of 2
EXHIBITS	Exhibit B _Part 1 of 3
EXHIBITS	Exhibit B _Part 2 of 3
EXHIBITS	Exhibit B _Part 3 of 3

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

4/7/2022

Date

/s/Liza Nickolas

Signature

Truong, Jennifer (285868)

Last Name, First Name (PNum)

Department of Justice, Office of the Attorney General-San Diego

Law Firm