

Exhibit 37



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Transcript of Elsworth Smith, Jr., Volume II

Date: March 5, 2020

Case: Watts Coordinated Cases

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Transcript of Elsworth Smith, Jr., Volume II
Conducted on March 5, 2020

1 (315 to 318)

315	<p>1 UNITED STATES DISTRICT COURT</p> <p>2 NORTHERN DISTRICT OF ILLINOIS</p> <p>3 EASTERN DIVISION</p> <p>4</p> <p>5 - - - - - x</p> <p>6 WATTS COORDINATED CASES. : Master Docket</p> <p>7 : Case No. 19-cv-01717</p> <p>8 - - - - - x</p> <p>9</p> <p>10</p> <p>11</p> <p>12 Videotaped Deposition of</p> <p>13 ELSWORTH SMITH, JR., Volume II</p> <p>14 Chicago, Illinois</p> <p>15 Thursday, March 5, 2020</p> <p>16 10:28 a.m.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Job No.: 287768</p> <p>23 Pages: 315 - 573</p> <p>24 Reported by: Joanne E. Ely, CSR, RPR</p>	317	<p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF CERTAIN PLAINTIFFS:</p> <p>3 SCOTT RAUSCHER, ESQUIRE</p> <p>4 LOEVY & LOEVY</p> <p>5 311 North Aberdeen Street</p> <p>6 Third Floor</p> <p>7 Chicago, Illinois 60607</p> <p>8 312.243.5900</p> <p>9</p> <p>10 ON BEHALF OF CERTAIN PLAINTIFFS:</p> <p>11 JOEL FLAXMAN, ESQUIRE</p> <p>12 200 South Michigan Avenue</p> <p>13 Suite 201</p> <p>14 Chicago, Illinois 60604</p> <p>15 312-427-3200</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
316	<p>1 Videotaped deposition, Volume II, of ELSWORTH</p> <p>2 SMITH, JR., held at the location of:</p> <p>3</p> <p>4</p> <p>5 LOEVY & LOEVY</p> <p>6 311 North Aberdeen Street</p> <p>7 Third Floor</p> <p>8 Chicago, Illinois 60607</p> <p>9 312.243.5902</p> <p>10</p> <p>11</p> <p>12</p> <p>13 Pursuant to notice, before Joanne E. Ely,</p> <p>14 a Certified Shorthand Reporter, and a Notary</p> <p>15 Public in and for the State of Illinois.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	318	<p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF DEFENDANT CITY OF CHICAGO AND</p> <p>3 VARIOUS POLICE DEPARTMENT SUPERVISORS:</p> <p>4 PAUL A. MICHALIK, ESQUIRE</p> <p>5 DANIEL J. BURNS, ESQUIRE</p> <p>6 REITER BURNS LLP</p> <p>7 311 South Wacker Drive</p> <p>8 Suite 5200</p> <p>9 Chicago, Illinois 60606</p> <p>10 312.982.0090</p> <p>11</p> <p>12 ON BEHALF OF DEFENDANT WATTS:</p> <p>13 AHMED A. KOSOKO, ESQUIRE</p> <p>14 JOHNSON & BELL, LTD.</p> <p>15 33 West Monroe Street</p> <p>16 Suite 2700</p> <p>17 Chicago, Illinois 60603</p> <p>18 312.372.0770</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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319	<p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF DEFENDANT MOHAMMED:</p> <p>3 ERIC PALLES, ESQUIRE</p> <p>4 RAVITZ & PALLES, PC</p> <p>5 203 North LaSalle Street</p> <p>6 Suite 2100</p> <p>7 Chicago, Illinois 60601</p> <p>8 312.558.1689</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANTS SPAARGAREN</p> <p>11 AND CADMAN:</p> <p>12 MICHAEL J. SCHALKA, ESQUIRE, via telephone</p> <p>13 LEINENWEBER, BARONI & DAFFADA, LLC, PC</p> <p>14 203 North LaSalle Street</p> <p>15 Suite 1620</p> <p>16 Chicago, Illinois 60601</p> <p>17 866.786.3705</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	321	<p>1 C O N T E N T S</p> <p>2 (Video starts on Page 366)</p> <p>3 EXAMINATION OF ELSWORTH SMITH PAGE</p> <p>4 By Mr. Flaxman 325</p> <p>5 By Mr. Rauscher 417</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 (Attached to transcript.)</p> <p>9</p> <p>10 SMITH DEPOSITION EXHIBITS PAGE</p> <p>11</p> <p>12 Exhibit 23 Robert Lindsey Arrest Report 327</p> <p>13 Exhibit 24 Germain Sims Arrest Report 331</p> <p>14 Exhibit 25 Sims and Lindsey Original Case 333</p> <p>15 Incident Report</p> <p>16 Exhibit 26 Notification of 335</p> <p>17 Charges/Allegations,</p> <p>18 Complainant Robert Lindsey</p> <p>19 Exhibit 27 Robert Lindsey Sworn Affidavit 344</p> <p>20 For Complaint Log</p> <p>21 Investigation</p> <p>22 Exhibit 28 Photo of Robert Lindsey 345</p> <p>23 Exhibit 29 Photo of Nephus Thomas 353</p> <p>24 Exhibit 30 Nephus Thomas Arrest Report 353</p>
320	<p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF DEFENDANT OFFICERS:</p> <p>3 BRIAN STEFANICH, ESQUIRE</p> <p>4 HALE & MONICO</p> <p>5 53 West Jackson Street</p> <p>6 Suite 337</p> <p>7 Chicago, Illinois 60604</p> <p>8 312.870.6902</p> <p>9</p> <p>10 ALSO PRESENT:</p> <p>11 RICK KOSBERG, Videographer</p> <p>12 ANDREW SEGAL</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	322	<p>1 E X H I B I T S C O N T I N U E D</p> <p>2</p> <p>3 SMITH DEPOSITION EXHIBITS PAGE</p> <p>4 Exhibit 31 Moye, Sanders, Key, Bell, 358</p> <p>5 Milton General Offense Case</p> <p>6 Report</p> <p>7 Exhibit 32 Photo of Angelo Shenault, Sr. 372</p> <p>8 Exhibit 33 Angelo Shenault, Sr., Arrest 372</p> <p>9 Report</p> <p>10 Exhibit 34 Angelo Shenault, Sr., Vice 377</p> <p>11 Case Report</p> <p>12 Exhibit 35 Photo of Joshua Curtis 387</p> <p>13 Exhibit 36 Photo of Vondell Wilbourn 387</p> <p>14 Exhibit 37 Joshua Curtis Arrest Report 387</p> <p>15 Exhibit 38 Vondell Wilbourn Arrest Report 391</p> <p>16 Exhibit 39 Joshua Curtis and Vondell 394</p> <p>17 Wilbourn Vice Case Report</p> <p>18 Exhibit 40 Affidavit of Joshua Curtis 396</p> <p>19 Exhibit 41 Goleather Jefferson Arrest 405</p> <p>20 Report</p> <p>21 Exhibit 42 Willie Martin and Goleather 408</p> <p>22 Jefferson Vice Case Report</p> <p>23 Exhibit 43 Property Inventory Form 414</p> <p>24 Exhibit 44 Willie Martin Arrest Report 424</p>

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323	<p>1 EXHIBITS CONTINUED</p> <p>2</p> <p>3 SMITH DEPOSITION EXHIBITS PAGE</p> <p>4 Exhibit 45 Smith's Answer to White, Sr.'s 437</p> <p>5 8/20/19 Interrogatory</p> <p>6 Exhibit 46 Cleothus Morris Vice Case 459</p> <p>7 Report</p> <p>8 Exhibit 47 Cleothus Morris Arrest Report 475</p> <p>9 Exhibit 48 John Pierce Vice Case Report 486</p> <p>10 Exhibit 49 John Pierce Arrest Report 499</p> <p>11 Exhibit 50 Cleveland Smith Vice Case 502</p> <p>12 Report</p> <p>13 Exhibit 51 Cleveland Smith Arrest Report 503</p> <p>14 Exhibit 52 Lorener Williams Vice Case 504</p> <p>15 Report</p> <p>16 Exhibit 53 Lorener Williams Arrest Report 506</p> <p>17 Exhibit 54 Lynn Howard Vice Case Report 514</p> <p>18 Exhibit 55 Lynn Howard Arrest Report 516</p> <p>19 Exhibit 56 Teresa Butler Vice Case Report 523</p> <p>20 Exhibit 57 Teresa Butler Arrest Report 524</p> <p>21 Exhibit 58 Charlie Riley Vice Case Report 531</p> <p>22 Exhibit 59 Charlie Riley Arrest Report 533</p> <p>23 Exhibit 60 Dale Morrow Vice Case Report 535</p> <p>24 Exhibit 61 Dale Morrow Arrest Report 535</p>
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325	<p>1 (Proceedings held outside the video</p> <p>2 record.)</p> <p>3 ELSWORTH SMITH, JR.,</p> <p>4 having been duly sworn, testified as follows:</p> <p>5 EXAMINATION BY COUNSEL FOR CERTAIN PLAINTIFFS</p> <p>6 BY MR. FLAXMAN:</p> <p>7 Q Could you state and spell your name for</p> <p>8 the record, please.</p> <p>9 A My name is Elsworth Smith. My first name</p> <p>10 is spelled E-l-s-w-o-r-t-h. My last name is</p> <p>11 Smith, S-m-i-t-h.</p> <p>12 Q Okay. And, Officer Smith, you understand</p> <p>13 you're under the same oath that you were under on</p> <p>14 February 17th, 2020?</p> <p>15 A Yes.</p> <p>16 Q Okay. Since the first day of your</p> <p>17 deposition, have you spent some time preparing for</p> <p>18 today's deposition?</p> <p>19 A Yes, I have.</p> <p>20 Q What have you done to prepare for today's</p> <p>21 continuation of your deposition?</p> <p>22 A Just reviewed case reports, arrest</p> <p>23 reports, and other case reports.</p> <p>24 Q Okay. Have you met with your attorneys?</p>
326	<p>1 A Yes, I have.</p> <p>2 Q How many times have you met with your</p> <p>3 attorneys since the first day of your deposition?</p> <p>4 A I don't recall how many times.</p> <p>5 Q Okay. And for your meeting or meetings</p> <p>6 with your attorneys, was anyone present other than</p> <p>7 you and your attorneys?</p> <p>8 A No.</p> <p>9 Q I want to start with the arrests of Robert</p> <p>10 Lindsey and Germain Sims on October 15th, 2009.</p> <p>11 Do you remember Robert Lindsey?</p> <p>12 A Vaguely.</p> <p>13 Q Okay. What do you remember about</p> <p>14 Mr. Lindsey?</p> <p>15 A I would have to see his picture. Right</p> <p>16 now off the top of my head, I don't recall him.</p> <p>17 Q Okay. Do you remember Germain Sims?</p> <p>18 A No, I do not.</p> <p>19 Q And do you remember the arrest of Robert</p> <p>20 Lindsey and Germain Sims on October 15th, 2009?</p> <p>21 A No, I do not.</p> <p>22 Q Did you look at any documents about that</p> <p>23 arrest before today's deposition?</p> <p>24 A Yes, I did.</p>

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<p style="text-align: right;">327</p> <p>1 Q And did those documents refresh your</p> <p>2 memory about the arrest?</p> <p>3 A No, it did not.</p> <p>4 Q Okay. Did it refresh your memory about</p> <p>5 either Mr. Sims or Mr. Lindsey?</p> <p>6 A No.</p> <p>7 Q Did you say that looking at a picture of</p> <p>8 Mr. Lindsey would help you remember him?</p> <p>9 A Possibly.</p> <p>10 Q Did you do that before today's deposition?</p> <p>11 A I believe so.</p> <p>12 Q And what did you remember when you looked</p> <p>13 at his picture?</p> <p>14 A I don't recall at this time. I would have</p> <p>15 to see his picture again. I don't recall.</p> <p>16 (Smith Deposition Exhibit 23 marked for</p> <p>17 identification and attached to the transcript.)</p> <p>18 MR. FLAXMAN: Let's mark this as</p> <p>19 Exhibit 23. We had a long discussion about</p> <p>20 getting the numbers right. I got them wrong.</p> <p>21 (An off-the-record discussion was held.)</p> <p>22 Q Is this the arrest report of Robert</p> <p>23 Lindsey dated October 15th, 2009?</p> <p>24 A Yes, it is.</p>	<p style="text-align: right;">329</p> <p>1 Q Okay. Is it near to the Ida B. Wells</p> <p>2 where -- excuse me. I'll start again.</p> <p>3 Is that address near where the Ida B.</p> <p>4 Wells homes were located?</p> <p>5 A No, it is not.</p> <p>6 Q How far is it from where the Ida B. Wells</p> <p>7 homes were located?</p> <p>8 A I don't know exactly how many miles it</p> <p>9 may be from the Ida B. Wells, but it's not close</p> <p>10 to it.</p> <p>11 Q Okay. In 2009 were there other public</p> <p>12 housing complexes that were near to 4210 South</p> <p>13 Prairie Avenue?</p> <p>14 A At the time, I don't recall.</p> <p>15 Q Have you looked at the narrative on page 2</p> <p>16 of this arrest report?</p> <p>17 A Yes. I did not commit it to memory.</p> <p>18 Q Okay. Well, my question is having</p> <p>19 reviewed the narrative, are you able to remember</p> <p>20 anything about this arrest?</p> <p>21 A No, I do not.</p> <p>22 Q Did you see on the last page that you are</p> <p>23 listed as an assisting arresting officer?</p> <p>24 A That is correct.</p>
<p style="text-align: right;">328</p> <p>1 Q And having looked at the picture on this</p> <p>2 arrest report, can you remember anything about</p> <p>3 Mr. Lindsey?</p> <p>4 A No, I do not.</p> <p>5 MR. STEFANICH: I'll just put on the</p> <p>6 record this is a pretty unclear black-and-White</p> <p>7 picture of Mr. Lindsey.</p> <p>8 MR. FLAXMAN: The record will so reflect.</p> <p>9 Q But you believe that a better picture of</p> <p>10 Mr. Lindsey could help refresh your recollection?</p> <p>11 A Possibly but I don't know.</p> <p>12 Q Okay. Looking at Exhibit No. 23, do you</p> <p>13 see that Mr. Lindsey was arrested for possession</p> <p>14 of a controlled substance?</p> <p>15 A That's what's stated on the report.</p> <p>16 Q And it states that the location of the</p> <p>17 arrest was 4210 South Prairie Avenue.</p> <p>18 Do you see that?</p> <p>19 A That's correct.</p> <p>20 Q Are you familiar with that address?</p> <p>21 A Yes, I am.</p> <p>22 Q What's at 4210 South Prairie Avenue?</p> <p>23 A Off the top of my head, I don't know; but</p> <p>24 it's in the 2nd District where I work at.</p>	<p style="text-align: right;">330</p> <p>1 Q And did you see that your beat number</p> <p>2 listed on page 5 is 264A?</p> <p>3 A That's what it states.</p> <p>4 Q And did you see that on page 3, the beat</p> <p>5 numbers of the first and second arresting officers</p> <p>6 are also 264A?</p> <p>7 A That's correct.</p> <p>8 Q Okay. What does it mean for all three of</p> <p>9 you to have the same beat number?</p> <p>10 A We probably were assigned to work in the</p> <p>11 same beat on that day.</p> <p>12 Q Were you assigned to work in the same car?</p> <p>13 A Like I said, not recalling this date, if</p> <p>14 that's what is stated on the report, yes. It</p> <p>15 wouldn't be uncommon.</p> <p>16 Q Would you consider the other two officers</p> <p>17 on this same number and letter beat as you to be</p> <p>18 your partners on that day?</p> <p>19 A That's what's stated on the report, yes.</p> <p>20 Q So based on the report, on the date of</p> <p>21 this arrest, you were partners with Officer Jones</p> <p>22 and Officer Mohammed; right?</p> <p>23 A If that's what is stated on the report,</p> <p>24 yes. I don't have -- recall -- I don't recall</p>

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<p style="text-align: right;">331</p> <p>1 this arrest; but if that's what's in the report,</p> <p>2 then I have no doubt that's what -- I was working</p> <p>3 with Officer Jones and Mohammed.</p> <p>4 (Smith Deposition Exhibit 24 marked for</p> <p>5 identification and attached to the transcript.)</p> <p>6 BY MR. FLAXMAN:</p> <p>7 Q Let's mark this as 24.</p> <p>8 Is Exhibit 24 the arrest report of Germain</p> <p>9 Sims on October 15th, 2009?</p> <p>10 A That's correct.</p> <p>11 Q And do you see the picture of Mr. Sims at</p> <p>12 the top right of this report?</p> <p>13 A Yes, I do.</p> <p>14 Q Okay. This one is also not a very good</p> <p>15 copy; right?</p> <p>16 A No, it is not.</p> <p>17 Q Does reviewing the picture of Mr. Sims on</p> <p>18 his arrest report refresh your memory about</p> <p>19 Mr. Sims?</p> <p>20 A No, it does not.</p> <p>21 Q And this report also states that Mr. Sims</p> <p>22 was charged with possession of a controlled</p> <p>23 substance?</p> <p>24 A That's what's stated on the report.</p> <p style="text-align: right;">332</p>	<p style="text-align: right;">333</p> <p>1 reports written by your partners?</p> <p>2 A I'm certain, but I don't recall. I'm</p> <p>3 certain I may have; but, again, specifically, I</p> <p>4 don't recall from this particular date.</p> <p>5 Q Can you answer whether it was your</p> <p>6 practice to review reports created by your</p> <p>7 partners?</p> <p>8 MR. STEFANICH: Objection; asked and</p> <p>9 answered.</p> <p>10 A That is generally the practice, but I</p> <p>11 don't recall what I did on October 15th concerning</p> <p>12 this arrest.</p> <p>13 (Smith Deposition Exhibit 25 marked for</p> <p>14 identification and attached to the transcript.)</p> <p>15 Q All right. Is Exhibit 25, the original</p> <p>16 case incident report for the arrests of Mr. Sims</p> <p>17 and Mr. Lindsey on October 15th, 2009?</p> <p>18 A Yes, this is the case report.</p> <p>19 Q And does this report list you as an</p> <p>20 assisting arresting officer on the third page?</p> <p>21 A Yes, it does.</p> <p>22 Q I understand that you do not remember this</p> <p>23 arrest; correct?</p> <p>24 A That's correct.</p> <p style="text-align: right;">334</p>
<p>1 Q Okay. And does this report state on the</p> <p>2 third page that Officer Jones and Officer Mohammed</p> <p>3 were both assigned to Beat 264A for the first and</p> <p>4 second arresting officers?</p> <p>5 A That is correct.</p> <p>6 Q And does it state on the fifth page that</p> <p>7 you were also assigned to Beat 264A on</p> <p>8 October 15th, 2009?</p> <p>9 A That's correct.</p> <p>10 Q Was it your practice to review arrest</p> <p>11 reports that were created by your partners?</p> <p>12 A I don't recall from this particular day.</p> <p>13 I'm certain at some point in time during my time</p> <p>14 working as a tactical officer, I probably had</p> <p>15 reviewed reports by my partners. But I can't</p> <p>16 speak for this day because I don't recall.</p> <p>17 Q So there were sometimes that you reviewed</p> <p>18 reports by your partners and sometimes that you</p> <p>19 didn't?</p> <p>20 A No. I'm not saying that. I'm saying I'm</p> <p>21 certain I've reviewed reports written by my</p> <p>22 partners or anyone that I worked with, but I don't</p> <p>23 recall from this date, October 15th, 2009.</p> <p>24 Q Was it your practice to always review</p>	<p>1 Q Based on your review of the case report</p> <p>2 and the arrest reports, are you able to tell what</p> <p>3 role you had in the arrests?</p> <p>4 A It just states that I'm an assisting</p> <p>5 officer, and I don't recall from this particular</p> <p>6 arrest.</p> <p>7 Q So you can't tell what your role was;</p> <p>8 right?</p> <p>9 A No, I cannot.</p> <p>10 Q Do you recall that Mr. Lindsey made a</p> <p>11 complaint about this arrest?</p> <p>12 A Yes, I am aware of that.</p> <p>13 Q Okay. Do you remember reviewing</p> <p>14 information about his complaint in 2011?</p> <p>15 A Sitting here today, I do not recall a</p> <p>16 complaint made by him in 2011.</p> <p>17 Q Well, during your career, do you recall</p> <p>18 receiving allegations based on citizen complaints?</p> <p>19 A Are you asking me for this particular case</p> <p>20 or overall in total in my career?</p> <p>21 Q My question is in your career.</p> <p>22 A Yes, I have.</p> <p>23 Q Okay. Were you served with those</p> <p>24 allegations in writing?</p>

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<p>335</p> <p>1 A Yes.</p> <p>2 Q Okay. And would sometimes you would</p> <p>3 respond to those allegations in writing?</p> <p>4 A Yes.</p> <p>5 Q But you don't recall receiving them about</p> <p>6 Mr. Lindsey; right?</p> <p>7 A As I'm sitting here today, no, I do not.</p> <p>8 MR. FLAXMAN: Mark that as 26.</p> <p>9 (Smith Deposition Exhibit 26 marked for</p> <p>10 identification and attached to the transcript.)</p> <p>11 Q Is Exhibit 26 a notification -- I'm sorry.</p> <p>12 Is the first page of Exhibit 26 a</p> <p>13 notification of charges and allegations made by</p> <p>14 Robert Lindsey?</p> <p>15 A Yes, it is.</p> <p>16 Q Okay. Having looked at this notification</p> <p>17 of charges and allegations, do you remember</p> <p>18 receiving it?</p> <p>19 A No, I do not.</p> <p>20 Q And it states that you received it on</p> <p>21 June 16th of 2011.</p> <p>22 A That's correct.</p> <p>23 Q And then it lists your name as the name of</p> <p>24 accused?</p>	<p>337</p> <p>1 observe any other officers involved in this arrest</p> <p>2 plant drugs on Robert Lindsey.</p> <p>3 Q The allegation also states, "The</p> <p>4 complainant alleges that you took the drugs from</p> <p>5 another individual and let that person go."</p> <p>6 Do you also disagree with that?</p> <p>7 A Yes, I do.</p> <p>8 Q And why do you disagree with that?</p> <p>9 A Because although I don't remember this</p> <p>10 arrest, I have never done that before.</p> <p>11 Q Have you ever known anyone on your</p> <p>12 tactical team to do that?</p> <p>13 A As I stated before -- I don't know if I've</p> <p>14 stated it today, but I've stated it in the past --</p> <p>15 I've never seen anyone that I worked with do that.</p> <p>16 Q Have you heard of anybody on your tactical</p> <p>17 team doing that?</p> <p>18 A No, I have not.</p> <p>19 Q The second page of this Exhibit No. 26, do</p> <p>20 you see that's an administrative proceeding</p> <p>21 rights?</p> <p>22 A Yes, it is.</p> <p>23 Q Okay. Is that your signature on the</p> <p>24 signature line there?</p>
<p>336</p> <p>1 A Yes, it does.</p> <p>2 Q And that's your Star No. 11737?</p> <p>3 A Yes, it is.</p> <p>4 Q Is that your signature on the line that</p> <p>5 says signature?</p> <p>6 A Yes, it is.</p> <p>7 Q And is that the signature of Sergeant</p> <p>8 Watts under witnesses?</p> <p>9 MR. STEFANICH: Objection; foundation.</p> <p>10 You can answer.</p> <p>11 A From the best of my memory, yes.</p> <p>12 Q Did you review the three lines in this box</p> <p>13 that state Mr. Lindsey's allegations?</p> <p>14 A Just sitting here now, yes, I have.</p> <p>15 Q Do you disagree with these allegations?</p> <p>16 A Yes, I do.</p> <p>17 Q And why is that?</p> <p>18 A Because these are false.</p> <p>19 Q Okay. How do you know they were false?</p> <p>20 A Because I never stole drugs or planted</p> <p>21 drugs on any individual.</p> <p>22 Also I had the chance to look over on the</p> <p>23 last page at my to/from that was addressed on this</p> <p>24 date, June 16th, 2011, stating that I did not</p>	<p>338</p> <p>1 A Yes, it is.</p> <p>2 Q Is that the signature of Sergeant Watts</p> <p>3 for witnesses?</p> <p>4 A It appears so.</p> <p>5 Q The next page, states that it's a waiver</p> <p>6 of counsel/request to secure counsel.</p> <p>7 Do you see that?</p> <p>8 A Yes, I do.</p> <p>9 Q Okay. And did you check the box for</p> <p>10 request to secure legal counsel?</p> <p>11 A Yes, I did.</p> <p>12 Q And was it always your practice to request</p> <p>13 legal counsel when you are served with a</p> <p>14 civilian's complaint?</p> <p>15 A That's what we are always advised, as a</p> <p>16 police officer, to request counsel.</p> <p>17 Q And did you always do that?</p> <p>18 A From the best of my memory, yes.</p> <p>19 Q Is that your signature on the third</p> <p>20 page of the exhibit?</p> <p>21 A Yes, it is.</p> <p>22 Q And you wrote that the date was June 16th,</p> <p>23 2011; correct?</p> <p>24 A Yes.</p>

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<p>339</p> <p>1 Q And what did you write for the time there?</p> <p>2 A It appears 1847.</p> <p>3 Q Okay. And is that the signature of</p> <p>4 Sergeant Watts for witnesses?</p> <p>5 A It appears so.</p> <p>6 Q And then the next page you mentioned</p> <p>7 earlier.</p> <p>8 You called this a to/from; right?</p> <p>9 A Yes. It's a to/from subject report.</p> <p>10 Q Okay. Did you write this memo?</p> <p>11 A Yes.</p> <p>12 Q And this was dated June 16th, 2011;</p> <p>13 correct?</p> <p>14 A That is correct.</p> <p>15 Q At that time, did you have a recollection</p> <p>16 of the arrest of Mr. Lindsey on October 15th,</p> <p>17 2009?</p> <p>18 A How can I answer that question if I don't</p> <p>19 recall today? I don't know what I recalled on</p> <p>20 June 16th, 2011.</p> <p>21 Q Okay. Have you ever written a memo that</p> <p>22 states what you observed on a certain date without</p> <p>23 remembering what you actually observed on that</p> <p>24 date?</p>	<p>341</p> <p>1 remember your arrest of Mr. Lindsey?</p> <p>2 MR. STEFANICH: Objection; asked and</p> <p>3 answered.</p> <p>4 A As I'm sitting here today, as I stated</p> <p>5 before, I don't recall what I remembered on</p> <p>6 September -- I mean, sorry -- June 16th, 2011.</p> <p>7 BY MR. FLAXMAN:</p> <p>8 Q The next sentence says, "At no time, did</p> <p>9 R/O or any other officer involved in the arrest</p> <p>10 take narcotics from another individual and plant</p> <p>11 them on Robert E. Lindsey."</p> <p>12 Did you write that in your memo?</p> <p>13 A That's what's stated.</p> <p>14 Q Did you write that in your memo?</p> <p>15 A Yes.</p> <p>16 Q And when you wrote that, did you remember</p> <p>17 the incident you were writing about?</p> <p>18 MR. STEFANICH: Objection; asked and</p> <p>19 answered.</p> <p>20 A As I stated, I don't recall; but if I</p> <p>21 wrote this in my report, maybe at that particular</p> <p>22 point in time I did have a memory at that time;</p> <p>23 and also I might have had a chance to review the</p> <p>24 reports at that time also in preparing this</p>
<p>340</p> <p>1 MR. MICHALIK: Object to form.</p> <p>2 MR. STEFANICH: Join.</p> <p>3 A I don't understand your question.</p> <p>4 BY MR. FLAXMAN:</p> <p>5 Q The second paragraph of your memorandum</p> <p>6 says on October -- I'm sorry -- "On 15</p> <p>7 October 2009, R/O arrested Robert E. Lindsey."</p> <p>8 Did I read that right?</p> <p>9 A That's correct.</p> <p>10 Q What did you mean when you wrote R/O?</p> <p>11 A Responding officer.</p> <p>12 Q Were you referring to yourself?</p> <p>13 A The way -- looking at this report, the way</p> <p>14 it's worded, yes.</p> <p>15 Q Okay. When you wrote that you arrested</p> <p>16 Mr. Lindsey on October 15th, 2009, did you</p> <p>17 remember arresting Mr. Lindsey?</p> <p>18 A I don't know what I recall from that date.</p> <p>19 Q Okay. The next sentence says, "R/O</p> <p>20 arrested the complainant for PCS."</p> <p>21 Does PCS mean possession of a controlled</p> <p>22 substance?</p> <p>23 A Yes, it does.</p> <p>24 Q Okay. When you wrote that, did you</p>	<p>342</p> <p>1 to/from report.</p> <p>2 Q So your memory may have been based on your</p> <p>3 review of the reports?</p> <p>4 A I don't know at this particular point in</p> <p>5 time but possibly, yes.</p> <p>6 Q The next sentence says, "Robert E. Lindsey</p> <p>7 pled guilty to the charges of the arrest in Cook</p> <p>8 County Circuit Court, room 306 at 2600 South</p> <p>9 California on 22 September 2010, under Case No.</p> <p>10 09 CR 2036102."</p> <p>11 Did I read that right?</p> <p>12 A That is correct.</p> <p>13 Q And is that what you wrote in your memo?</p> <p>14 A Yes, it does state that.</p> <p>15 Q How did you learn the details of</p> <p>16 Mr. Lindsey's guilty plea?</p> <p>17 A From the best of my memory, you can look</p> <p>18 it up in the computer system and find out.</p> <p>19 Q Did you look it up?</p> <p>20 A If I put that in my report, like I said,</p> <p>21 I don't recall from June 11th, 2016 [sic], then</p> <p>22 perhaps I did.</p> <p>23 Q Okay. And it's June 16th, 2011; right?</p> <p>24 A Yes, that's what's stated on this to/from</p>

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<p style="text-align: right;">343</p> <p>1 report.</p> <p>2 Q Okay. I think you may have said 2016. I</p> <p>3 just wanted to make sure the record --</p> <p>4 A I'm sorry. I'm sorry. June 16th, 2011.</p> <p>5 Q Okay. In your experience as a police</p> <p>6 officer, after you make an arrest and the</p> <p>7 arrestee's criminal case is completed, do you</p> <p>8 receive notification of the outcome of the</p> <p>9 criminal case?</p> <p>10 A Based on my memory, sometimes you might</p> <p>11 have, but I don't recall.</p> <p>12 Q Okay. How would you receive that</p> <p>13 notification?</p> <p>14 A Through inter- -- you would receive it</p> <p>15 through the mail.</p> <p>16 Q Okay. Would you get a letter from the</p> <p>17 state's attorney?</p> <p>18 A From the best of my memory, yes.</p> <p>19 Q And was that always done on paper, or</p> <p>20 would you ever get that electronically?</p> <p>21 A Sitting here today, I don't recall; but to</p> <p>22 the best of my memory, it was usually paper.</p> <p>23 Q And what did you do with those paper</p> <p>24 notifications after you received them?</p>	<p style="text-align: right;">345</p> <p>1 Q Okay. Have you ever heard of someone</p> <p>2 named Willie Brownlee?</p> <p>3 MR. STEFANICH: Say that again.</p> <p>4 MR. FLAXMAN: Willie Brownlee.</p> <p>5 MR. STEFANICH: Do you know how to spell</p> <p>6 that?</p> <p>7 MR. FLAXMAN: B-r-o-w-n-l-e-e?</p> <p>8 A Sitting here today, the name does not ring</p> <p>9 a bell. I don't recall.</p> <p>10 MR. FLAXMAN: Let me take a very short</p> <p>11 break, and I'll find a better picture of</p> <p>12 Mr. Lindsey for you.</p> <p>13 (A recess was taken from 10:53 a.m. to</p> <p>14 10:57 a.m.)</p> <p>15 (Smith Deposition Exhibit 28 marked for</p> <p>16 identification and attached to the transcript.)</p> <p>17 BY MR. FLAXMAN:</p> <p>18 Q We're going to mark this as Exhibit 28,</p> <p>19 and I'm going to replace it with a copy. I'm</p> <p>20 going to show you a picture on my computer, which</p> <p>21 we'll get a printout of and mark as Exhibit 28.</p> <p>22 MR. FLAXMAN: For the record, this is a</p> <p>23 picture of Mr. Lindsey from the IDOC website.</p> <p>24 We're going to print out a copy, so everybody can</p>
<p style="text-align: right;">344</p> <p>1 A I don't recall what I've done with them.</p> <p>2 MR. FLAXMAN: Let's mark this as 27.</p> <p>3 (Smith Deposition Exhibit 27 marked for</p> <p>4 identification and attached to the transcript.)</p> <p>5 BY MR. FLAXMAN:</p> <p>6 Q Is Exhibit 27 a sworn affidavit for a</p> <p>7 complaint log investigation from Robert E. Lindsey?</p> <p>8 A Yes.</p> <p>9 Q Okay. Do you see this contains a similar</p> <p>10 allegation to what we looked at a few moments ago?</p> <p>11 A Yes, it does.</p> <p>12 Q And this says, "The complainant stated</p> <p>13 that Officer Brown, along with about five other</p> <p>14 officers, took the drugs from another individual."</p> <p>15 Were you ever familiar with an Officer</p> <p>16 Brown?</p> <p>17 A No, I am not.</p> <p>18 Q There was never anybody on your tactical</p> <p>19 team who you referred to as Brown?</p> <p>20 A From the best of my memory, no.</p> <p>21 Q And I mean referred to by civilians or</p> <p>22 officers or anyone else?</p> <p>23 A From the best of my memory, I don't recall</p> <p>24 anybody referred to as Officer Brown.</p>	<p style="text-align: right;">346</p> <p>1 have it.</p> <p>2 BY MR. FLAXMAN:</p> <p>3 Q Having reviewed that picture, do you have</p> <p>4 any memory of Robert Lindsey?</p> <p>5 A No, I do not.</p> <p>6 Q And do you know that Mr. Sims also says</p> <p>7 that he was falsely arrested on October 15th,</p> <p>8 2009?</p> <p>9 A Yes.</p> <p>10 Q Okay. And do you disagree with that?</p> <p>11 A Yes, I do.</p> <p>12 Q And why do you disagree with that?</p> <p>13 A Because I know his allegations are false</p> <p>14 because I never planted any drugs on Germain Sims.</p> <p>15 Q Having reviewed all the documents and the</p> <p>16 pictures, are you still unable to remember</p> <p>17 anything about the arrests of Robert Lindsey and</p> <p>18 Germain Sims on October 15th, 2009?</p> <p>19 MR. STEFANICH: Objection; form.</p> <p>20 A Sitting here today, I don't recall. After</p> <p>21 reviewing these reports, I don't have a memory of</p> <p>22 the arrest of October 15th, 2009.</p> <p>23 Q Is there anything that could help you</p> <p>24 remember the arrests on October 15th, 2009?</p>

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9 (347 to 350)

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<p style="text-align: right;">347</p> <p>1 A At the present moment, I don't know.</p> <p>2 Q All right. I'm going to ask you now about</p> <p>3 the arrest of Nephus Thomas on March 6th, 2008.</p> <p>4 Do you remember Nephus Thomas?</p> <p>5 A I remember Nephus Thomas.</p> <p>6 Q What do you remember about Nephus Thomas?</p> <p>7 A Nephus Thomas was involved with the drug</p> <p>8 activity in Ida B. Wells, and he was a drunk</p> <p>9 as well as a drug user.</p> <p>10 Q Did you observe him to be drunk?</p> <p>11 A Yes.</p> <p>12 Q How many times?</p> <p>13 A I don't remember how many times.</p> <p>14 Q Okay. How could you tell that he was</p> <p>15 drunk?</p> <p>16 A The way he'd act. He appeared to be drunk</p> <p>17 or either under the influence of some type of</p> <p>18 drug.</p> <p>19 Q Did you ever -- well, were there times</p> <p>20 that you could tell he was under the influence of</p> <p>21 drugs and not drunk?</p> <p>22 A From the best of my memory, sitting here</p> <p>23 today, I couldn't tell you. Like I said, based</p> <p>24 off of my memory of my observations of him, he was</p>	<p style="text-align: right;">349</p> <p>1 remember seeing him in a grocery store.</p> <p>2 Q Did you speak to him?</p> <p>3 A Yes, I did.</p> <p>4 Q And what did you say?</p> <p>5 A I spoke, and he, you know, had his</p> <p>6 daughter or some child with him, and he introduced</p> <p>7 me to them.</p> <p>8 Q What did he say?</p> <p>9 A I don't recall what he said; but, like I</p> <p>10 said, he had a child with him. He introduced me</p> <p>11 to him at some point in time, and I guess he might</p> <p>12 have stated that was his child.</p> <p>13 Q Was it a cordial conversation?</p> <p>14 A For the most part, yes. As I recall, yes.</p> <p>15 Q What was the part that wasn't cordial?</p> <p>16 A Like I said, for the most part. I don't</p> <p>17 recall the conversation. It was cordial. It</p> <p>18 wasn't --</p> <p>19 Q All right.</p> <p>20 A I'm trying to remember the specifics of</p> <p>21 the conversation. I do remember at some point in</p> <p>22 time he did mention the fact that -- brought up</p> <p>23 Mohammed and Watts and just told me that, you</p> <p>24 know, I'm glad you -- or he said, I know you're</p>
<p style="text-align: right;">348</p> <p>1 under some type of influence of some type of</p> <p>2 substance.</p> <p>3 Q Did you ever see him using drugs?</p> <p>4 A To the best of my memory, I don't recall.</p> <p>5 Q Did you ever see Mr. Thomas holding drugs?</p> <p>6 A Sitting here right now, I don't recall</p> <p>7 but -- I don't recall.</p> <p>8 Q Okay. Do you remember ever speaking to</p> <p>9 Mr. Thomas?</p> <p>10 A Yes, I do.</p> <p>11 Q And when did you speak to Mr. Thomas?</p> <p>12 A I don't remember the last time I've spoke</p> <p>13 to him, but I've spoke to him in the past.</p> <p>14 Q What conversations do you remember with</p> <p>15 Mr. Thomas?</p> <p>16 A A conversation I had -- the last time I</p> <p>17 saw Nephus Thomas was a couple of years ago. I</p> <p>18 saw him in a grocery store near where I live at,</p> <p>19 and that was the last time I had a conversation</p> <p>20 with him.</p> <p>21 Q Okay. So a couple years ago being 2018 or</p> <p>22 2019?</p> <p>23 A I don't remember what year it was. Like I</p> <p>24 said, it could have been a couple years ago. I</p>	<p style="text-align: right;">350</p> <p>1 glad you didn't get arrested and stuff when they</p> <p>2 were arrested because you was a nice guy, and, you</p> <p>3 know, you wasn't -- didn't appear to be that type</p> <p>4 of officer and stuff to do what they were accused</p> <p>5 of.</p> <p>6 Q That's what Mr. Thomas said to you?</p> <p>7 A Yes.</p> <p>8 Q Okay. What did you say back to him?</p> <p>9 A I don't recall what I said to him.</p> <p>10 Q Did you consider yourself to be a nice</p> <p>11 officer?</p> <p>12 A I am a nice officer.</p> <p>13 Q Was Mr. Thomas under the influence of</p> <p>14 drugs or alcohol during this conversation?</p> <p>15 A No. His appearance that day was totally</p> <p>16 different than it was in the time that he was -- I</p> <p>17 remember seeing him in the Ida B. Wells.</p> <p>18 Q He looked better?</p> <p>19 A Yes, he looked like he was sober, and he</p> <p>20 seemed a much different -- like a much different</p> <p>21 person also.</p> <p>22 Q Did you ever know him by a nickname?</p> <p>23 A From the best of my memory, no.</p> <p>24 Q Do you remember ever being involved in</p>

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<p>351</p> <p>1 arresting Nephus Thomas?</p> <p>2 A Sitting here today, I don't recall, but</p> <p>3 perhaps I may have been.</p> <p>4 Q Did you look at any documents before the</p> <p>5 deposition about an arrest of Mr. Thomas?</p> <p>6 A I don't recall.</p> <p>7 Q Aside from that conversation at the</p> <p>8 grocery store, do you remember any other</p> <p>9 conversations you had with Mr. Thomas?</p> <p>10 A Not offhand.</p> <p>11 Q And how did you know that Mr. Thomas was</p> <p>12 involved with drug activity at Ida B. Wells?</p> <p>13 A To the best of my memory, that's what he</p> <p>14 did. Like I said, I don't recall a particular</p> <p>15 incident; but from what I recall, Nephus Thomas</p> <p>16 was involved as either a lookout or sometimes he</p> <p>17 might have been the guy holding drugs. But I</p> <p>18 don't recall, but I do know he was involved in</p> <p>19 drug activity.</p> <p>20 Q Okay. But you don't know how you learned</p> <p>21 that?</p> <p>22 A Like I said, probably from my memory</p> <p>23 observing him in the Ida B. Wells. It could have</p> <p>24 been from other members of my team. I don't</p>	<p>353</p> <p>1 MR. MICHALIK: Objection; foundation.</p> <p>2 A It would depend.</p> <p>3 BY MR. FLAXMAN:</p> <p>4 Q Sometimes there might be. Sometimes there</p> <p>5 might not be.</p> <p>6 A That's correct.</p> <p>7 Q Okay. The conversation you described with</p> <p>8 Mr. Thomas at the grocery store, was that sometime</p> <p>9 after Ida B. Wells was demolished?</p> <p>10 A Yes. Like I said, it was a couple of</p> <p>11 years ago. I don't remember what year it was, but</p> <p>12 it was most -- it was recently.</p> <p>13 MR. FLAXMAN: All right. Let's mark this</p> <p>14 as the next Exhibit, No. 29.</p> <p>15 (Smith Deposition Exhibit 29 marked for</p> <p>16 identification and attached to the transcript.)</p> <p>17 Q Is that a picture of Mr. Thomas?</p> <p>18 A Yes, it is.</p> <p>19 (Smith Deposition Exhibit 30 marked for</p> <p>20 identification and attached to the transcript.)</p> <p>21 MR. FLAXMAN: Exhibit 30.</p> <p>22 MR. KOSOKO: Joel, just a question. 28 is</p> <p>23 going to be the IDOC of -- and 29 and 30.</p> <p>24 MR. FLAXMAN: Yeah. I'm sorry. For the</p>
<p>352</p> <p>1 recall at this particular moment.</p> <p>2 Q Well, what does a lookout do?</p> <p>3 A A lookout usually will alert the drug</p> <p>4 dealers or potential buyers, people who are coming</p> <p>5 to buy drugs that police are coming or near the</p> <p>6 building or the area.</p> <p>7 Q Is that somebody who would say "clean up"?</p> <p>8 A They used -- sometimes they would use</p> <p>9 clean up. They might have used other terminology.</p> <p>10 I don't remember all the terminology that they</p> <p>11 might have used.</p> <p>12 Q And you said that he might also be the</p> <p>13 person who was holding drugs; is that right?</p> <p>14 A I said that's possible. At this time, I</p> <p>15 don't recall.</p> <p>16 Q Okay. What was your understanding of the</p> <p>17 responsibility of the person holding drugs?</p> <p>18 A Based on my memory and my experience, the</p> <p>19 person that would be holding the drugs would be</p> <p>20 the person that would distribute the drugs out to</p> <p>21 people who were coming to buy drugs.</p> <p>22 Q Would there be a different person holding</p> <p>23 drugs from the person accepting money for drugs?</p> <p>24 A It would depend.</p>	<p>354</p> <p>1 record, I skipped 28 because we're going to add</p> <p>2 it in.</p> <p>3 MR. KOSOKO: Sure.</p> <p>4 BY MR. FLAXMAN:</p> <p>5 Q Is Exhibit No. 30 the arrest report of</p> <p>6 Nephus Thomas on March 6th, 2008?</p> <p>7 A Yes, it is.</p> <p>8 Q Okay. And do you see that Mr. Thomas was</p> <p>9 charged with manufacture and delivery of heroin?</p> <p>10 A Yes.</p> <p>11 Q Do you see your name on the third page of</p> <p>12 this arrest report?</p> <p>13 A Yes, I do.</p> <p>14 Q Okay. And what are you listed as?</p> <p>15 A The second arresting officer.</p> <p>16 Q Did you review the narrative on the second</p> <p>17 page of the arrest report?</p> <p>18 A Yes, I have.</p> <p>19 Q And having reviewed this narrative and the</p> <p>20 other parts of the report, are you able to</p> <p>21 remember the arrest of Nephus Thomas on March 6th,</p> <p>22 2008?</p> <p>23 A No, I do not.</p> <p>24 Q Based on the listing of officers on the</p>

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<p>355</p> <p>1 third page, can you tell who wrote this arrest 2 report?</p> <p>3 A I don't recall, but Alvin Jones, who I was 4 partnered with on that day, is listed as the first 5 arresting officer. So he perhaps wrote this 6 report.</p> <p>7 Q Is he the most likely officer to have 8 written the report?</p> <p>9 A Yes. Usually, the first arresting officer 10 is the one who prepared the report. Also looking 11 at Page No. 3, he is the attesting officer.</p> <p>12 Q And that suggests to you that he's the one 13 who wrote the report?</p> <p>14 A That is possible.</p> <p>15 Q What are some other possibilities?</p> <p>16 A It's possible that myself or other members 17 of my team could have assisted him with this 18 report and prepared the report also.</p> <p>19 Q Is there any way to tell who assisted in 20 preparing the report?</p> <p>21 A No, I cannot tell based off of the 22 handwriting -- or not handwriting, but the way 23 this report is typed.</p> <p>24 Q The second-page narrative states that the</p>	<p>357</p> <p>1 to place an item into his boot?</p> <p>2 A I do not recall this arrest from that 3 date.</p> <p>4 Q Okay. And do you recall any other time 5 when you observed Mr. Thomas attempting to place 6 an item from his hand into his boot?</p> <p>7 A Not off the top of my head, no.</p> <p>8 Q Okay. The next sentence says, "A/O 9 recovered the item and found it to be a clear 10 plastic bag with 45 Ziploc baggies with white 11 powder suspect heroin."</p> <p>12 Did I read that right?</p> <p>13 A That's correct.</p> <p>14 Q Okay. Are you able to tell who the 15 A/O is?</p> <p>16 A No.</p> <p>17 Q Based on the report, you don't know who 18 that is?</p> <p>19 A No. But Alvin Jones is the first 20 arresting officer. So the only thing I can assume 21 is that he is probably stating that he was the 22 recovering officer.</p> <p>23 Q Is it possible that you, as the second 24 arresting officer, could be the A/O in the</p>
<p>356</p> <p>1 above subject was observed during a narcotics 2 mission exiting the hallway inside of 575 East 3 Browning.</p> <p>4 Do you see that?</p> <p>5 A Yes, I do.</p> <p>6 Q Okay. And was 575 East Browning a 7 building at the Ida B. Wells housing project?</p> <p>8 A Yes, it was.</p> <p>9 Q Do you know what it means to exit a 10 hallway?</p> <p>11 A Exit means you're leaving.</p> <p>12 Q Okay. And were you familiar with the 13 hallways inside that building?</p> <p>14 A At the time I was; but sitting here today, 15 I do not recall.</p> <p>16 Q Do you know where somebody could go if 17 they were exiting a hallway inside of 575 East 18 Browning?</p> <p>19 A Out of the building.</p> <p>20 Q This states that Mr. Thomas attempted to 21 place an item from his hand into his boot.</p> <p>22 Do you see that?</p> <p>23 A Yes, I do.</p> <p>24 Q Do you remember ever seeing Mr. Thomas try</p>	<p>358</p> <p>1 narrative?</p> <p>2 A That is possible, but it does not state in 3 the report or in the narrative.</p> <p>4 (Smith Deposition Exhibit 31 marked for 5 identification and attached to the transcript.)</p> <p>6 Q I'm going to give you Exhibit 31.</p> <p>7 Is Exhibit 31 the general offense case 8 report for an arrest of five individuals on 9 March 6th, 2008?</p> <p>10 A Yes.</p> <p>11 Q Do you see that you're listed as one of 12 the witnesses -- well, actually, I'm sorry. Let 13 me ask that a better way.</p> <p>14 Do you see your name on this report?</p> <p>15 A Yes, I do.</p> <p>16 Q And how are you listed on this report?</p> <p>17 A As an assisting officer.</p> <p>18 Q Okay. Where does it say assisting 19 officer?</p> <p>20 A It doesn't state assisting in particular, 21 but I know that the way we wrote our reports at 22 this time, when we list the other officers in the 23 box -- I can't make out the number right here, but 24 when we list all the officers on our reports, that</p>

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12 (359 to 362)

<p style="text-align: right;">359</p> <p>1 they had to be assisting in the arrest in some</p> <p>2 capacity.</p> <p>3 Q Do you know how you assisted in these</p> <p>4 arrests?</p> <p>5 A No, I do not. I do not recall this arrest</p> <p>6 on this date.</p> <p>7 Q And do you see that it says -- it has an</p> <p>8 arrest date and time of 20 minutes after the</p> <p>9 arrest of Mr. Thomas that we looked at a moment</p> <p>10 ago?</p> <p>11 A I see that on the report.</p> <p>12 Q But you don't remember the arrest that's</p> <p>13 reported on Exhibit 31 either; correct?</p> <p>14 A No. As I stated, I'm listed as an</p> <p>15 assisting officer, and the reporting officer</p> <p>16 appears to be Robert Gonzalez, who was my teammate</p> <p>17 at that time.</p> <p>18 Q All right. Do you remember Terrence Moye,</p> <p>19 who is listed as the first offender?</p> <p>20 A Sitting here today, I do not recall him.</p> <p>21 Q Okay. Do you have any memory of Donald</p> <p>22 Sanders?</p> <p>23 A As I'm sitting here today, I do not</p> <p>24 recall.</p>	<p style="text-align: right;">361</p> <p>1 refer to on this report?</p> <p>2 A No, I do not.</p> <p>3 Q And your name is on the third line,</p> <p>4 E. Smith; right?</p> <p>5 A It appears to be so, yes.</p> <p>6 Q And you don't have any idea why this lists</p> <p>7 L. Smith; right?</p> <p>8 A No. I did not prepare this report based</p> <p>9 off the names that are listed as the reporting</p> <p>10 officers.</p> <p>11 Q I'm sorry. You said because of who is</p> <p>12 listed as the reporting officers, you could tell</p> <p>13 that you didn't prepare it?</p> <p>14 A Like I said, I don't recall this arrest</p> <p>15 from that particular date; but based on the names</p> <p>16 that are listed as the reporting officers, I do</p> <p>17 not know.</p> <p>18 Not having any memory of this incident, to</p> <p>19 the best of my memory, I do not know; but if I'm</p> <p>20 listed as an assisting officer, then I probably</p> <p>21 assisted in this arrest in some capacity. From</p> <p>22 the best of my memory, I don't recall writing this</p> <p>23 report.</p> <p>24 Q Based on reviewing the report, are you</p>
<p style="text-align: right;">360</p> <p>1 Q Do you remember Jordan Key?</p> <p>2 A To the best of my memory, I do not.</p> <p>3 Q Do you remember Jimmie Bell?</p> <p>4 A From the best of my memory, no, I do not.</p> <p>5 Q And do you remember Milton Allison?</p> <p>6 A From the best of my memory, I do not.</p> <p>7 Q You mentioned this list of assisting</p> <p>8 officers.</p> <p>9 It looks to me like that's in Box 31; is</p> <p>10 that right?</p> <p>11 A It appears so. I can hardly see.</p> <p>12 Q Okay. And it starts with P.O.B. Bolton;</p> <p>13 right?</p> <p>14 A Yes.</p> <p>15 Q Okay. And the next one is P.O.M. Leano;</p> <p>16 correct?</p> <p>17 A Yes.</p> <p>18 Q And the next one I see is P.O.L. Smith.</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q Was there ever an officer on your team</p> <p>22 with the last name Smith, first initial L.?</p> <p>23 A From the best of my memory, no.</p> <p>24 Q Do you have any idea who L. Smith might</p>	<p style="text-align: right;">362</p> <p>1 able to tell what capacity you assisted in the</p> <p>2 arrest?</p> <p>3 A No, I do not. No, I cannot.</p> <p>4 Q The narrative refers to arresting these</p> <p>5 individuals for trespassing.</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q And this is -- the address of occurrence</p> <p>9 for this is 575 East Browning; correct?</p> <p>10 A That's correct.</p> <p>11 Q That's also where Mr. Thomas was arrested;</p> <p>12 right?</p> <p>13 A That's correct.</p> <p>14 Q Okay. Do you recall arresting</p> <p>15 individuals, not on this day, but at other times</p> <p>16 for trespassing in buildings at Ida B. Wells?</p> <p>17 A I'm sure at some point in time we probably</p> <p>18 have.</p> <p>19 Q And was it your practice to give a verbal</p> <p>20 warning before making a trespassing arrest?</p> <p>21 A From the best of my memory, yes.</p> <p>22 Q Was that a requirement?</p> <p>23 A I don't recall what the requirement is,</p> <p>24 but signs are usually posted; and sometimes, from</p>

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13 (363 to 366)

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<p style="text-align: right;">363</p> <p>1 the best of my memory, we would tell people.</p> <p>2 Q But have you ever made a trespassing</p> <p>3 arrest of somebody who had not been given a verbal</p> <p>4 warning before that arrest?</p> <p>5 A From the best of my memory, I don't recall</p> <p>6 if we did or did not.</p> <p>7 Q You just don't know either way.</p> <p>8 A I don't recall either way.</p> <p>9 Q The general offense case report on the</p> <p>10 second page, there's two columns in the narrative,</p> <p>11 and I'm looking at the second column on the right.</p> <p>12 Well, I'm sorry. The last sentence on the last</p> <p>13 line of the narrative begins the offenders.</p> <p>14 Do you see that?</p> <p>15 A The offenders were placed into; is that</p> <p>16 what you mean? The offenders were placed into --</p> <p>17 Q Right. The offenders were placed into,</p> <p>18 and I believe it then goes to the charges.</p> <p>19 MR. STEFANICH: No.</p> <p>20 Q No, I'm sorry.</p> <p>21 A It looked like --</p> <p>22 Q It goes all the way to the top, and it</p> <p>23 says, "The offenders were placed into custody,</p> <p>24 advised of rights and charges, and transported to</p>	<p style="text-align: right;">365</p> <p>1 Q Well, I just want to know when you were</p> <p>2 assigned to the 264 tactical team, were you ever</p> <p>3 tasked with driving the wagon?</p> <p>4 A Yes, I believe so. I can recall working</p> <p>5 the Bud Billiken parade one year, and I couldn't</p> <p>6 tell you what year that was. It was myself, and I</p> <p>7 was working with Officer Mohammed at that</p> <p>8 particular time. We were working the wagon.</p> <p>9 Q On days when you were doing your typical</p> <p>10 policing as a member of the 264 tactical team, was</p> <p>11 it ever your responsibility to drive the wagon?</p> <p>12 A From the best of my memory, no.</p> <p>13 Q Do you know that Nephus Thomas says that</p> <p>14 he was falsely arrested on March 6th, 2008?</p> <p>15 A Yes.</p> <p>16 Q And do you disagree with that?</p> <p>17 A Yes, I do.</p> <p>18 Q Why do you disagree with that?</p> <p>19 A Because I did not falsely arrest Nephus</p> <p>20 Thomas.</p> <p>21 Q And at the time these reports were</p> <p>22 prepared, would you have reviewed on them -- at</p> <p>23 the time these reports, Exhibit 30 and 31, were</p> <p>24 prepared, would you have reviewed them based on</p>
<p style="text-align: right;">364</p> <p>1 002 for processing by Beat 2171."</p> <p>2 Did I get that right?</p> <p>3 A Yes.</p> <p>4 Q Okay. Does 002 mean the 2nd District?</p> <p>5 A Yes.</p> <p>6 Q And what is Beat 2171?</p> <p>7 A That was the 21st District squad or wagon.</p> <p>8 Q Do you know how many people could fit in</p> <p>9 the wagon?</p> <p>10 A No, I do not.</p> <p>11 Q But it would be more than just one or two;</p> <p>12 right?</p> <p>13 A Yes.</p> <p>14 Q Did you ever drive the wagon?</p> <p>15 A Yes, I have.</p> <p>16 Q When were you assigned to drive the wagon?</p> <p>17 A I can't give you an exact date or time or</p> <p>18 how many times I have worked the wagon, but I have</p> <p>19 worked the wagon before.</p> <p>20 Q Did you ever do that when you were on the</p> <p>21 tactical team?</p> <p>22 A At some point in time, I believe I did,</p> <p>23 but I don't recall working the wagon on this</p> <p>24 particular date.</p>	<p style="text-align: right;">366</p> <p>1 your usual practice?</p> <p>2 A I don't recall what my usual practice was,</p> <p>3 but it's possible that -- I don't recall. I don't</p> <p>4 recall what my usual practice was, but I don't</p> <p>5 recall either way if I reviewed them or if I did</p> <p>6 not.</p> <p>7 MR. FLAXMAN: Rick, if we take a short</p> <p>8 break, can you start the video?</p> <p>9 THE VIDEOGRAPHER: Yes.</p> <p>10 MR. FLAXMAN: Okay. Let's take a</p> <p>11 five-minute break and start the video.</p> <p>12 (A recess was taken from 11:23 a.m. to</p> <p>13 11:35 a.m.)</p> <p>14 THE VIDEOGRAPHER: This is day two of the</p> <p>15 video portion of Elsworth Smith, Jr., and the</p> <p>16 earlier non-video portion was taken today.</p> <p>17 The video deposition is taken by Loevy &</p> <p>18 Loevy in the matter of the Watts coordinated</p> <p>19 pretrial proceedings, Master Docket 19 cv 01717,</p> <p>20 held at Loevy & Loevy, 311 North Aberdeen Street,</p> <p>21 Chicago, Illinois.</p> <p>22 Today is March 5th. The time is 11:35.</p> <p>23 The court reporter is Joanne Ely of Planet Depos.</p> <p>24 The videographer is Rick Kosberg.</p>

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14 (367 to 370)

<p style="text-align: right;">367</p> <p>1 Counsel can now introduce themselves, and</p> <p>2 the court reporter is free to administer the oath</p> <p>3 should she need to.</p> <p>4 MR. FLAXMAN: Joel Flaxman for the various</p> <p>5 plaintiffs. My paralegal Andrew Segal is also</p> <p>6 present.</p> <p>7 MR. RAUSCHER: Scott Rauscher for</p> <p>8 plaintiffs represented by Loevy & Loevy in the</p> <p>9 coordinated proceedings; and just for the record,</p> <p>10 we started with and will continue for now cases</p> <p>11 covered by -- represented by Mr. -- plaintiffs</p> <p>12 represented by Mr. Flaxman's firm.</p> <p>13 MR. SCHALKA: Michael Schalka on behalf of</p> <p>14 Defendants Cadman and Spaargaren.</p> <p>15 MR. PALLES: Eric Palles on behalf of</p> <p>16 Kallatt Mohammed.</p> <p>17 MR. KOSOKO: Ahmed Kosoko on behalf of</p> <p>18 Ronald Watts.</p> <p>19 MR. MICHALIK: Paul Michalik on behalf of</p> <p>20 Defendant City of Chicago and various supervisory</p> <p>21 officials.</p> <p>22 MR. STEFANICH: And Brian Stefanich for</p> <p>23 Officer Elsworth Smith and other defendant</p> <p>24 officers.</p> <p style="text-align: right;">368</p>	<p style="text-align: right;">369</p> <p>1 holding it in your left hand, and we talked</p> <p>2 briefly about the last page of that, which was</p> <p>3 your to/from memo.</p> <p>4 Are you looking at that now?</p> <p>5 A Yes.</p> <p>6 Q Okay. When you completed to/from memos,</p> <p>7 was it your practice to discuss the contents of</p> <p>8 your memo with other officers who were also</p> <p>9 accused?</p> <p>10 A Sitting here, based off of my memory, I'm</p> <p>11 certain I might have, but I don't recall for this</p> <p>12 particular report.</p> <p>13 Q Okay. But for responding to some</p> <p>14 allegations, you would have spoken to your officer</p> <p>15 colleagues who were also accused.</p> <p>16 MR. MICHALIK: Just are you asking in</p> <p>17 general? I think the question is vague.</p> <p>18 MR. FLAXMAN: I'm sure I can improve it.</p> <p>19 A As I stated, I do not recall what I did in</p> <p>20 preparation for this to/from report.</p> <p>21 Q Okay. In general, when you were</p> <p>22 completing a to/from in response to a citizen</p> <p>23 complaint, would you ever confer with officers who</p> <p>24 are also accused?</p> <p style="text-align: right;">370</p>
<p>1 BY MR. FLAXMAN:</p> <p>2 Q Okay. Sir, you took an oath before the</p> <p>3 video was here; correct?</p> <p>4 A That's correct.</p> <p>5 Q And you understand that you're still under</p> <p>6 oath; right?</p> <p>7 A Yes.</p> <p>8 Q Is there any reason you wouldn't be able</p> <p>9 to truthfully and accurately answer questions</p> <p>10 today?</p> <p>11 A No.</p> <p>12 Q All right. During the break, I changed</p> <p>13 the exhibit sticker for No. 28.</p> <p>14 Do you see Exhibit 28 in front of you?</p> <p>15 A Yes, I do.</p> <p>16 Q And is that the picture you looked at on</p> <p>17 my computer a few minutes ago?</p> <p>18 A Yes.</p> <p>19 Q Okay. And having looked at it on the</p> <p>20 computer and looked at it on paper, do you have</p> <p>21 any recollection of Robert Lindsey?</p> <p>22 A No, I do not.</p> <p>23 Q I wanted to very quickly go back to</p> <p>24 Exhibit 26 about Mr. Lindsey. I think you're</p>	<p>1 A Based on my memory and my experience as a</p> <p>2 police officer, it would not be out of the</p> <p>3 ordinary, but I do not recall.</p> <p>4 Q Okay. Going back to Mr. Thomas, I think</p> <p>5 the reports are under your left hand, but my</p> <p>6 question is not about anything in any of the</p> <p>7 reports.</p> <p>8 My question is having reviewed the reports</p> <p>9 related to Mr. Thomas, are you still unable to</p> <p>10 remember the arrest of Mr. Thomas on March 6th,</p> <p>11 2008?</p> <p>12 A No, I cannot.</p> <p>13 Q And is there anything that would help you</p> <p>14 remember the arrest of Mr. Thomas on March 6th,</p> <p>15 2008?</p> <p>16 A I don't know.</p> <p>17 Q All right. You can put aside the</p> <p>18 Mr. Thomas exhibits.</p> <p>19 I want to ask you about the arrest of</p> <p>20 Angelo Shenault, Sr.</p> <p>21 MR. PALLES: Excuse me. I noticed that</p> <p>22 since yesterday about 5:00 p.m., there was a</p> <p>23 substantial --</p> <p>24 MR. FLAXMAN: Yeah. I'm not going to ask</p>

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15 (371 to 374)

<p style="text-align: right;">371</p> <p>1 about that.</p> <p>2 MR. PALLES: Okay.</p> <p>3 MR. FLAXMAN: I can put it on the record.</p> <p>4 MR. PALLES: I was going to say there was</p> <p>5 a substantial amount of documents received last</p> <p>6 night -- I received it from --</p> <p>7 MR. KOSOKO: COPA.</p> <p>8 MR. PALLES: -- on behalf of -- COPA,</p> <p>9 citizens -- sorry -- whatever it is.</p> <p>10 MR. FLAXMAN: So I'm not going to ask</p> <p>11 about Shenault, Jr., who is the subject of that</p> <p>12 log because we just got all those documents.</p> <p>13 MR. PALLES: Okay. Thank you.</p> <p>14 MR. FLAXMAN: Counsel for the witness has</p> <p>15 agreed that we're going to postpone that</p> <p>16 questioning.</p> <p>17 MR. STEFANICH: Correct.</p> <p>18 MR. PALLES: Okay. Thank you.</p> <p>19 BY MR. FLAXMAN:</p> <p>20 Q So do you remember somebody named Angelo</p> <p>21 Shenault?</p> <p>22 A Vaguely.</p> <p>23 Q Okay. And do you remember that there were</p> <p>24 two people around Ida B. Wells with that name?</p>	<p style="text-align: right;">373</p> <p>1 person depicted in this arrest report, or was he</p> <p>2 roughly a different age?</p> <p>3 A Like I said, I don't recall Angelo</p> <p>4 Shenault. So it depends on -- I am aware that</p> <p>5 there's an Angelo Shenault, Jr., so I don't know</p> <p>6 which one you are referring to.</p> <p>7 Q Okay.</p> <p>8 MR. STEFANICH: If you want to show him</p> <p>9 his picture, that's fine.</p> <p>10 MR. FLAXMAN: I didn't bring a picture.</p> <p>11 You said we're not going to question on it.</p> <p>12 A Maybe I misunderstood.</p> <p>13 Q Sure. And maybe I've asked a bad</p> <p>14 question.</p> <p>15 When I first asked you if you knew of</p> <p>16 Angelo Shenault, you said you -- what did you say?</p> <p>17 A Vaguely.</p> <p>18 Q Okay. And is there anything you remember</p> <p>19 about the Angelo Shenault that you have a</p> <p>20 recollection of?</p> <p>21 A As I'm sitting here today, no, I do not</p> <p>22 know.</p> <p>23 Q Okay. Well, then I will just ask directly</p> <p>24 about this report. For the record, I'm going to</p>
<p style="text-align: right;">372</p> <p>1 A I am aware of it now.</p> <p>2 Q Okay. Well, let me -- do you have any</p> <p>3 memory of the arrests of either person named</p> <p>4 Angelo Shenault?</p> <p>5 A No, I do not.</p> <p>6 (Smith Deposition Exhibit 32 marked for</p> <p>7 identification and attached to the transcript.)</p> <p>8 Q Well, let me show you what we will mark as</p> <p>9 Exhibit 32.</p> <p>10 Do you recognize the man depicted in</p> <p>11 Exhibit 32?</p> <p>12 A No, I do not.</p> <p>13 (Smith Deposition Exhibit 33 marked for</p> <p>14 identification and attached to the transcript.)</p> <p>15 Q Okay. Let me give you Exhibit 33.</p> <p>16 Is Exhibit 33 the arrest report of Angelo</p> <p>17 Shenault on November 26th, 2006?</p> <p>18 A Yes, it is.</p> <p>19 Q Okay. And this Angelo Shenault has a date</p> <p>20 of birth in 1963.</p> <p>21 Is that what the report says?</p> <p>22 A Yes.</p> <p>23 Q Okay. Based on your memory of someone</p> <p>24 named Angelo Shenault, do you think he is the</p>	<p style="text-align: right;">374</p> <p>1 refer to this as Angelo Shenault, Sr.</p> <p>2 Do you remember the arrest of Angelo</p> <p>3 Shenault, Sr., on November 26th, 2006?</p> <p>4 A No, I do not.</p> <p>5 Q But you understand that I'm talking about</p> <p>6 the report that's depicted in Exhibit 33; right?</p> <p>7 A That's correct.</p> <p>8 Q You see that the location of the arrest is</p> <p>9 3753 South Vernon Avenue?</p> <p>10 A That's correct.</p> <p>11 Q Okay. Are you familiar with that</p> <p>12 location?</p> <p>13 A Yes.</p> <p>14 Q And what's at that location?</p> <p>15 A At that time, I believe it was a set of</p> <p>16 row houses in the Ida B. Wells.</p> <p>17 Q And by "at that time," what are you</p> <p>18 referring to?</p> <p>19 A The address.</p> <p>20 Q I'm sorry. You mean the time that's</p> <p>21 listed in this arrest report?</p> <p>22 A Yes.</p> <p>23 Q Meaning in 2006?</p> <p>24 A Yes.</p>

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16 (375 to 378)

<p style="text-align: right;">375</p> <p>1 Q Do you see that Mr. Shenault, Sr., was</p> <p>2 charged with possession of a controlled substance?</p> <p>3 A That's what's stated on the report.</p> <p>4 Q And on the third page of this report,</p> <p>5 you're not listed as an attesting officer or the</p> <p>6 first or second arresting officer; right?</p> <p>7 A No, I am not.</p> <p>8 Q Okay. Do you see yourself listed on the</p> <p>9 fifth page of the arrest report?</p> <p>10 A Yes.</p> <p>11 Q What are you listed as?</p> <p>12 A As an assisting arresting officer.</p> <p>13 Q Did you review the narrative of this</p> <p>14 report?</p> <p>15 A I don't recall if I did on that date</p> <p>16 or not, but I've reviewed it prior to coming here.</p> <p>17 Q Okay. And --</p> <p>18 A And I've looked at it now.</p> <p>19 Q Okay. And having reviewed this report,</p> <p>20 are you able to remember the arrest of</p> <p>21 Mr. Shenault, Sr., on November 26th, 2006?</p> <p>22 A No, I do not.</p> <p>23 Q This narrative refers to narcotics being</p> <p>24 sold out of the Madden Park area.</p>	<p style="text-align: right;">377</p> <p>1 Q Okay. The report states that Mr. Shenault</p> <p>2 discarded to the ground a Cheetos chip bag that</p> <p>3 contained Ziploc baggies each filled with suspect</p> <p>4 heroin.</p> <p>5 Do you see where I read that?</p> <p>6 A Yes.</p> <p>7 Q Do you remember ever being involved in an</p> <p>8 arrest where a suspect was storing narcotics in a</p> <p>9 chip bag?</p> <p>10 A I don't recall this arrest, but, yes, I</p> <p>11 have.</p> <p>12 Q Okay. And what do you remember from those</p> <p>13 arrests that you recall?</p> <p>14 A That sometimes drug dealers put the</p> <p>15 narcotics in a bag.</p> <p>16 Q And did you ever learn why drug dealers</p> <p>17 would put narcotics into a chip bag?</p> <p>18 A Sometimes it wasn't specifically narcotics</p> <p>19 dealers. It was also people who purchased drugs</p> <p>20 also that was trying to hide them from the police.</p> <p>21 MR. FLAXMAN: Mark this as 34.</p> <p>22 (Smith Deposition Exhibit 34 marked for</p> <p>23 identification and attached to the transcript.)</p> <p>24 Q Is Exhibit 34 a vice case report for the</p>
<p style="text-align: right;">376</p> <p>1 Are you familiar with the Madden Park</p> <p>2 area?</p> <p>3 A Yes.</p> <p>4 Q Was there a park called Madden Park?</p> <p>5 A Yes.</p> <p>6 Q And do you know if Madden Park is still</p> <p>7 there?</p> <p>8 A From the best of my memory, I don't</p> <p>9 recall.</p> <p>10 Q Is Madden Park near 3753 South Vernon</p> <p>11 Avenue?</p> <p>12 A I believe so.</p> <p>13 Q Do you recall making any arrests in the</p> <p>14 Madden Park area?</p> <p>15 A Off the top of my head, I don't recall.</p> <p>16 Q Do you ever recall learning about drugs</p> <p>17 being sold at Madden Park?</p> <p>18 A As I'm sitting here today, I don't recall;</p> <p>19 but I'm certain probably during that time, yes.</p> <p>20 Q How close was Madden Park to the Ida B.</p> <p>21 Wells homes?</p> <p>22 A Like I said, I don't remember the</p> <p>23 distance. I couldn't tell you how many feet or</p> <p>24 how many -- but it was fairly close.</p>	<p style="text-align: right;">378</p> <p>1 arrest of Angelo Shenault, Sr., on November 6th --</p> <p>2 excuse me -- on November 26th, 2006?</p> <p>3 A Yes.</p> <p>4 Q Do you see your name on this report?</p> <p>5 A No, I do not.</p> <p>6 Q The first line of the narrative says, "In</p> <p>7 summary, this is a narcotics investigation arrest</p> <p>8 by Beats 264A, B, C, D."</p> <p>9 Do you see that?</p> <p>10 A Yes, I do.</p> <p>11 Q Okay. Based on the arrest report, can you</p> <p>12 tell if you were included in that group on</p> <p>13 November 26th, 2006?</p> <p>14 A Yes. It doesn't mention me specifically</p> <p>15 by name, but it has several beats listed there.</p> <p>16 So I would have been assigned to one of those</p> <p>17 units.</p> <p>18 Q Do you know why it doesn't mention you by</p> <p>19 name?</p> <p>20 A I do not recall this particular arrest;</p> <p>21 and based on the names that are listed as the</p> <p>22 reporting officers, I don't speak for them. So I</p> <p>23 cannot answer for Robert Gonzalez or Brian Bolton.</p> <p>24 Q If you had prepared a vice case report,</p>

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17 (379 to 382)

379	<p>1 would you have listed the names of all the</p> <p>2 officers involved in the arrest?</p> <p>3 A I would try to, but I'm certain at some</p> <p>4 point in time officers probably have made mistakes</p> <p>5 on reports, and it was probably unintentionally</p> <p>6 done.</p> <p>7 Q Do you recognize the signature below</p> <p>8 Officer Gonzalez's name?</p> <p>9 A I don't recall Robert Gonzalez' signature;</p> <p>10 but as I see there, the report has been signed by</p> <p>11 Gonzalez and Bolton.</p> <p>12 Q Do you recognize Officer Bolton's</p> <p>13 signature?</p> <p>14 A No, I do not.</p> <p>15 Q Box No. 42 of this report says</p> <p>16 "gang-related affiliation."</p> <p>17 Do you see where I am?</p> <p>18 A Yes.</p> <p>19 Q And victim is checked, and what does it</p> <p>20 say for victim?</p> <p>21 A None.</p> <p>22 Q And then offender is checked, and what</p> <p>23 does it say for that?</p> <p>24 A G/D.</p>	381	<p>1 A Yes, I believe you could check them on the</p> <p>2 computer, and then they would tell you if they</p> <p>3 were involved in a gang or part of a gang.</p> <p>4 Q All right. Well, having looked at</p> <p>5 Exhibits 33 and 34, do you have any memory of the</p> <p>6 arrest of Mr. Shenault, Sr., on November 26th,</p> <p>7 2006?</p> <p>8 A No, I do not.</p> <p>9 Q Okay. Are you aware of anything that</p> <p>10 would help you remember the arrest of Angelo</p> <p>11 Shenault, Sr., on November 26th, 2006?</p> <p>12 A Not at this present moment.</p> <p>13 Q Okay. Do you know that Shenault, Sr.,</p> <p>14 says that he was falsely arrested?</p> <p>15 A Yes.</p> <p>16 Q Okay. Do you disagree with that?</p> <p>17 A Yes, I do.</p> <p>18 Q Why do you disagree with that?</p> <p>19 A Mr. Shenault, as well as many other</p> <p>20 people, are making false accusations against</p> <p>21 myself. Because I know myself, I have never</p> <p>22 falsely arrested anyone, and I don't recall anyone</p> <p>23 that I worked with at that particular time making</p> <p>24 any false arrests of any other individuals.</p>
380	<p>1 Q Okay. Do you know what G/D means?</p> <p>2 A Gangster Disciple.</p> <p>3 Q Was that a -- were you familiar with the</p> <p>4 Gangster Disciple gang?</p> <p>5 A Yes.</p> <p>6 Q Were they active at the Ida B. Wells</p> <p>7 homes?</p> <p>8 A From the best of my memory, yes.</p> <p>9 Q I understand that you didn't create this</p> <p>10 vice case report; but I want to ask when you would</p> <p>11 create vice case reports, how would you get the</p> <p>12 information for the gang-related affiliation box?</p> <p>13 A From the computer system. You could</p> <p>14 check -- I think there's a gang file that you</p> <p>15 could check, and sometimes some offenders might</p> <p>16 admit that they are affiliated with a particular</p> <p>17 gang.</p> <p>18 Q Was it your responsibility to ask them if</p> <p>19 they were affiliated with a particular gang?</p> <p>20 A Yes. To the best of my memory, I believe</p> <p>21 so.</p> <p>22 Q And in the computer system, you would put</p> <p>23 in a person's name, and the system would say</p> <p>24 whether they were listed; is that right?</p>	382	<p>1 Q So you never knew anyone on your team to</p> <p>2 make a false arrest?</p> <p>3 A Based on my time working with the 264 team</p> <p>4 and my experience in working around these</p> <p>5 individuals that I was working with at that time,</p> <p>6 I do not recall anyone else doing anything that we</p> <p>7 are being alleged of.</p> <p>8 Q Do you know that Mr. Shenault, Sr., claims</p> <p>9 that a member of your team took money from him and</p> <p>10 bought fast food for team members?</p> <p>11 A Yes. I am aware of those allegations.</p> <p>12 Q Okay. Do you disagree with that?</p> <p>13 A Yes, I do.</p> <p>14 Q And why do you disagree with that?</p> <p>15 A Because, like I said, we never stole any</p> <p>16 money from anyone and bought food with money that</p> <p>17 we had taken from any individual.</p> <p>18 Q Have you ever seen an officer buy fast</p> <p>19 food for someone who is under arrest?</p> <p>20 A Have I seen anyone do that? I'm not --</p> <p>21 can't recall sitting here, but I'm certain we</p> <p>22 might have. I do recall at times that we were</p> <p>23 preparing reports that we ate while we were doing</p> <p>24 our reports; and sometimes there would be extra</p>

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18 (383 to 386)

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<p style="text-align: right;">383</p> <p>1 food, we would sometimes offer it to offenders, 2 not just people who we would lock up, if there was 3 other offenders in the tac office at that 4 particular time. 5 Q What fast food restaurants are near the 6 2nd District? 7 A There's a bunch of fast food restaurants. 8 I couldn't name you -- tell you all the names of 9 the different fast food restaurants in the 10 2nd District. 11 Q Well, my question was what was near the 12 police station? 13 A There again, I don't recall at that 14 particular time. Sitting here today, we don't 15 have that many. The only place I can think of 16 right now today, there is a Dunkin' Donuts at 55th 17 and State Street, and I don't recall the Dunkin' 18 Donuts being at that location at that particular 19 time. So I can't recall from that particular day 20 on 2006. 21 Q Was there a McDonald's near the police 22 station? 23 A At this particular time, I don't recall. 24 I do -- I'm sorry. I don't know what year that --</p>	<p style="text-align: right;">385</p> <p>1 Q What do you remember about Vondell 2 Wilbourn? 3 A He was a drug dealer. 4 Q How did you know he was a drug dealer? 5 A From what I may have heard from other 6 members of my team or prior experience dealing 7 with him. 8 Q Do you remember what you heard from 9 members of your team? 10 A I don't recall specifically other than 11 that he was a drug dealer. 12 Q Okay. Do you remember your own experience 13 that led you to conclude that Mr. Wilbourn was a 14 drug dealer? 15 A In my experience, like I said, dealing 16 with -- working in the Ida B. Wells and also from 17 my other teammates, that's the information that I 18 recall. 19 Q Do you remember what specifically that 20 information was? 21 A No, I don't recall specifically. 22 Q Do you remember arresting Mr. Vondell 23 Wilbourn? 24 A At the present moment, I don't.</p>
<p style="text-align: right;">384</p> <p>1 there used to be a McDonald's at 50th and, I 2 guess, Wentworth; but I don't remember if it was 3 still open at that particular point in time in 4 2006. I know it's not there now. 5 Q Was there a Burger King near the police 6 station? 7 A To the best of my memory, no. 8 Q Was there a Wendy's near the police 9 station? 10 A It's nearby. 11 Q Yes? 12 A Yes. From the best of my memory, yes. 13 Q Was there a Subway near the police 14 station? 15 A From the best of my memory, I believe so. 16 Q Okay. Was there a Popeyes near the police 17 station? 18 A It's not close, but there's a Popeyes in 19 the 2nd District. 20 Q I'm going to ask you about an arrest of 21 Vondell Wilbourn and Joshua Curtis. 22 Do you remember someone named Vondell 23 Wilbourn? 24 A Yeah. Vondell.</p>	<p style="text-align: right;">386</p> <p>1 Q Do you remember Joshua Curtis? 2 A Yes, I do. 3 Q What do you remember about Mr. Curtis? 4 A Joshua Curtis was also involved in drugs 5 in Ida B. Wells also. 6 Q How did you learn that Joshua Curtis was 7 involved in drugs? 8 A I don't recall at the present moment. 9 Either through my teammates or probably prior 10 arrests, but I do recall Joshua Curtis and I -- 11 based off of my memory sitting here today, that he 12 was involved in the drug activities in Ida B. 13 Wells. 14 Q Do you remember the specifics of what you 15 learned about that? 16 A No, I do not recall the specifics. 17 Q Do you remember arresting Joshua Curtis? 18 A Not at the present moment. 19 Q Did you look at any documents about an 20 arrest of Mr. Curtis and Mr. Wilbourn to prepare 21 for the deposition? 22 A I just looked at some documents on Vondell 23 Curtis [sic] this morning, and I did look at some 24 documents on Joshua Curtis, but I don't recall the</p>

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19 (387 to 390)

Conducted on March 5, 2020

<p>387</p> <p>1 specifics in either of those reports.</p> <p>2 Q I'll show you some pictures.</p> <p>3 (Smith Deposition Exhibit 35 marked for</p> <p>4 identification and attached to the transcript.)</p> <p>5 Q Looking at Exhibit 35, do you recognize</p> <p>6 that as Joshua Curtis?</p> <p>7 A Yes, that's Joshua Curtis.</p> <p>8 (Smith Deposition Exhibit 36 marked for</p> <p>9 identification and attached to the transcript.)</p> <p>10 Q Okay. And Exhibit 36, which I'm going to</p> <p>11 pass out, do you recognize that as Vondell</p> <p>12 Wilbourn?</p> <p>13 A Yes.</p> <p>14 (Smith Deposition Exhibit 37 marked for</p> <p>15 identification and attached to the transcript.)</p> <p>16 Q All right. Is Exhibit 37 the arrest</p> <p>17 report of Joshua Curtis from September 2nd, 2005?</p> <p>18 A Yes, it is.</p> <p>19 Q And do you see yourself listed on this</p> <p>20 arrest report?</p> <p>21 A Yes, I do.</p> <p>22 Q Okay. What's your role on this arrest</p> <p>23 report?</p> <p>24 A As an assisting officer.</p>	<p>389</p> <p>1 Q This begins, "This is an arrest by</p> <p>2 2nd District Tac Units 264A and 264C."</p> <p>3 Did I read that right?</p> <p>4 A That's correct.</p> <p>5 Q Okay. And does the report list yourself</p> <p>6 as 264C on September 2nd, 2005?</p> <p>7 A Yes. That's listed on page 5.</p> <p>8 Q Okay. This also lists Officer Nichols and</p> <p>9 Officer Leano as your partner that day?</p> <p>10 A Yes.</p> <p>11 Q And the next sentence says, "The above</p> <p>12 subject was observed by A/O give a subject now</p> <p>13 known as Wilbourn Vondell J. M/1/29 a bundle of</p> <p>14 U.S.C. totaling \$120 in exchange for a clear</p> <p>15 plastic bag with suspect narcotics."</p> <p>16 Did I read that right?</p> <p>17 A That's correct.</p> <p>18 Q Okay. What does M/1/29 mean in a police</p> <p>19 report?</p> <p>20 A I'm sorry?</p> <p>21 Q What does M/1/29 mean?</p> <p>22 A Male black, age 29.</p> <p>23 Q Okay. And so the 1 refers to black?</p> <p>24 A Yes. That's the demographical code that</p>
<p>388</p> <p>1 Q Is that on the fifth page?</p> <p>2 A That is correct.</p> <p>3 Q Okay. You don't remember this arrest;</p> <p>4 correct?</p> <p>5 A No, I do not.</p> <p>6 Q The location of this arrest is 559 East</p> <p>7 Browning Avenue?</p> <p>8 A That's what's stated on the report.</p> <p>9 Q Okay. Do you recognize that as an address</p> <p>10 at the Ida B. Wells homes?</p> <p>11 A From the best of my memory, yes.</p> <p>12 Q Do you remember what kind of building it</p> <p>13 was?</p> <p>14 A A CHA building.</p> <p>15 Q Was it a row house? Was it a high-rise?</p> <p>16 Do you remember?</p> <p>17 A That was a high-rise.</p> <p>18 Q And having reviewed the report, are you</p> <p>19 able to tell what your role was as an assisting --</p> <p>20 what you did as an assisting officer?</p> <p>21 A No, I cannot.</p> <p>22 Q The narrative section, that's on the</p> <p>23 second page; right?</p> <p>24 A Yes.</p>	<p>390</p> <p>1 the Chicago Police Department uses to describe</p> <p>2 race, African-African.</p> <p>3 Q What does U.S.C. mean?</p> <p>4 A U.S.C. is United States currency.</p> <p>5 Q And this sentence that I just read said</p> <p>6 that it was observed by A/O.</p> <p>7 A Yes.</p> <p>8 Q Can you tell who that refers to?</p> <p>9 A No, I do not.</p> <p>10 Q Okay. Is it likely to refer to one of the</p> <p>11 first or second arresting officers?</p> <p>12 A That's possible.</p> <p>13 Q Could it refer to you as an assisting</p> <p>14 officer?</p> <p>15 A It's possible, but it doesn't state that.</p> <p>16 Arresting officer could mean arriving officer, it</p> <p>17 could be mean arresting officer, or it could mean</p> <p>18 assisting officer. But it does not state in the</p> <p>19 narrative of the report.</p> <p>20 Q It doesn't state which one it is?</p> <p>21 A No, it does not.</p> <p>22 Q The next sentence says, "The subject</p> <p>23 Wilbourn, Vondell was also heard saying to the</p> <p>24 above subject, 'this is all we have until later.'"</p>

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20 (391 to 394)

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<p>391</p> <p>1 Did I read that right?</p> <p>2 A That's correct.</p> <p>3 Q Okay. Have you ever heard somebody in the</p> <p>4 drug business saying, "This is all we have until</p> <p>5 later"?</p> <p>6 A I don't recall.</p> <p>7 Q Okay. Based on your experience as a</p> <p>8 police officer, can you tell what that means?</p> <p>9 A Based on my experience, that means that</p> <p>10 it's probably all the drugs that they might have.</p> <p>11 Q Okay. Based on the description of this</p> <p>12 exchange, do you believe that Mr. Wilbourn and</p> <p>13 Mr. Curtis were selling drugs together?</p> <p>14 A I don't know.</p> <p>15 Q You can't tell.</p> <p>16 A I can't tell. I don't recall the arrest</p> <p>17 on this date.</p> <p>18 MR. FLAXMAN: Let's mark this next one</p> <p>19 as 38.</p> <p>20 (Smith Deposition Exhibit 38 marked for</p> <p>21 identification and attached to the transcript.)</p> <p>22 Q Is Exhibit 38 the arrest report of Vondell</p> <p>23 Wilbourn from an arrest on September 2nd, 2005?</p> <p>24 A Yes, it is.</p>	<p>393</p> <p>1 A I can't speak for Officer Jones or Young;</p> <p>2 but technically, it could be paraphrasing what</p> <p>3 they said. I don't know if I -- if I wrote it, it</p> <p>4 might be exactly what they said, but I can't speak</p> <p>5 for Jones or Young and how they prepared this</p> <p>6 report.</p> <p>7 Q Okay. I want to ask you about your</p> <p>8 practice in preparing reports.</p> <p>9 In your practice when you put words within</p> <p>10 quotation marks, do you mean that's the exact</p> <p>11 words that you heard spoken?</p> <p>12 A Like I said, based on my memory, I</p> <p>13 probably would put -- or perhaps put what they</p> <p>14 said exactly or try to -- or to the best of my</p> <p>15 memory, put as closely, exactly what they said or</p> <p>16 paraphrase what they said.</p> <p>17 So I don't know if I'm confusing you, but</p> <p>18 the best way to answer it -- to the best of your</p> <p>19 knowledge, I would try to answer that question</p> <p>20 to -- in some way try to get exactly what they</p> <p>21 would state. I don't know if I would -- because a</p> <p>22 lot of times you might have misheard someone, but</p> <p>23 you would try to, to the best of your knowledge,</p> <p>24 record -- like I said, paraphrase what they might</p>
<p>392</p> <p>1 Q Okay. And what is your role on this</p> <p>2 arrest report?</p> <p>3 A Again, on page 5, it's states that I was</p> <p>4 an assisting officer on Beat 264 Charlie or 264C.</p> <p>5 Q And it's the same listing as the report</p> <p>6 for Mr. Curtis; right?</p> <p>7 A That's correct.</p> <p>8 Q Can you tell on the report from</p> <p>9 Mr. Wilbourn what you did as the assisting</p> <p>10 officer?</p> <p>11 A No.</p> <p>12 Q And this narrative has a similar</p> <p>13 description of the exchange and the words in</p> <p>14 quotes that we read from Mr. Curtis's report;</p> <p>15 right?</p> <p>16 A That's correct. That's correct.</p> <p>17 Q Okay. When you wrote -- when you write</p> <p>18 police reports, do you ever put language in</p> <p>19 quotation marks like we see in this report?</p> <p>20 A It would not be uncommon, but I did not</p> <p>21 write this report.</p> <p>22 Q Okay. When you write reports and put</p> <p>23 words in quotation marks, does that mean that</p> <p>24 you're recording exactly what you heard said?</p>	<p>394</p> <p>1 have stated.</p> <p>2 Q Did you ever use the phrase "words to the</p> <p>3 effect of" in your police reports?</p> <p>4 A Sitting here today, without looking at any</p> <p>5 of my old reports, I don't recall, but I possibly</p> <p>6 may have.</p> <p>7 Q If you were paraphrasing, would you use</p> <p>8 something like "words to the effect of" rather</p> <p>9 than using quotation marks?</p> <p>10 A Sitting here today, I could not tell you</p> <p>11 what I might have done in the past, and it might</p> <p>12 vary from each report.</p> <p>13 (Smith Deposition Exhibit 39 marked for</p> <p>14 identification and attached to the transcript.)</p> <p>15 Q Is Exhibit 39 a vice case report for the</p> <p>16 arrest report of Mr. Curtis and Mr. Wilbourn on</p> <p>17 September 2nd, 2005?</p> <p>18 A That's correct.</p> <p>19 Q Okay. And is your name listed on this</p> <p>20 report?</p> <p>21 A Yes, it is.</p> <p>22 Q Where is it listed?</p> <p>23 A In Box 18.</p> <p>24 Q Okay. And what -- what does it mean for</p>

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21 (395 to 398)

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<p>395</p> <p>1 your name to be listed in Box 18?</p> <p>2 A As an assisting officer.</p> <p>3 Q Was Sergeant Watts an assisting officer?</p> <p>4 A Not recalling this arrest report from that</p> <p>5 particular date, I'm not certain; but it's</p> <p>6 possible that he could have been there at the time</p> <p>7 of this arrest.</p> <p>8 Q Was it your understanding that listing him</p> <p>9 in Box 18 meant that he was an assisting officer?</p> <p>10 MR. MICHALIK: Objection; foundation.</p> <p>11 A Again, I did not prepare this report; but</p> <p>12 if he's listed on here, it could be possible that</p> <p>13 he was an assisting officer at some point in time.</p> <p>14 Q Have you reviewed the narrative in the</p> <p>15 vice case report?</p> <p>16 A I have now.</p> <p>17 Q Okay. And are you able to tell, after</p> <p>18 reviewing this narrative, what your role was in</p> <p>19 the arrest of Mr. Wilbourn and Mr. Curtis?</p> <p>20 A No. It does not state in the report.</p> <p>21 Q This lists the first reporting officer as</p> <p>22 Officer Jones; correct?</p> <p>23 A That's correct.</p> <p>24 Q Do you recognize the signature below</p>	<p>397</p> <p>1 from a White Ford Contour that did not look like a</p> <p>2 police car. I recognized those officers as Ronald</p> <p>3 Watts, Kenny, Al, and Smitty."</p> <p>4 When you were on the 264 tactical team,</p> <p>5 did you ever use a vehicle that did not look like</p> <p>6 a police car?</p> <p>7 A Sometimes --</p> <p>8 MR. STEFANICH: Objection; foundation.</p> <p>9 You can answer.</p> <p>10 A Sometimes we did.</p> <p>11 Q And when would you do that?</p> <p>12 A I don't recall the specific dates or times</p> <p>13 that we did; but, like I said, sometimes we did.</p> <p>14 Q And why would you use a vehicle that did</p> <p>15 not look like a police car?</p> <p>16 A So we can sneak into the building and try</p> <p>17 to catch people selling drugs or buying drugs.</p> <p>18 Q Did you ever use a White Ford Contour?</p> <p>19 A If that's what's stated in this report, I</p> <p>20 don't -- I don't recall one way or the other.</p> <p>21 Q And in the instances when you would use a</p> <p>22 vehicle that didn't look like a police car, how</p> <p>23 would you get that vehicle?</p> <p>24 A Well, myself, and best off of my memory, I</p>
<p>396</p> <p>1 Officer Jones' name?</p> <p>2 A From the best of my memory, it appears to</p> <p>3 be Alvin Jones' signature.</p> <p>4 Q Okay. The second reporting officer is</p> <p>5 listed as Officer Young.</p> <p>6 Do you see that?</p> <p>7 A Yes, I do.</p> <p>8 Q Do you recognize the signature below</p> <p>9 Officer Young's name?</p> <p>10 A I see a signature, but I don't recall</p> <p>11 Officer Young's handwriting.</p> <p>12 MR. FLAXMAN: Okay. Let's mark this the</p> <p>13 next exhibit.</p> <p>14 (Smith Deposition Exhibit 40 marked for</p> <p>15 identification and attached to the transcript.)</p> <p>16 Q Exhibit 40 is the affidavit of Joshua</p> <p>17 Curtis.</p> <p>18 Have you reviewed Mr. Curtis's affidavit</p> <p>19 before today?</p> <p>20 A Yes, I have.</p> <p>21 Q All right. I want to point you to the</p> <p>22 fifth paragraph where Mr. Curtis states, "I heard</p> <p>23 Vondell say that he saw police officers coming. I</p> <p>24 looked and I saw four officers quickly running</p>	<p>398</p> <p>1 don't recall how it was done. A sergeant or some</p> <p>2 type of supervisor probably had to get it. So I</p> <p>3 don't recall the specifics of how it was obtained.</p> <p>4 Q Was it your understanding that vehicles</p> <p>5 like that were owned by the department?</p> <p>6 A Yes.</p> <p>7 Q Did your team ever use a vehicle that</p> <p>8 wasn't owned by the Chicago Police Department?</p> <p>9 A From the best of my memory, no.</p> <p>10 Q The next paragraph states, "Watts asked me</p> <p>11 words to the effect of, 'where that shit at?'"</p> <p>12 Did you ever hear officer Watts say</p> <p>13 anything like that to somebody?</p> <p>14 A I don't recall from this particular day.</p> <p>15 I'm certain he probably has said that. I'm</p> <p>16 certain that we all may have used profanity at</p> <p>17 some point in time, but I don't recall for that</p> <p>18 particular date.</p> <p>19 Q The next sentence -- I'm sorry -- the next</p> <p>20 paragraph is 7. It says, "I understood that he</p> <p>21 wanted to know where illegal drugs were."</p> <p>22 Is that what you would take "where that</p> <p>23 shit at" to mean?</p> <p>24 A I don't know what Joshua Curtis meant by</p>

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22 (399 to 402)

399	<p>1 that; but based off of reading this, you can</p> <p>2 assume that, but I don't know what he meant by</p> <p>3 that.</p> <p>4 Q This states that after Mr. Curtis was</p> <p>5 handcuffed -- excuse me -- after Mr. Curtis was</p> <p>6 handcuffed to Mr. Wilbourn, Watts went up the</p> <p>7 stairs and then came back and showed Mr. Curtis a</p> <p>8 bag of drugs.</p> <p>9 Were you ever present for anything like</p> <p>10 that happening?</p> <p>11 MR. STEFANICH: Joel, is that like a</p> <p>12 specific paragraph you're looking at?</p> <p>13 MR. FLAXMAN: I'm on paragraph 9.</p> <p>14 Q Do you see that?</p> <p>15 MR. STEFANICH: Okay. Got you.</p> <p>16 A Yes, I see that.</p> <p>17 Q That paragraph states, "Watts handcuffed</p> <p>18 me to Vondell, and Watts went up the stairs where</p> <p>19 I could not see him."</p> <p>20 Paragraph 10 states, "At that time, Al</p> <p>21 searched my pants. He also did not find anything</p> <p>22 illegal."</p> <p>23 Paragraph 11 states, "Watts came right</p> <p>24 back and showed me a bag of drugs and said words</p>	401	<p>1 Q Did you ever observe Al slap someone with</p> <p>2 justification?</p> <p>3 A Sitting here today, I don't recall. I'm</p> <p>4 certain at some point in time to effect an arrest,</p> <p>5 that Alvin Jones might have used the necessary</p> <p>6 force.</p> <p>7 Q Would it ever be necessary to slap</p> <p>8 somebody to effectuate an arrest?</p> <p>9 MR. KOSOKO: Object to form, foundation,</p> <p>10 legal conclusion.</p> <p>11 A When we use the words "necessary force,"</p> <p>12 that means whatever force is necessary. If a slap</p> <p>13 is necessary at that particular point in time to</p> <p>14 effect an arrest, then it would be necessary.</p> <p>15 As long as it's not unwanted or -- I'm</p> <p>16 trying to find the correct word -- if it's</p> <p>17 unlawful force or excessive force. But, like I</p> <p>18 said, necessary force is whatever force you have</p> <p>19 to use to possibly protect your safety or as well</p> <p>20 as your partner's safety.</p> <p>21 Q Did you ever observe Officer Young use</p> <p>22 more force than was necessary to make an arrest?</p> <p>23 MR. KOSOKO: Objection; form, foundation,</p> <p>24 legal conclusion.</p>
400	<p>1 to the effect of, 'I found it. You should have</p> <p>2 just gave it to me.'"</p> <p>3 Do you recall ever observing Watts doing</p> <p>4 anything like that?</p> <p>5 MR. KOSOKO: Object to form.</p> <p>6 A As I stated before, I have not seen</p> <p>7 officer -- I'm sorry -- Sergeant Watts or any</p> <p>8 other officer that I worked with at that time do</p> <p>9 anything that's stated in this report by Joshua</p> <p>10 Curtis or possibly Vondell Wilbourn or any other</p> <p>11 of these individuals making these false</p> <p>12 allegations against us do any of these things that</p> <p>13 are -- that he's describing.</p> <p>14 Q Okay. Paragraph 13 says, After I said the</p> <p>15 drugs weren't mine, Al slapped me.</p> <p>16 Did you ever observe Officer Jones slap</p> <p>17 anybody?</p> <p>18 A Sitting here, I don't have recall from</p> <p>19 this particular date. I don't believe that he</p> <p>20 probably slapped someone just out of -- for no</p> <p>21 reason at all. Like I said, and I don't recall</p> <p>22 from this particular date, but I don't believe</p> <p>23 that Al would have slapped anyone without any</p> <p>24 justification.</p>	402	<p>1 A From the best of my memory, sitting here</p> <p>2 today, I don't recall if I did observe Officer</p> <p>3 Young use force. I'm certain he -- I can't say if</p> <p>4 he did one way or the other.</p> <p>5 Q You can't remember an instance when you</p> <p>6 saw Officer Young use force?</p> <p>7 A As I sit here today, I don't recall if I</p> <p>8 ever saw Kenny Young use force or not.</p> <p>9 Q Have you ever used force?</p> <p>10 A I'm certain I have, yes.</p> <p>11 Q Has there ever been a time where you used</p> <p>12 more force than was necessary?</p> <p>13 A No, I have not.</p> <p>14 Q Have you ever kicked a suspect after other</p> <p>15 officers took him to the ground?</p> <p>16 A No, I have not. To the best of my memory,</p> <p>17 no.</p> <p>18 Q So you understand that Mr. Curtis and</p> <p>19 Mr. Wilbourn both say they were falsely arrested</p> <p>20 on September 2nd, 2005; right?</p> <p>21 A Yes, I do. And I read these false</p> <p>22 accusations; and as I stated before, I did not</p> <p>23 witness any of these accusations that they are</p> <p>24 making in these -- in this affidavit.</p>

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23 (403 to 406)

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<p style="text-align: right;">403</p> <p>1 Q And you believe the police reports 2 prepared by your team members over those 3 affidavits? 4 A Yes. I would believe my teammates over 5 these drug dealers' words any day of the week. 6 Q Besides what we've talked about, is there 7 anything else you can remember about Vondell 8 Wilbourn? 9 A He had a brother named Valentino Wilbourn. 10 Q Did you ever see the two of them together? 11 A I don't recall ever seeing them together. 12 I can't say. Possibly they may have been together 13 at some point in time, but I don't recall, sitting 14 here today. 15 Q How did you know he had a brother named 16 Valentino Wilbourn? 17 A From the best of my memory, that's what I 18 recall, he had a brother named Valentino. 19 Q Other than what we've talked about with 20 respect to Mr. Curtis, do you remember anything 21 else about Joshua Curtis? 22 A Not off the top of my head. 23 Q Okay. And having reviewed everything that 24 we've reviewed, are you still unable to recall the</p>	<p style="text-align: right;">405</p> <p>1 working in the Ida B. Wells. 2 Q Did you ever arrest Mr. Jefferson? 3 A I don't recall, sitting here right now, 4 without looking at some reports or anything, but 5 I'm certain I -- it's possible I may have. 6 Q Okay. So you don't recall the specific 7 information you learned to make you aware that 8 Mr. Jefferson was involved in drugs; right? 9 A Not off the present -- at the present 10 moment, not off the top of my head. 11 Q Do you remember the arrest of 12 Mr. Jefferson on September 12th, 2006? 13 A What was the date? 14 Q September 12th, 2006. 15 A No, I do not. 16 Q Okay. 17 MR. FLAXMAN: Okay. Let's mark the next 18 exhibit. 19 (Smith Deposition Exhibit 41 marked for 20 identification and attached to the transcript.) 21 Q Is Exhibit 41 the arrest report of 22 Goleather Jefferson on September 12th, 2006? 23 A Yes, it is. 24 Q And this is kind of a blurry picture up at</p>
<p style="text-align: right;">404</p> <p>1 arrest of Mr. Wilbourn and Mr. Curtis on 2 September 2nd, 2005? 3 A No, I cannot. 4 Q And are you still unable to think of 5 anything that would help you remember that arrest? 6 A Not at the present moment. 7 Q I want to ask you now about Goleather 8 Jefferson. 9 Do you remember Goleather Jefferson? 10 A I believe so. 11 Q What do you remember about Goleather 12 Jefferson? 13 A We pronounce his name as Goleather, but I 14 don't know if that's the correct pronunciation. 15 Goleether (phonetic) or Goleather, I'm not 16 certain; but I'm aware that he was involved in the 17 drug activity in the Ida B. Wells. 18 Q Okay. And for the written transcript, the 19 way you're saying it is the way you'd normally 20 pronounce the word "leather"; right? 21 A Yes. 22 Q Okay. How did you know that he was 23 involved in drugs? 24 A Like I said, from my prior experience in</p>	<p style="text-align: right;">406</p> <p>1 the top right, but do you recognize that as a 2 picture of Mr. Jefferson? 3 A Yes. Based on my memory, yes. 4 Q Did you ever know him to go by a nickname? 5 A From the best of my memory, I thought that 6 was his nickname. 7 Q You thought Goleather was his nickname? 8 A Yes. 9 Q Do you see this arrest report states that 10 he was arrested at 559 East Browning? 11 A Yes. 12 Q Okay. And it also states that was his 13 residence? 14 A That's what is stated on the report. 15 Q Okay. And what is your role listed on 16 this arrest report? 17 A On page 3, it's states that I'm the second 18 arresting officer. 19 Q Can you -- and who is the first arresting 20 officer? 21 A Kallatt Mohammed. 22 Q Okay. And who is the attesting officer? 23 A Kallatt Mohammed. 24 Q Based on that listing, can you tell who</p>

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24 (407 to 410)

<p style="text-align: right;">407</p> <p>1 created the report?</p> <p>2 A Like I said, not having an independent</p> <p>3 recollection from September 12th, 2006, just based</p> <p>4 off of reading the report, I would state Kallatt</p> <p>5 Mohammed.</p> <p>6 Q When you prepare arrest reports, how do</p> <p>7 you determine the residence of the person</p> <p>8 arrested?</p> <p>9 A If they have an ID on them or some type of</p> <p>10 identification, maybe a check stub. I don't know.</p> <p>11 Anything to identify them, or you might ask them</p> <p>12 what their residence might be. So I don't know</p> <p>13 what we did on that particular date for this</p> <p>14 particular arrest.</p> <p>15 Q The narrative section of this report</p> <p>16 begins, "In summary, R/Os while conducting a</p> <p>17 premise check at 559 East Browning due to</p> <p>18 complaints of narcotics sales."</p> <p>19 Do you see that?</p> <p>20 A Yes, I do.</p> <p>21 Q It says p-r-i-m-i-s-e.</p> <p>22 Do you think that should be p-r-e --</p> <p>23 A Yeah. That's misspelled.</p> <p>24 Q And what should that be?</p>	<p style="text-align: right;">409</p> <p>1 name is -- first name is spelled a little bit</p> <p>2 differently on this vice case report than the</p> <p>3 arrest report.</p> <p>4 Do you see that?</p> <p>5 A Yes, I do.</p> <p>6 Q It looks like it has a different date of</p> <p>7 birth too.</p> <p>8 Do you see that?</p> <p>9 A Yes, I do. That's obviously a mistake.</p> <p>10 Q Right. Because based on the other</p> <p>11 information, you can tell that these are about the</p> <p>12 same Mr. Jefferson; right?</p> <p>13 A Yes. Because one says March 5th -- yeah,</p> <p>14 March 5th, 1961, that's on the vice case report;</p> <p>15 and on the arrest report, it says March 5th,</p> <p>16 1961 -- I mean, sorry, 1964.</p> <p>17 Q Okay.</p> <p>18 A So, obviously, there was a mistake.</p> <p>19 Q And that's just a mistake.</p> <p>20 They are the same man as you read these</p> <p>21 reports; right?</p> <p>22 A Well, looking at the picture on the arrest</p> <p>23 report, I would assume that is Goleather</p> <p>24 Jefferson; and based on my memory, that is. But</p>
<p style="text-align: right;">408</p> <p>1 A Be an E, but, like I said, people make</p> <p>2 mistakes also.</p> <p>3 Q I just want to -- I just want to make it</p> <p>4 clear for record. I think we all understand what</p> <p>5 it should be.</p> <p>6 A Right. It's supposed to be premise, but</p> <p>7 it's misspelled.</p> <p>8 Q Okay. And what's a premise check?</p> <p>9 A You walk into a building and check. When</p> <p>10 we do premise checks, normally we would check to</p> <p>11 see if there was some type of narcotics activity</p> <p>12 taking place.</p> <p>13 Q Is that something you would do on a daily</p> <p>14 basis when you were on the 264 tactical team?</p> <p>15 A Yes.</p> <p>16 MR. FLAXMAN: Let's mark this as Exhibit</p> <p>17 as 42.</p> <p>18 (Smith Deposition Exhibit 42 marked for</p> <p>19 identification and attached to the transcript.)</p> <p>20 Q Is Exhibit 42 the vice case report for the</p> <p>21 arrest of Mr. Jefferson on September 12th, 2006,</p> <p>22 and another man, Willie Martin?</p> <p>23 A Yes.</p> <p>24 Q Okay. And it looks like Mr. Jefferson's</p>	<p style="text-align: right;">410</p> <p>1 on the arrest report -- I mean, the vice case</p> <p>2 report, it has no picture, but I'm certain that</p> <p>3 they're both the same person.</p> <p>4 Q Okay. And do you see that a nickname is</p> <p>5 listed on the vice case report, Colors?</p> <p>6 A Yes.</p> <p>7 Q But you never -- I think you said before</p> <p>8 you never knew Mr. Jefferson by a nickname; right?</p> <p>9 A To the best of my memory, I could not</p> <p>10 recall if he had a nickname or not.</p> <p>11 Q This vice case report, in addition to</p> <p>12 yourself and Officer Mohammed, lists Officers</p> <p>13 Jones, Leano, and Nichols as assisting officers;</p> <p>14 is that right?</p> <p>15 A That's correct.</p> <p>16 Q Okay. And at the bottom, Officer Mohammed</p> <p>17 is listed as the first reporting officer; is that</p> <p>18 right?</p> <p>19 A That is correct.</p> <p>20 Q Do you recognize Officer Mohammed's</p> <p>21 signature under his name?</p> <p>22 A No. That's my handwriting.</p> <p>23 Q Okay. You're listed as the second</p> <p>24 reporting officer; is that correct?</p>

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25 (411 to 414)

Conducted on March 5, 2020

<p style="text-align: right;">411</p> <p>1 A That's correct.</p> <p>2 Q Is that your signature under your name?</p> <p>3 A Yes, it is.</p> <p>4 Q Okay. Do you know why you signed this for</p> <p>5 Officer Mohammed?</p> <p>6 A If I was working with Mohammed at that</p> <p>7 point in time, he probably authorized me to sign</p> <p>8 for him.</p> <p>9 Q Did you ever a sign a report for somebody</p> <p>10 without authorization?</p> <p>11 A No, I did not.</p> <p>12 Q If you were the one signing, does that</p> <p>13 mean that you were the one who wrote the narrative</p> <p>14 on the report?</p> <p>15 A No.</p> <p>16 Q How do you know that?</p> <p>17 A Based on how this report is written, I</p> <p>18 know -- pretty much I could tell my handwriting or</p> <p>19 the way I've written a report from someone else.</p> <p>20 Q Okay. So you can tell, based on reading</p> <p>21 the report, that it wasn't written by you.</p> <p>22 A That's correct.</p> <p>23 Q Can you tell who wrote it?</p> <p>24 A If I was working with Mohammed, I would</p>	<p style="text-align: right;">413</p> <p>1 A Number one, on the arrest report, they</p> <p>2 misspelled premise.</p> <p>3 Q Correct.</p> <p>4 A And then on this vice case report, he</p> <p>5 misspelled Goleather.</p> <p>6 Q Okay.</p> <p>7 A And I can't -- there might be some other</p> <p>8 errors on here that I have overlooked right now;</p> <p>9 but, like I said, I know my style of writing. It</p> <p>10 does not appear to be my style of handwriting or</p> <p>11 the way I typed my reports at that particular</p> <p>12 point in time.</p> <p>13 Q Okay. And do you mean that the narrative</p> <p>14 doesn't sound like your words?</p> <p>15 A I'm not stating that this is a false</p> <p>16 report, but this does not appear to be the way I</p> <p>17 have written or might have prepared a typewritten</p> <p>18 or handwritten report.</p> <p>19 Q This vice case report states that the</p> <p>20 address of the occurrence was 559 East Browning.</p> <p>21 Do you see that?</p> <p>22 A Yes, I do.</p> <p>23 Q Okay. And the report says that the</p> <p>24 officers observed Mr. Martin and Mr. Jefferson</p>
<p style="text-align: right;">412</p> <p>1 assume that he was writing -- was the first</p> <p>2 reporting officer, and he wrote this report.</p> <p>3 Q Can you tell from the way it's written</p> <p>4 that --</p> <p>5 A I haven't worked with Mohammed in over 10</p> <p>6 years, and I don't recall how he wrote; but based</p> <p>7 on, you know, my style of writing, this does not</p> <p>8 appear to be my style of writing. And, like I</p> <p>9 said, assuming that I was working with him or</p> <p>10 probably the other -- one of the other assisting</p> <p>11 officers could have prepared this report also.</p> <p>12 Q Is there something in particular that does</p> <p>13 not match your style of writing?</p> <p>14 A Yes.</p> <p>15 Q And what is that?</p> <p>16 A There's a couple misspelled words. I'm</p> <p>17 not saying that I'm perfect or anything like that;</p> <p>18 but, like I said, prior to you -- when you first</p> <p>19 asked me about Goleather, I wasn't aware that he</p> <p>20 had a nickname of Colors. I thought his real name</p> <p>21 was his nickname. But this doesn't appear to be</p> <p>22 my style of writing.</p> <p>23 Q What are the misspellings that you're</p> <p>24 referring to?</p>	<p style="text-align: right;">414</p> <p>1 standing in the rear bottom stairwell of that</p> <p>2 address.</p> <p>3 Do you see that?</p> <p>4 A Yes, I do.</p> <p>5 Q Did you -- well, were you familiar with</p> <p>6 there being more than one stairwell at 559 East</p> <p>7 Browning?</p> <p>8 A Sitting here today, I do not recall</p> <p>9 because it's been over 10 years ago since the Ida</p> <p>10 B. Wells was constructed -- torn done, and I don't</p> <p>11 recall the specific layouts of the Ida B. Wells.</p> <p>12 MR. FLAXMAN: Mark that as 43.</p> <p>13 (Smith Deposition Exhibit 43 marked for</p> <p>14 identification and attached to the transcript.)</p> <p>15 Q Is Exhibit 43 a property inventory sheet</p> <p>16 for a bundle of U.S. currency that was recovered</p> <p>17 from Mr. Jefferson?</p> <p>18 A Yes, it is.</p> <p>19 Q And this was recovered on September 12th,</p> <p>20 2006, the date of the arrest report and vice case</p> <p>21 report that we just reviewed?</p> <p>22 A Yes.</p> <p>23 Q Okay. Did you prepare this inventory</p> <p>24 sheet?</p>

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26 (415 to 418)

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<p style="text-align: right;">415</p> <p>1 A I'm looking at the bottom. No, I did not.</p> <p>2 Q And you can --</p> <p>3 A Where it says "created by," it has a PC</p> <p>4 number that each officer is assigned to, and</p> <p>5 that's not my PC number.</p> <p>6 Q Okay. Do you know whose PC number that</p> <p>7 is?</p> <p>8 A No, I do not.</p> <p>9 Q What's your PC No.?</p> <p>10 A PC0U037.</p> <p>11 Q Are you listed on this inventory?</p> <p>12 A Yes. As the second officer.</p> <p>13 Q Okay. The same role you had on the arrest</p> <p>14 report and vice case report; right?</p> <p>15 A That is correct.</p> <p>16 Q Do you know that Mr. Jefferson says he was</p> <p>17 falsely arrested on September 12th, 2006?</p> <p>18 A Yes, I am.</p> <p>19 Q And do you disagree with that?</p> <p>20 A Yes, I do.</p> <p>21 Q Why do you disagree with it?</p> <p>22 A Because I don't recall falsely arresting</p> <p>23 officer -- I'm sorry -- not officer, but Goleather</p> <p>24 Jefferson. When we arrested Goleather Jefferson,</p>	<p style="text-align: right;">417</p> <p>1 I think we'll take a lunch break, if that's okay.</p> <p>2 EXAMINATION BY COUNSEL FOR CERTAIN PLAINTIFFS</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q The reports we were just looking at --</p> <p>5 well, in particular Exhibit 42, the vice case</p> <p>6 report, you see there are two people listed as</p> <p>7 being arrested?</p> <p>8 A Yes, I do.</p> <p>9 Q The first offender in Box 19 is Willie D.</p> <p>10 Martin?</p> <p>11 A That's correct.</p> <p>12 Q Do you know Mr. Martin?</p> <p>13 A Yes. I recall Willie Martin.</p> <p>14 Q What do you recall about Willie Martin?</p> <p>15 A That he was involved in drug activities in</p> <p>16 Ida B. Wells.</p> <p>17 Q And what do you mean he was involved in</p> <p>18 drug activities at Ida B. Wells?</p> <p>19 A Sitting here today, I don't recall what</p> <p>20 his specific role is, but I know that he was</p> <p>21 involved based off my memory and my time as a</p> <p>22 tactical officer at the 2nd District.</p> <p>23 Q Is that just sort of, like, a vague memory</p> <p>24 of him, or do you have any specifics?</p>
<p style="text-align: right;">416</p> <p>1 it was a truthful -- or it was an actual arrest.</p> <p>2 It was not unlawful.</p> <p>3 Q And is that because you -- you believe</p> <p>4 that you and your team always made truthful and</p> <p>5 lawful arrests?</p> <p>6 A Well, I know myself, if I was working with</p> <p>7 Kallatt Mohammed on this particular day -- I don't</p> <p>8 recall the incident; but I know while I was</p> <p>9 working with Kallatt Mohammed, if we arrested</p> <p>10 Goleather Jefferson, we did not make a false</p> <p>11 arrest.</p> <p>12 Q Having reviewed all this material, are you</p> <p>13 still unable to recall the arrest of Mr. Jefferson</p> <p>14 on September 12th, 2006?</p> <p>15 A I don't have no memory of the arrest. The</p> <p>16 only thing I know for certain, that the arrest was</p> <p>17 a truthful arrest.</p> <p>18 Q Okay. Is there anything else that would</p> <p>19 help you remember the arrest of Mr. Jefferson on</p> <p>20 September 12th, 2006?</p> <p>21 A At the present moment, nothing I can</p> <p>22 think of.</p> <p>23 MR. FLAXMAN: I'm going to turn it over to</p> <p>24 Mr. Rauscher to ask you about Mr. Martin, and then</p>	<p style="text-align: right;">418</p> <p>1 A I don't have any specific memories of him,</p> <p>2 but I do recall Willie Martin.</p> <p>3 Q What do you recall about him?</p> <p>4 A As I stated before, that he was a drug</p> <p>5 dealer in Ida B. Wells.</p> <p>6 Q He was a drug dealer?</p> <p>7 A He was involved -- like I said, I don't</p> <p>8 recall specifically if he was a dealer, he may</p> <p>9 have possibly been, but he was involved in drugs</p> <p>10 at some point in time in the Ida B. Wells.</p> <p>11 Q Do you know if he worked with anyone else</p> <p>12 in the drug trade?</p> <p>13 A Sitting here today --</p> <p>14 MR. KOSOKO: Objection.</p> <p>15 THE REPORTER: Pardon me?</p> <p>16 MR. KOSOKO: Objection; foundation.</p> <p>17 A Based off the best of my memory, I don't</p> <p>18 recall who he worked with.</p> <p>19 Q Do you recall any -- well, do you recall</p> <p>20 if he worked with anybody else?</p> <p>21 A As I stated before, I don't recall who he</p> <p>22 worked with. As of today, I don't recall.</p> <p>23 Q I know but you're saying you don't recall</p> <p>24 who he worked with. Which maybe -- tell me if I'm</p>

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<p>419</p> <p>1 wrong. I hear that and I say -- I understand 2 you're saying you know he worked with at least 3 somebody else. 4 A I don't recall who he worked with. 5 Q Do you recall if he worked with anybody 6 else? 7 A If he worked with -- I'm certain he 8 probably did, but I don't recall who he worked 9 with. 10 Q Why are you certain he probably worked 11 with at least one other person? 12 A That's just based on a guess or an 13 assumption. I don't -- like I said, sitting here 14 today, I don't recall. I don't recall a lot of 15 specifics from over the time -- during my time 16 when I worked with Sergeant Watts. It's been over 17 two years ago. 18 And I do not internalize any of this 19 information and did not keep a journal or any type 20 of record that could help me refresh my memory on 21 a lot of these arrests or incidents that occurred 22 during my time working with Ronald Watts or other 23 members of the 264 housing tactical team. 24 Q Try to answer -- yeah.</p>	<p>421</p> <p>1 BY MR. RAUSCHER: 2 Q Why do you know it was a valid arrest? 3 A Because I would not have falsely arrested 4 Willie Martin or Goleather Jefferson. 5 Q Well, what if you didn't personally arrest 6 him and Mohammed did? How would you know that? 7 A Well, based on my memory of working with 8 Officer Mohammed, we never falsely arrested 9 anyone. 10 Q What if it was just Mohammed on his own 11 who arrested Mr. Martin? Would you then still be 12 able to say you have personal knowledge that it 13 was a valid arrest? 14 MR. STEFANICH: Objection to form. 15 A As, again, my experience of working with 16 Officer Mohammed, I never witnessed him or known 17 him to make any false arrest. I know what he's 18 being accused of, and the reason why I'm here 19 today is because of, you know, the arrest of 20 Mohammed and Watts and stuff. 21 And I can tell you that all these 22 allegations that Jefferson -- Goleather Jefferson 23 and Willie Martin are making are false. If I was 24 working on this day and we arrested those two</p>
<p>420</p> <p>1 MR. STEFANICH: So just listen to his 2 question and then just try to answer his question. 3 THE WITNESS: I understand. I thought I 4 was doing that. I'm sorry if I'm frustrating 5 people. 6 A But no, from the best of my memory, I do 7 not recall if he worked with a partner or not. 8 BY MR. RAUSCHER: 9 Q Do you recall anything else about 10 Mr. Martin other than your belief that he was 11 involved somehow in the drug trade at Ida B. 12 Wells? 13 A No. I do not recall anything else about 14 Willie Martin. 15 Q Do you recall anything at all about being 16 involved in arresting Mr. Martin on September 17 12th, 2006? 18 A I don't recall the arrest; but I'm certain 19 if he's listed on here, that we, obviously, 20 arrested him on that date. 21 Q You don't have any personal knowledge as 22 to whether it was a valid arrest? 23 MR. STEFANICH: Objection to form. 24 A I do know that. It was a valid arrest.</p>	<p>422</p> <p>1 individuals, that this was an actual -- or, sorry, 2 a factual report. 3 Q All right. What if you were working that 4 day and they were arrested, but you had nothing to 5 do with the arrest? 6 A Sir, again, like I said, based on my 7 experience working with Officer Mohammed, I do not 8 believe that he would falsify a report. 9 Q So you're making an assumption that the 10 arrest is valid because you don't think Mohammed 11 would frame somebody? 12 MR. STEFANICH: Objection to form. 13 MR. PALLES: Object. 14 A Yes. I am making that assumption, if you 15 want to call it an assumption. But based on my 16 experience of working with Officer Mohammed, I 17 never witnessed him do anything of that nature. 18 Q Did you and/or Mohammed see Mr. Jefferson 19 and Mr. Martin together on September 12th, 2006? 20 A Like I said, I don't recall the arrest, 21 sir; and the information in the report, I stand by 22 that. 23 Q Is it fair to say you don't remember if 24 Martin and Jefferson were arrested at the same</p>

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28 (423 to 426)

<p style="text-align: right;">423</p> <p>1 time?</p> <p>2 A Again, sir, I do not recall; but I said I</p> <p>3 stand by the information that's based in this</p> <p>4 report.</p> <p>5 Q Okay. But that wasn't my question.</p> <p>6 A I understand your question; and as I</p> <p>7 stated before, I do not recall the arrest; but I</p> <p>8 stand by the information in the report.</p> <p>9 Q I understand that, but just please try to</p> <p>10 just answer the question. If your lawyer has</p> <p>11 other questions for you later, then your lawyer is</p> <p>12 entitled to ask you other questions.</p> <p>13 A Well, what is your question? I thought I</p> <p>14 answered your question. I'm sorry if I'm being --</p> <p>15 MR. STEFANICH: Let's take a five-minute</p> <p>16 break.</p> <p>17 A -- frustrated by the questioning. Maybe I</p> <p>18 misunderstand your question.</p> <p>19 MR. STEFANICH: We're going to take a</p> <p>20 break.</p> <p>21 MR. RAUSCHER: We'll take a break.</p> <p>22 THE VIDEOGRAPHER: Off the record, 12:43.</p> <p>23 (A recess was taken from 12:43 p.m. to</p> <p>24 12:56 p.m.)</p>	<p style="text-align: right;">425</p> <p>1 A I can't tell off of this picture.</p> <p>2 Q Do you remember about how old Mr. Martin</p> <p>3 was in the mid-2000s?</p> <p>4 A Without looking at the report, I would</p> <p>5 assume that he was, like, in his mid-20s.</p> <p>6 Q Yeah. I meant though -- I meant from your</p> <p>7 memory.</p> <p>8 Do you remember how old about he was?</p> <p>9 A From my memory, I thought he was -- I</p> <p>10 looked at his age now; but from the best of my</p> <p>11 memory, I thought, like I said, he was in his</p> <p>12 mid-20s.</p> <p>13 Q And we've already talked about how you</p> <p>14 don't remember the arrest, so I'm not going to go</p> <p>15 through the whole report with you, but I have a</p> <p>16 question about the transport details on</p> <p>17 CITY-BG-052090, page 4 of 5.</p> <p>18 Do you see that, transport details?</p> <p>19 A Yes, I do.</p> <p>20 Q Does that mean that he was transported by</p> <p>21 Unit 264D?</p> <p>22 A That's correct.</p> <p>23 Q Do you know who Unit 264D was?</p> <p>24 A On that date, it was myself and Officer</p>
<p style="text-align: right;">424</p> <p>1 THE VIDEOGRAPHER: Back on the record,</p> <p>2 12:56.</p> <p>3 MR. RAUSCHER: Could you read back the</p> <p>4 last question, please.</p> <p>5 (The Reporter read the record as follows:</p> <p>6 Is it fair to say you don't remember if Martin and</p> <p>7 Jefferson were arrested at the same time?)</p> <p>8 A That's correct.</p> <p>9 MR. RAUSCHER: All right. I am going to</p> <p>10 mark -- are we on 44? I'm going to mark the next</p> <p>11 exhibit as 44.</p> <p>12 (Smith Deposition Exhibit 44 marked for</p> <p>13 identification and attached to the transcript.)</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q Do you recognize this as an arrest report</p> <p>16 for Willie Martin, September 12th, 2006?</p> <p>17 A Yes, I do.</p> <p>18 Q Do you recognize Mr. Martin in the picture</p> <p>19 in the top right-hand corner?</p> <p>20 A That's not a clear picture of him, so I</p> <p>21 really don't -- can't tell from this picture.</p> <p>22 Q All right. It is not a great picture, but</p> <p>23 does it give you -- does it look at all like the</p> <p>24 Willie Martin you remember?</p>	<p style="text-align: right;">426</p> <p>1 Mohammed.</p> <p>2 Q You were D, or were you C that day?</p> <p>3 A Like I said, it states on the vice case</p> <p>4 report that we were listed as David; and from the</p> <p>5 best of my memory, when we were working with</p> <p>6 Mohammed, we were David.</p> <p>7 Q Do you see the third page of the report?</p> <p>8 It looks like it says you were 264C that day. Is</p> <p>9 that a mistake?</p> <p>10 A That's probably a mistake.</p> <p>11 Q So when looking at the transport detail,</p> <p>12 if you were 264D, does that mean you and Mohammed</p> <p>13 transported Martin to the lockup?</p> <p>14 A That's correct.</p> <p>15 Q Do you have any memory of the transport?</p> <p>16 A No, I do not.</p> <p>17 Q So other than looking at this report, you</p> <p>18 don't know whether you transported Willie Martin?</p> <p>19 A Well, it's stated in the report that we</p> <p>20 transported him. So I would not have any reason</p> <p>21 to doubt that we did the transport.</p> <p>22 Q Do you know if you took him straight from</p> <p>23 the location of his arrest to the 2nd District?</p> <p>24 A Not recalling this arrest or the incident</p>

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<p style="text-align: right;">427</p> <p>1 that occurred, I know we'd probably have to</p> <p>2 transport him to the 2nd District. I don't know</p> <p>3 if it was right after the arrest or not.</p> <p>4 Q Do you know if he was in a car with</p> <p>5 Sergeant Watts at all on September 12th, 2006?</p> <p>6 A I don't recall.</p> <p>7 Q Do you know whether Sergeant Watts was</p> <p>8 with you when you transported Mr. Martin to the</p> <p>9 2nd District, assuming that you did that</p> <p>10 transport?</p> <p>11 A I don't recall.</p> <p>12 MR. RAUSCHER: I don't have any other</p> <p>13 questions for Mr. Martin. It's maybe a good time</p> <p>14 for lunch, if you all want to.</p> <p>15 MR. STEFANICH: Yeah.</p> <p>16 THE VIDEOGRAPHER: Off the record,</p> <p>17 1:00 o'clock.</p> <p>18 (A recess was taken from 1:00 p.m. to</p> <p>19 1:54 p.m.)</p> <p>20 (Mr. Burns joined the deposition, and</p> <p>21 Mr. Michalik did not return to the deposition.)</p> <p>22 THE VIDEOGRAPHER: Back on the record,</p> <p>23 1:54.</p> <p>24</p>	<p style="text-align: right;">429</p> <p>1 A Based off the reports -- like I said, I</p> <p>2 don't recall the specifics of the arrest; but I do</p> <p>3 remember him being arrested, and, like I said,</p> <p>4 other members in the 2nd District, my team talking</p> <p>5 about an altercation which occurred between Lionel</p> <p>6 White and Alvin Jones.</p> <p>7 Q All right. What I was trying to ask at</p> <p>8 the beginning was what is your personal</p> <p>9 recollection, if anything, about Lionel White,</p> <p>10 Sr., being placed in custody on April 24, 2006?</p> <p>11 A I don't recall.</p> <p>12 Q But you just know from reading the report</p> <p>13 that he was placed in custody; is that fair?</p> <p>14 A Yes.</p> <p>15 Q And then you said you remember people on</p> <p>16 your team talking about an altercation between</p> <p>17 Mr. White and Alvin Jones?</p> <p>18 A Yes.</p> <p>19 Q When did you hear those people on your</p> <p>20 team talking about the altercation between</p> <p>21 Mr. White and Jones?</p> <p>22 A From the best of my memory, it was --</p> <p>23 excuse me. From the best of my memory, I remember</p> <p>24 it was possibly in the 2nd District.</p>
<p style="text-align: right;">428</p> <p>1 BY MR. RAUSCHER:</p> <p>2 Q All right. Officer Smith, I'm going to</p> <p>3 ask you about the arrest of Lionel White, Sr., and</p> <p>4 some others who were arrested around the same time</p> <p>5 as him in April of 2006 -- April 24, 2006. Okay?</p> <p>6 A Okay.</p> <p>7 Q I believe that you remember something</p> <p>8 about Mr. White's arrest on April 24, 2006; is</p> <p>9 that correct?</p> <p>10 A Yes.</p> <p>11 Q All right. Tell me what you remember</p> <p>12 about that arrest.</p> <p>13 A That he was placed in custody; and at some</p> <p>14 point in time, I remember other members of my team</p> <p>15 talking about a physical altercation which</p> <p>16 occurred between Lionel White, Sr., I believe, and</p> <p>17 Alvin Jones.</p> <p>18 Q You remember -- all right. Let's go</p> <p>19 piece-by-piece here.</p> <p>20 You said you do remember he was placed in</p> <p>21 custody?</p> <p>22 A Yes.</p> <p>23 Q What do you remember about him being</p> <p>24 placed in custody?</p>	<p style="text-align: right;">430</p> <p>1 Q Do you remember if it was the same day as</p> <p>2 the arrest?</p> <p>3 A I believe so.</p> <p>4 Q Who was having the conversation?</p> <p>5 A I don't really recall who. I don't</p> <p>6 recall.</p> <p>7 Q Do you recall what they said?</p> <p>8 A No. I don't remember any specific</p> <p>9 conversations. I just remember that guys were</p> <p>10 talking about, you know, why was, you know, Lionel</p> <p>11 White trying to fight with Al.</p> <p>12 Q People were saying why was Lionel White</p> <p>13 trying to fight with Al?</p> <p>14 A Yeah. I don't remember the exact words</p> <p>15 that was said. You know, like, basically that he</p> <p>16 was like being, you know, foolish trying to fight</p> <p>17 with Al.</p> <p>18 Q Why was it foolish for Lionel White to try</p> <p>19 to fight with Al?</p> <p>20 A I can't speak for all the members of the</p> <p>21 team, but that's specifically what I -- the</p> <p>22 conversation that I recall hearing.</p> <p>23 Q Were people laughing? What was the</p> <p>24 demeanor like?</p>

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30 (431 to 434)

<p style="text-align: right;">431</p> <p>1 A I don't recall people laughing. I just 2 remember that people were just like, you know, 3 questioned why, you know, Lionel White was 4 fighting with Alvin Jones. 5 Q Were people upset? 6 A From what I recall, I don't recall anyone 7 being upset or anything like that or celebrating 8 any, you know -- you know, what had occurred. 9 But I don't remember what state people 10 were in, or, like I said, the exact words that was 11 you used. 12 Q And why do you think this conversation 13 happened at the 2nd District? 14 A I don't recall why. 15 Q When did you first remember hearing this 16 conversation about the fight or the altercation 17 between White, Sr., and Alvin Jones? 18 A I don't understand your question. 19 Q So you gave a statement to COPA; correct? 20 A Yes. 21 Q And I think you told them -- or you had an 22 interview. I shouldn't say you gave a statement. 23 You had an interview with COPA about this 24 incident; is that right?</p>	<p style="text-align: right;">433</p> <p>1 conversation at the time? 2 A I don't recall if I talked to anybody 3 about that to/from that I submitted at that time. 4 Q Do you know, do you remember if your 5 to/from included any reference to you hearing a 6 conversation about an altercation between White 7 and Jones? 8 A Without having my to/from in front of me, 9 I don't know what I stated in my to/from. 10 Q Do you remember being involved in any 11 arrests on April 24, 2006? 12 A Not off the top of my head. 13 Q Did you look at reports from that day to 14 prepare for your deposition today? 15 A I believe so. 16 Q You know, let me back up a step. 17 You said that you heard people asking why 18 Lionel White was trying to fight with Al Jones. 19 Were they saying Lionel White's name? 20 A To the best of my memory, I believe so. 21 Q Was Lionel White known to members of your 22 team? 23 A I don't know. I don't recall at this 24 particular point in time.</p>
<p style="text-align: right;">432</p> <p>1 A Yes. 2 Q And did you tell them you didn't have any 3 recollection of the incident? 4 A That's what I -- yes, that's correct. 5 Q And when you had that interview, did you 6 remember this conversation that you're talking 7 about today? 8 A I don't recall if I had stated to them 9 whether or not if I did or not. 10 Q No. I'm not asking if you told them about 11 the conversation. I'm asking if when you talked 12 to COPA -- let me rephrase that. 13 What I was trying to ask is at the time of 14 your interview with COPA, did you remember that 15 you had heard a conversation on the day of Lionel 16 White's arrest about an altercation between White 17 and Alvin Jones? 18 A I don't recall. 19 Q Do you remember giving a to/from statement 20 in response to a complaint that Lionel White made 21 to IPRA or OPS at the time of or near the time of 22 his arrest? 23 A Yes. 24 Q And did you talk about hearing this</p>	<p style="text-align: right;">434</p> <p>1 Q Did you know Lionel White before he was 2 arrested April 24, 2006? 3 A No, I did not. 4 Q Did you see a picture of him -- do you 5 know what he looks like now? 6 A Yes, I certainly -- I know what he looks 7 like now. 8 Q And when you -- is that because you've 9 seen pictures of him? 10 A Yes, I have. 11 Q When you've seen pictures of him, did that 12 refresh your recollection or make you think you 13 knew him back in 2006? 14 A No. I think I might have stated to my 15 attorneys that -- 16 MR. STEFANICH: Stop. You don't have to 17 say what -- 18 Q Yeah. Don't tell me the part that you 19 told your attorneys; but if there's just factual 20 information that you can answer, then you have to 21 answer the question. 22 A No. To the best of my knowledge, I don't 23 recall whether or not if I had any encounters with 24 him or knew him at that particular point in time.</p>

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<p>435</p> <p>1 Q And seeing his picture didn't change that?</p> <p>2 A No.</p> <p>3 Q All right. And you think you looked at</p> <p>4 some reports from April 24, 2006?</p> <p>5 A Yes.</p> <p>6 Q And then you also talked about a bunch of</p> <p>7 reports, maybe the same ones, when you met with</p> <p>8 COPA and talked about Lionel White; is that right?</p> <p>9 A I believe so.</p> <p>10 Q Did seeing your reports refresh your</p> <p>11 recollection at all about any events that took</p> <p>12 place April 24, 2006?</p> <p>13 A No.</p> <p>14 Q Do you know whether you participated in a</p> <p>15 reverse sting on April 24, 2006?</p> <p>16 A I believe -- based off the reports that</p> <p>17 we -- that might have been submitted for that day,</p> <p>18 I don't recall the reverse sting offhand, but I</p> <p>19 believe I've reviewed reports that there was a</p> <p>20 reverse sting operation that was done on the same</p> <p>21 day that Lionel White was arrested.</p> <p>22 Q And you're saying that in a passive voice,</p> <p>23 I think -- well, let me rephrase that. You said a</p> <p>24 reverse sting was done.</p>	<p>437</p> <p>1 A If someone did sign my name on any</p> <p>2 reports, it would not have been without my</p> <p>3 authorization.</p> <p>4 MR. RAUSCHER: That's okay.</p> <p>5 BY MR. RAUSCHER:</p> <p>6 Q You would have reviewed those reports</p> <p>7 before they were signed with your name?</p> <p>8 A Yes.</p> <p>9 Q Do you remember Lionel White talking trash</p> <p>10 to Al Jones April 24, 2006?</p> <p>11 A I believe at some point in time that there</p> <p>12 was a verbal altercation which occurred.</p> <p>13 Q Do you remember Lionel White talking trash</p> <p>14 to Alvin Jones on April 24, 2006?</p> <p>15 A As I stated, at some point in time, I do</p> <p>16 believe that there was a verbal altercation. I</p> <p>17 cannot state if I -- well, let me answer.</p> <p>18 As I stated before, I think I stated at my</p> <p>19 COPA interview I do not recall specifically.</p> <p>20 MR. RAUSCHER: Let's mark -- Exhibit 45</p> <p>21 will be the next exhibit.</p> <p>22 (Smith Deposition Exhibit 45 marked for</p> <p>23 identification and attached to the transcript.)</p> <p>24 Q Have you had a chance to review these?</p>
<p>436</p> <p>1 Did you participate in the reverse sting?</p> <p>2 A As I'm sitting here, I've reviewed the</p> <p>3 reports, and I remember that, like I said,</p> <p>4 reflected on my conversations or my interview with</p> <p>5 COPA. They did ask me about other people that was</p> <p>6 arrested at the time of Lionel White.</p> <p>7 I don't recall the date of the arrest of</p> <p>8 Lionel White or other individuals that were</p> <p>9 arrested; but I am aware that there was a reverse</p> <p>10 sting operation that occurred at the time that</p> <p>11 Lionel White was arrested.</p> <p>12 Q But you're not sure if you participated in</p> <p>13 the reverse sting?</p> <p>14 A If my name is on the report, then I had to</p> <p>15 participate in it, but I don't recall the reverse</p> <p>16 sting operation.</p> <p>17 Q And your name was on the reports, and also</p> <p>18 you signed at least -- or about half of them;</p> <p>19 correct?</p> <p>20 A I would have to look at the reports, but I</p> <p>21 believe I did.</p> <p>22 Q And then do you think that someone else</p> <p>23 signed your name on the other half of the vice</p> <p>24 case reports?</p>	<p>438</p> <p>1 A Yes.</p> <p>2 Q This is an interrogatory response that you</p> <p>3 signed under penalty of perjury two days ago?</p> <p>4 A Yes.</p> <p>5 Q It says in here, "Specifically, Defendant</p> <p>6 Smith recalls Lionel White, Sr., at some point in</p> <p>7 the lobby of 575 East Browning talking trash to</p> <p>8 Officer Jones."</p> <p>9 Is that --</p> <p>10 A That's correct.</p> <p>11 Q So do you recall Defendant Smith -- I'm</p> <p>12 sorry.</p> <p>13 Do you recall Lionel White, Sr., at some</p> <p>14 point in the lobby of 575 East Browning talking</p> <p>15 trash to Officer Jones?</p> <p>16 A As of now, yes. Based on if I stated --</p> <p>17 if I stated anything differently at the time</p> <p>18 during my COPA investigation, it wasn't because I</p> <p>19 lied. Like I said, because I had time to review</p> <p>20 my statement from COPA and reflect over it against</p> <p>21 that.</p> <p>22 I don't recall the incident of the arrest</p> <p>23 in totality. I just, like I said, remember</p> <p>24 certain things, and I think if you -- and I don't</p>

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<p style="text-align: right;">439</p> <p>1 have my to/from in front of me. When I initially 2 did my to/from, I do recall stating I was not in a 3 position to observe the physical altercation which 4 was documented by Alvin Jones in the report. 5 And I did not state that I observed that 6 altercation which occurred, the physical 7 altercation; and without looking at my to/from 8 report, I don't know if it asked me a question if 9 I observed a verbal altercation. 10 Q What does your to/from report have to do 11 with whether you currently recall Lionel White -- 12 A But if I -- 13 Q -- talking trash to -- 14 A I understand, sir. 15 Q -- Mr. -- to Alvin Jones? 16 A Okay. Sir, as, again, I'm trying to 17 answer your question. The idea of reading this 18 statement now I -- like I said, I've had time to 19 reflect. It's been a year since I gave my COPA 20 interview. 21 And based on my last conversation with my 22 attorneys, I do recall that there was some point 23 in time that there was a verbal altercation which 24 had occurred between Lionel White and Alvin Jones.</p>	<p style="text-align: right;">441</p> <p>1 were named -- I don't recall what -- the 2 specifics, like I said, but a verbal altercation, 3 talking trash is an altercation at some point. 4 Q So you do remember Lionel White, Sr., 5 talking trash to Officer Jones. 6 A As I stated before, it's -- I did say at 7 some point in time that I do recall Lionel White 8 talking trash to Officer Jones. 9 Q All right. 10 A Yes, I did sign this, and I'm not 11 falsifying any reports or lying about anything. 12 Q So it is true that you do recall Lionel 13 White at some -- 14 A Yes. 15 Q Let me just finish. 16 It is true that you recall Lionel White, 17 Sr., at some point at 575 Browning talking trash 18 to Officer Jones, and I omitted in the lobby 19 because I think you've said you're not sure if it 20 was in the lobby. 21 A I don't recall if it was in the lobby or 22 not, but I do remember that Lionel White and 23 Alvin -- was talking to trash to Alvin Jones at 24 some point in time.</p>
<p style="text-align: right;">440</p> <p>1 Q You said maybe less than two minutes ago 2 that you don't recall Lionel White talking trash 3 to Alvin Jones in the lobby. 4 A I don't think I recall saying that. 5 Q So do you recall telling -- do you recall, 6 as you sit here today, Lionel White at some point 7 in the lobby of 575 East Browning talking trash to 8 Officer Jones? 9 A I don't know if -- 10 Q Yes or no? 11 A I don't know if it was in the lobby or 12 not. I do remember at some point in time that 13 there was a verbal altercation between Alvin Jones 14 and Lionel White. 15 Q You're saying verbal altercation today, 16 but you said talking trash -- 17 A Talking trash, verbal altercation, it's 18 the same thing; isn't it? 19 Q Is that the same thing to you? 20 A I don't know. You asked me, you know -- 21 Q I'm using the signed sworn interrogatory 22 that you -- that you signed. 23 A Yes. Talking trash could mean verbal 24 altercation also. I mean I don't mean that they</p>	<p style="text-align: right;">442</p> <p>1 Q What did Lionel White say to Alvin Jones? 2 A I don't recall exactly what he said. 3 Q Do you recall generally what he said? 4 A No, I do not. 5 Q Was it common that civilians would talk 6 trash to members of your team? 7 A It's not uncommon for any offender to talk 8 trash to a police officer. 9 Q Why is it that you think you have a 10 specific memory of Lionel White, Sr., of all the 11 offenders over the years, talking trash to Officer 12 Jones? 13 A I don't know why. I mean, after reviewing 14 reports, certain things might refresh your memory 15 and stuff. I don't know why, but it did come to 16 my mind that at some point in time, that he had 17 exchanged words or said something to Alvin Jones. 18 Q Do you know why you remember that after 19 looking at some -- that's not in a report; is it? 20 A I don't believe so. I don't know. Like I 21 said, I don't have the report in front of me, so I 22 don't know. 23 Q And you said it might not be in the lobby. 24 Where else could it have been? Where else</p>

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<p style="text-align: right;">443</p> <p>1 was Lionel White?</p> <p>2 A He was brought into the 2nd District for</p> <p>3 processing.</p> <p>4 Q So it could have been at the 2nd District</p> <p>5 you heard him talking trash to Jones?</p> <p>6 A I don't recall where it was at. At some</p> <p>7 point in time, I do remember him talking trash to</p> <p>8 Alvin Jones.</p> <p>9 Q So it might not even have been at the</p> <p>10 building at all.</p> <p>11 A It could not have been any other place</p> <p>12 because based off of the reports -- and, like I</p> <p>13 said, I don't recall the arrest which occurred</p> <p>14 that day -- the only time that we would have</p> <p>15 encountered Lionel White would have been in the</p> <p>16 Ida B. Wells or in the 2nd District police</p> <p>17 station.</p> <p>18 Q Right. So it might not have been at 575</p> <p>19 East Browning where you heard him talking trash;</p> <p>20 it could have been the police building?</p> <p>21 A Sir, I don't recall; but if that's</p> <p>22 what's -- the location where the arrest had</p> <p>23 occurred at 575 East Browning, then based off of</p> <p>24 what I know, it would not have occurred anywhere</p>	<p style="text-align: right;">445</p> <p>1 there were between the two of them?</p> <p>2 A That I don't recall. I looked at the</p> <p>3 report; and based off the report, that Alvin Jones</p> <p>4 put in the report that they believed two</p> <p>5 altercations occurred.</p> <p>6 Q You think that you've seen reports saying</p> <p>7 two altercations occurred?</p> <p>8 A I don't have the report in front of me,</p> <p>9 but I believe that's what was stated in the</p> <p>10 report. I know that the altercation was</p> <p>11 documented by Alvin Jones. A physical altercation</p> <p>12 took place, and he documented it in the police</p> <p>13 report.</p> <p>14 Q Maybe somebody told you there were two?</p> <p>15 A I don't recall.</p> <p>16 Q If the report doesn't say two, then you</p> <p>17 would have had to have learned that from somebody</p> <p>18 else; right?</p> <p>19 A Well, I'm certain I did. I don't recall</p> <p>20 who told me at the present moment.</p> <p>21 Q When is the last time you talked to Jones</p> <p>22 about Lionel White, Sr.'s, arrest?</p> <p>23 A I haven't talked to Alvin Jones in several</p> <p>24 years.</p>
<p style="text-align: right;">444</p> <p>1 else.</p> <p>2 Q Anywhere else other than what?</p> <p>3 A The address that is listed, 575 East</p> <p>4 Browning.</p> <p>5 Q I thought you just said it could have also</p> <p>6 occurred at the station.</p> <p>7 A Yes. That's what I said. It could</p> <p>8 possibly happen -- we were only in two other</p> <p>9 places at that time, based off of what I recall,</p> <p>10 either at 575 East Browning or in the</p> <p>11 2nd District.</p> <p>12 Q All right. So why is it that you said in</p> <p>13 your statement that it could be possible that you</p> <p>14 didn't go into 575 East Browning was incorrect, if</p> <p>15 you might not have heard Lionel White talking in</p> <p>16 the building?</p> <p>17 A Based off of this, of what I remember of</p> <p>18 my conversation, like I said, I might not have</p> <p>19 been in the lobby. I don't know where I was at.</p> <p>20 I think I stated that in my COPA interview. I</p> <p>21 don't recall if I -- where I was at at the time</p> <p>22 that the physical altercation which took place</p> <p>23 between Lionel White and Alvin Jones also.</p> <p>24 Q Do you know how many physical altercations</p>	<p style="text-align: right;">446</p> <p>1 Q At all?</p> <p>2 A At all.</p> <p>3 Q This also says toward the end, "Answering</p> <p>4 further, Defendant Smith states that he mistakenly</p> <p>5 stated that he had never seen John Pierce before."</p> <p>6 You said you mistakenly said that to COPA,</p> <p>7 but then you looked at a report and you saw him on</p> <p>8 April 24, 2006?</p> <p>9 A Yes. If he was arrested, then I would</p> <p>10 have had to have seen him.</p> <p>11 Q But you don't have a memory of seeing him.</p> <p>12 You're just saying, of course, if I was there and</p> <p>13 he was arrested, I saw him.</p> <p>14 A Based on the report, yes, I probably -- I</p> <p>15 had to have seen him on that day; but prior to</p> <p>16 that day and as of today, I have not seen John</p> <p>17 Pierce.</p> <p>18 Q And do you remember seeing him that day,</p> <p>19 or are you just basing it on the reports?</p> <p>20 A Based on the pictures that I've seen of</p> <p>21 John, this individual John Pierce, and based off</p> <p>22 of what I know now, other than that day,</p> <p>23 April 24th, 2006, no.</p> <p>24 Q No, you don't remember him?</p>

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<p style="text-align: right;">447</p> <p>1 A Prior to 2000 -- April 2000 -- 2 Q Well, no, I'm sorry. Not at all. 3 Do you remember him at all? I know that 4 you said you looked at a report and understand 5 that you saw him that day. 6 A No, I do not recall John Pierce. 7 Q All right. Now that you've had a chance 8 to look at this answer today, the one -- this 9 answer sworn to under penalty of perjury, is there 10 anything that you need to change in here? 11 MR. STEFANICH: Object to the form. 12 A No, not that I see. Not that I can think 13 of. 14 Q So does that mean that you do recall 15 Lionel White, Sr., at some point in the lobby of 16 575 East Browning talking trash to Officer Jones, 17 or should that be changed to say something 18 different? 19 MR. STEFANICH: Objection; form. 20 A Yes. I guess you could change that to -- 21 Q All right. 22 A -- lobby. 23 Q How should that be changed? 24 A I don't know. Say at some point in time,</p>	<p style="text-align: right;">449</p> <p>1 just probably confused about the questions, like 2 I've been confused and crossed up about some of 3 the questions earlier today. But at no point in 4 time have I -- during my testimony and my 5 statements that I've given to you or to COPA has 6 anything been false. 7 Now, it's possible at that -- yeah, it 8 could be changed. I don't recall. Like I said, I 9 don't recall the arrest or the specifics on 10 April 24th, 2006; and if there was a reverse sting 11 operation that took place at some point in time, 12 it's possible that I was in the lobby at 575 East 13 Browning -- 14 Q So you -- I'm sorry. 15 A But I don't recall if I was there when 16 this verbal altercation occurred between Lionel 17 White and Officer Jones. 18 Q You don't know one way or the other, as 19 you sit here today, whether you went into 575 East 20 Browning on April 24, 2006? 21 A Sitting here today, I do not recall. 22 Q Are you aware that a number of the times 23 on different reports from that vice -- from that 24 reverse sting on April 24, 2006, don't match up?</p>
<p style="text-align: right;">448</p> <p>1 that Officer Smith was aware of a verbal -- I'm 2 sorry. Defendant Smith recalls Lionel White, Sr., 3 at some point in time on the date of April 24th, 4 2006, talking trash to Officer Jones. 5 Q Because you remember it happening, but you 6 don't remember where. 7 A Yes, I don't recall where. 8 Q So it is -- you're still -- the next 9 sentence then, should that also be changed? 10 Because it says you were wrong when you told COPA 11 that it could not be -- that it could be -- I'm 12 sorry -- let me do it again. 13 It says you told COPA -- it says, 14 Defendant Smith's statement, and I'm going to 15 insert to COPA, then it keeps going, that it could 16 be possible that he did not go into the 575 East 17 Browning building on April 24, 2006, was 18 incorrect. 19 Was that statement to COPA incorrect, or 20 are you not sure? 21 A My statement to COPA was correct. Maybe 22 my statement and how I answered the question was a 23 mistake. But none of my answers to COPA or the 24 answers that I gave to COPA was incorrect. I was</p>	<p style="text-align: right;">450</p> <p>1 A Yes. 2 MR. STEFANICH: Objection to form. 3 A Yes, I am aware of that. 4 BY MR. RAUSCHER: 5 Q How, if at all, when you were working on 6 reverse stings, did you keep track of the time of 7 events? 8 A Sitting here today, I do not recall how we 9 kept time; but most of the time, when you do 10 reports, the times are approximated. 11 Q Do you know what a reverse sting kit is? 12 A I never heard a police officer refer to a 13 reverse sting kit. I've heard about it during the 14 preparation of this trial, but I've never heard a 15 police officer specifically state anything about a 16 reverse sting kit. 17 Q What do you mean you heard about reverse 18 sting -- I guess I probably know the answer. 19 Are you saying when you were preparing 20 with your attorneys -- 21 A That's what I said, preparing for this -- 22 MR. STEFANICH: Just yes. 23 A Yes. 24 Q All right. Outside of conversations with</p>

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<p style="text-align: right;">451</p> <p>1 your attorneys, you have no knowledge of a reverse 2 sting kit. 3 A No. I've never heard a police officer 4 refer to a reverse sting kit. 5 Q Safe to say you never used a reverse sting 6 kit with Al Jones? 7 A I don't know what a reverse sting kit is. 8 Q What materials would you have with you 9 typically when you conducted reverse stings on the 10 Watts team? 11 A If we were -- if we were planning for a 12 reverse sting -- because sometimes we did reverse 13 stings at the spur of the moment. If we were 14 planning a reverse sting, the only thing that we 15 would preprint is a vice case report. 16 Q You would preprint the vice case reports 17 before you conducted the reverse stings? 18 A Yes. 19 Q What would you pre- -- what would you 20 preprint on the reports? 21 A I don't remember exactly how it is we 22 worded the information. We would just say -- we'd 23 leave blank where the individual or a possible 24 offender would come say he tendered money in an</p>	<p style="text-align: right;">453</p> <p>1 have not written a report in over two years, and I 2 haven't been a tactical officer in over 10-plus 3 years. 4 Based off of my memory -- and I don't 5 think that's illegal when we preprinted a report, 6 and that does include -- necessarily state that -- 7 and you're trying to imply if we were making a 8 false report. It's not a false report if someone 9 is coming to attempt to buy narcotics because, 10 like I said, we didn't have any individual name 11 written in the report prior to producing these 12 reports. 13 We would leave that blank and then fill in 14 the information about the individual, the drugs 15 that they was asking to purchase and the amount 16 that they -- money that they offered for whatever 17 substance, illegal substance that they were trying 18 to purchase. 19 Q On April 24, 2006, you didn't leave the 20 kind of drugs blank, did you? 21 A I don't know. I don't have the report in 22 front of me, so I don't know how it was written or 23 prepared. 24 Q Well, would it be appropriate to type in</p>
<p style="text-align: right;">452</p> <p>1 attempt to purchase narcotics from a blank subject 2 or whatever. And we would leave the space open 3 for the amount tendered or whatever or the -- 4 maybe the drugs that they may have asked for -- 5 Q So you -- 6 A -- such as heroin or crack cocaine or 7 whatever. 8 Q So, like, the narrative, when there's a 9 typed narrative section for a reverse sting, you 10 have done -- you create that before you go out and 11 do the reverse sting? 12 MR. STEFANICH: Objection; form. 13 A Yes. 14 Q And then you just assume it's going to be 15 true? 16 A It's not an assumption. Like I said, if 17 you heard me when I stated earlier, if the person 18 were coming to make a purchase or attempt to buy 19 narcotics is not -- then we assume -- I mean, we 20 would leave the spots open. 21 We would just basically make an outline, 22 say the above subject come to -- the above subject 23 or whatever. Like I said, I don't remember 24 because it's been many years. I don't recall. I</p>	<p style="text-align: right;">454</p> <p>1 offender came asking for "blows," blows in quotes, 2 before you went out and did the reverse sting? 3 A From the best off -- to the best of my 4 memory, yes. 5 Q Why would that be appropriate? How do you 6 know anyone is going to come ask you for blows? 7 A Based off, like I said, we probably had -- 8 I don't recall how we wrote the reports in 9 general. Based off of my memory, we might have 10 had some written for blows, and we might have had 11 some written for crack. 12 Q I thought you -- what do you mean you 13 don't know how you wrote them in general? I 14 thought you did. 15 A I don't re- -- okay. Maybe I misstated. 16 I didn't recall how we wrote it -- worded 17 them on this particular day, April 24th, 2006; but 18 if we preprinted the reports in preparation for a 19 reverse sting operation, we would prepare a 20 report. 21 If we didn't leave -- we would leave that 22 section blank or sometimes we might have prepared 23 it and stated for blows or if they asked for crack 24 cocaine.</p>

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<p style="text-align: right;">455</p> <p>1 Q So you think you'd have some reports that</p> <p>2 were preprinted and say blow and some said crack</p> <p>3 cocaine?</p> <p>4 A I don't recall for that particular day;</p> <p>5 but based off of my memory, that's probably how we</p> <p>6 would prepare the report.</p> <p>7 Q So you remember doing that?</p> <p>8 A I said I don't recall for that particular</p> <p>9 day, and I can't state if we always did that. I</p> <p>10 don't know for that particular day.</p> <p>11 Q I understand. Let me ask it a different</p> <p>12 way.</p> <p>13 Do you remember ever, even one time --</p> <p>14 A I'm certain we probably did but I don't --</p> <p>15 Q You've got to let me finish the question.</p> <p>16 I know you understand where I'm going because</p> <p>17 we've been talking about it, but for the record I</p> <p>18 have to be able to finish.</p> <p>19 Do you remember ever, even once</p> <p>20 preprinting narrative sections on a vice case</p> <p>21 report before you conducted a reverse sting with</p> <p>22 some of the reports saying "offender came and</p> <p>23 asked for blows" and others saying "offender came</p> <p>24 and asked for crack cocaine"?</p>	<p style="text-align: right;">457</p> <p>1 But at no point in time -- if you're</p> <p>2 trying to imply that we falsified any reports, as</p> <p>3 I stated before, I never falsified any reports,</p> <p>4 and I don't recall anybody on my team at the time</p> <p>5 when I was working with them falsifying any</p> <p>6 reports.</p> <p>7 Q A lot of people have accused you of</p> <p>8 falsifying reports.</p> <p>9 A I understand that, but they are lying.</p> <p>10 Q Could you see a problem now with</p> <p>11 preprinting a bunch of reports that say "offender</p> <p>12 came and asked for blows"?</p> <p>13 A No.</p> <p>14 MR. KOSOKO: Objection; form.</p> <p>15 Q What if that was the only kind of report</p> <p>16 you wrote that day? You didn't preprint any with</p> <p>17 crack cocaine on it.</p> <p>18 A What is your question? I don't</p> <p>19 understand.</p> <p>20 Q Would that be problematic?</p> <p>21 A What is your question? I don't understand</p> <p>22 your question.</p> <p>23 Q My question is if you came and did a</p> <p>24 vice -- if you came and did a reverse sting on</p>
<p style="text-align: right;">456</p> <p>1 A I don't recall specifically; but as I</p> <p>2 stated before, it's possible that we did.</p> <p>3 Q Well, do you mean it's -- I'm asking if</p> <p>4 you remember, not if it's possible.</p> <p>5 A There's a lot of things I don't recall,</p> <p>6 but I don't recall for that particular day or from</p> <p>7 10 years ago or 15 years ago. I don't recall.</p> <p>8 Q But do you recall having a practice of</p> <p>9 preprinting different kinds of drugs on the</p> <p>10 reports for a reverse sting?</p> <p>11 A I don't recall, sir.</p> <p>12 Q How would you know in advance what kind of</p> <p>13 drugs different people were going to come ask for?</p> <p>14 A Sir, as I'm trying to point out to you,</p> <p>15 hypothetically, we were preparing this report.</p> <p>16 Like I said, someone was coming to buy dope. We</p> <p>17 would not put dope down there.</p> <p>18 If they were coming to buy heroin, we</p> <p>19 might say that they're coming to buy blows or ask</p> <p>20 for blows. If they're coming to buy crack, we</p> <p>21 might put crack, in parentheses crack cocaine or</p> <p>22 whatever. I forgot what the other street</p> <p>23 terminology they might have used for crack</p> <p>24 cocaine.</p>	<p style="text-align: right;">458</p> <p>1 April 24, 2006, and the only vice case reports you</p> <p>2 preprinted before you did that reverse sting said</p> <p>3 "offender came and asked for blows," do you see</p> <p>4 any problem with that?</p> <p>5 A No. I'm certain we would -- if they asked</p> <p>6 for crack cocaine, we would probably change the</p> <p>7 report to reflect that they asked for crack</p> <p>8 cocaine.</p> <p>9 Q So if everybody arrested in the reverse</p> <p>10 sting that day is on the same -- has the same</p> <p>11 preprinted language about blows, that means that</p> <p>12 everybody came and asked for blows; nobody asked</p> <p>13 for anything else?</p> <p>14 A Like I said, I don't have the report in</p> <p>15 front of me. I don't recall what -- the specifics</p> <p>16 of that arrest on that particular day; and if they</p> <p>17 asked for blows, then I'm certain the preprinted</p> <p>18 report -- like I said before, hypothetically, we</p> <p>19 probably produced a report that said blows, and we</p> <p>20 produced a report that said crack.</p> <p>21 So, like I said, we would put the</p> <p>22 appropriate offender's name on the appropriate</p> <p>23 arrest or the vice case report and what they asked</p> <p>24 for specifically.</p>

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<p>459</p> <p>1 Q So there should probably be a mix of 2 different kinds of drugs?</p> <p>3 A From the best of my memory, yes.</p> <p>4 Q Do you remember what your role was on the 5 reverse sting on April 24, 2006?</p> <p>6 A I don't recall on that particular day.</p> <p>7 Q Do you -- and seeing the reports didn't 8 refresh your recollection at all?</p> <p>9 A No, it does not.</p> <p>10 MR. RAUSCHER: We're going to mark 11 Exhibit 46.</p> <p>12 (Smith Deposition Exhibit 46 marked for 13 identification and attached to the transcript.)</p> <p>14 Q You had a chance to look at this?</p> <p>15 A Yes, I have.</p> <p>16 Q You see it's a vice case report for 17 Cleothus Morris, 24 -- April 24, 2006?</p> <p>18 A Yes.</p> <p>19 Q And it says it's a reverse sting 20 operation?</p> <p>21 A That's correct.</p> <p>22 Q Your name is in the bottom left-hand 23 corner?</p> <p>24 A That's correct.</p>	<p>461</p> <p>1 report.</p> <p>2 Q You didn't make this report, did you?</p> <p>3 A I do not have a recollection if I prepared 4 this report at this point in time. I know that I 5 am listed as the first arresting officer on this 6 report, and my name is down here typewritten. 7 If another member of my team signed my 8 name on the report, I had to have given them 9 authorization to do so, and I would not have 10 allowed them to do so if I felt this report was 11 false.</p> <p>12 Q All right. Do you know if the time on 13 here is accurate, date of occurrence, 11:30?</p> <p>14 A I don't recall.</p> <p>15 Q Date of arrival, 11:30?</p> <p>16 A I don't recall, sir.</p> <p>17 Q Is your handwriting anywhere on this 18 report, if you can tell?</p> <p>19 A It doesn't appear to be my handwriting.</p> <p>20 Q Okay. It says in the -- did you type up 21 the narrative?</p> <p>22 A I don't recall who typed the narrative up.</p> <p>23 Q Do you know what kind of drug or drugs 24 were sold out of 575 East Browning, if any, in</p>
<p>460</p> <p>1 Q Is that your signature underneath?</p> <p>2 A No.</p> <p>3 Q Whose signature is that?</p> <p>4 A I was working -- it says the second 5 arresting officer was Mohammed. I don't recall 6 his handwriting, but I probably authorized someone 7 else to sign my name on the report.</p> <p>8 Q Do you know who prepared this report?</p> <p>9 A I do not recall, but I am in Box 1, and 10 everything that's in this report -- I would not 11 have allowed anyone to sign my name on a report if 12 I didn't feel that the report was truthful. It's 13 a truthful report.</p> <p>14 Q How can you possibly say that?</p> <p>15 A Because I wouldn't have signed my name on 16 a report or allowed someone else to sign my name 17 on a report that was false.</p> <p>18 Q How do you even know if you allowed 19 someone else to sign your name or if they just 20 did it?</p> <p>21 A Just because I don't recall what happened 22 on April 26 [sic] at that point in time, as I'm 23 sitting here today, does not mean that this report 24 is false. I stand by my report and what's in the</p>	<p>462</p> <p>1 April 2006?</p> <p>2 A As of today, I don't recall.</p> <p>3 Q All right. It says in the narrative 4 section, In summary, above offender placed in 5 custody after offender approached an undercover 6 officer and asked to purchase, quote, "blow," 7 unquote.</p> <p>8 Do you see that?</p> <p>9 A Yes, I do.</p> <p>10 Q So Cleothus Morris came and said, I want 11 to purchase blow?</p> <p>12 A Yes. As I stated before, if he -- if 13 that's what he asked for, then we would have put 14 that in the report and reflect that he attempted 15 to purchase blow, which is a street -- which is a 16 street terminology for heroin.</p> <p>17 Q But you said that you wrote the -- the 18 reports were typed before you encountered anybody.</p> <p>19 A And --</p> <p>20 MR. STEFANICH: Object to --</p> <p>21 A -- now you're trying to twist my words 22 around.</p> <p>23 MR. STEFANICH: -- the form of that 24 question. I think that misstates his prior</p>

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38 (463 to 466)

<p style="text-align: right;">463</p> <p>1 testimony.</p> <p>2 BY MR. RAUSCHER:</p> <p>3 Q So the narrative report on the vice case</p> <p>4 report was not typed up before you went out to do</p> <p>5 the reverse sting?</p> <p>6 A Sir, like I said, we typed up reports that</p> <p>7 might -- if we did a report, we would type it up</p> <p>8 to say "blows" as well as "crack" and we made --</p> <p>9 if -- whatever the person that we placed in</p> <p>10 custody, we would reflect that or use the</p> <p>11 appropriate report for what they all were asked</p> <p>12 for.</p> <p>13 Q I thought you just said it was a</p> <p>14 possibility that you would write up both kinds,</p> <p>15 that you don't actually remember doing it.</p> <p>16 A Sir, based on my experience -- again, you</p> <p>17 maybe -- I miss -- you misunderstood what I was</p> <p>18 trying to say. At no point in time did I say</p> <p>19 that.</p> <p>20 I'm trying to tell you if we made a</p> <p>21 report, it would reflect what that particular</p> <p>22 offender asked to purchase. Now, like I said, if</p> <p>23 we did preprinted reports and stuff like that, we</p> <p>24 would make up some that say "blows" and some that</p>	<p style="text-align: right;">465</p> <p>1 many times they changed the names of the dope, and</p> <p>2 it was hard to keep up with each individual dope</p> <p>3 line. So we would put blow, which is street</p> <p>4 terminology for heroin. That's why we would put</p> <p>5 blow in -- or at least based off the way I</p> <p>6 remember me writing my reports, we would put blow</p> <p>7 in parentheses or crack in parentheses.</p> <p>8 That don't mean that they specifically</p> <p>9 said let me purchase -- because it doesn't say</p> <p>10 anything exactly, from what I'm reading here, that</p> <p>11 the offender exactly stated this. Hey, man, give</p> <p>12 me some blow or whatever. It just says "blow."</p> <p>13 Blow is in quotation marks, but that doesn't mean</p> <p>14 he specifically said blow.</p> <p>15 Q Isn't that what quotation marks indicate,</p> <p>16 that it's a quote?</p> <p>17 A Okay. Maybe that's what, I guess, your</p> <p>18 terminology would be but based on -- it's not</p> <p>19 always like that. As I said, blow is just showing</p> <p>20 that -- based off of what I was taught in my</p> <p>21 experience as a police officer from the police</p> <p>22 academy, we put blows in quotation marks, and</p> <p>23 that's to reflect that it's a type of -- the name</p> <p>24 or the slang that they use for heroin.</p>
<p style="text-align: right;">464</p> <p>1 would say "crack cocaine."</p> <p>2 And, like I said, each person wrote the</p> <p>3 reports differently. So if you saw and compared</p> <p>4 this particular -- if I say, assuming that myself</p> <p>5 or Mohammed wrote this report out, another officer</p> <p>6 on our team, how they prepared their reverse sting</p> <p>7 operation reports might be worded differently from</p> <p>8 ours, and I don't recall from this particular</p> <p>9 date.</p> <p>10 Q But this is a quote. It says, purchase,</p> <p>11 quote/unquote, "blow."</p> <p>12 It is used to justify an arrest; right?</p> <p>13 A Quote -- I wouldn't say that's a specific</p> <p>14 quote.</p> <p>15 Q It's in quote marks.</p> <p>16 A It's in quotation marks, but that doesn't</p> <p>17 mean that he asked specifically for blow. Blow is</p> <p>18 a, you know, like I said -- and I am aware of, you</p> <p>19 know, from my experience in working in the Ida B.</p> <p>20 Wells, that each building or -- you know, had</p> <p>21 different names for their dope lines.</p> <p>22 And we put blows in the report because</p> <p>23 sometimes we -- they changed the names of the</p> <p>24 lines of dope frequently, and I can't tell you how</p>	<p style="text-align: right;">466</p> <p>1 Q So you're saying that putting the word in</p> <p>2 quotes is not trying to attribute that statement</p> <p>3 to the offender?</p> <p>4 A I'm trying to state to you that is not</p> <p>5 exactly -- that he necessarily asked for blow</p> <p>6 specifically. Blow is street terminology for</p> <p>7 heroin, which is indicated in the report.</p> <p>8 Q But why write that someone asked to</p> <p>9 purchase blow, which is a street terminology for</p> <p>10 heroin, if they didn't? Why not just say they</p> <p>11 asked to purchase heroin?</p> <p>12 MR. STEFANICH: Objection to form.</p> <p>13 A Sir, that's -- what I remember from my</p> <p>14 training in the police academy, that's how we were</p> <p>15 taught to write the report.</p> <p>16 Q You were taught to write police reports --</p> <p>17 specifically to write --</p> <p>18 A From the best of my memory, yes, sir.</p> <p>19 Q Someone at the police academy told you</p> <p>20 when you write a report arresting someone for</p> <p>21 heroin, write down blow in quotes and explain</p> <p>22 that's street terminology for heroin?</p> <p>23 A From the best of my memory, sir, that's</p> <p>24 what I recall.</p>

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<p>467</p> <p>1 Q All right. What training class was that</p> <p>2 in?</p> <p>3 A I don't recall the exact name of the</p> <p>4 class, but it had to be a class on report writing.</p> <p>5 Now, you're questioning my ability to</p> <p>6 remember something or the training that I</p> <p>7 received.</p> <p>8 THE WITNESS: Excuse me. I need a break.</p> <p>9 Excuse me.</p> <p>10 MR. STEFANICH: All right. Let's take a</p> <p>11 break.</p> <p>12 THE VIDEOGRAPHER: Off the record, 2:34.</p> <p>13 (A recess was taken from 2:34 p.m. to</p> <p>14 2:55 p.m.)</p> <p>15 THE VIDEOGRAPHER: Back on the record,</p> <p>16 2:55.</p> <p>17 BY MR. RAUSCHER:</p> <p>18 Q When is the handwritten part of the vice</p> <p>19 case report filled out on a reverse sting day?</p> <p>20 A I don't recall, as I'm sitting here today.</p> <p>21 Q What's the typical practice?</p> <p>22 A I don't remember the typical practice,</p> <p>23 sir.</p> <p>24 Q Would it be done at the scene, or would it</p>	<p>469</p> <p>1 for whatever dope that they attempted to purchase.</p> <p>2 Q You said they might have written down what</p> <p>3 time the offender might have been arrested?</p> <p>4 A That's a possibility. Like I said, I</p> <p>5 don't recall specifically.</p> <p>6 Q Are you just guessing at what the security</p> <p>7 officers would have written down?</p> <p>8 A Yes. I guess you could say I am guessing.</p> <p>9 I don't recall, sir.</p> <p>10 Q Do you recall -- were you -- you were</p> <p>11 sometimes the fake drug dealer in a reverse sting;</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q And do you recall telling security</p> <p>15 officers this person just asked -- just tried to</p> <p>16 hand me \$10 and asked for X type of drug?</p> <p>17 A Based -- best of my memory, yes.</p> <p>18 Q And did you do that every single time?</p> <p>19 A Best on -- based on my memory, yes.</p> <p>20 Q Did you ever take notes at the scene of a</p> <p>21 reverse sting?</p> <p>22 A From what I recall, I do not recall doing</p> <p>23 so.</p> <p>24 Q Do you recall seeing anybody else take</p>
<p>468</p> <p>1 be done at the station or somewhere else?</p> <p>2 A All the reports, based off of my memory,</p> <p>3 would not have been done at the scene. It could</p> <p>4 have been done in the police station.</p> <p>5 Q Would you take notes when you were at the</p> <p>6 scene about what various offenders asked for?</p> <p>7 A Based off of my memory, yes, that's</p> <p>8 possible.</p> <p>9 Q It's possible, or it happened typically?</p> <p>10 A Sir, normally, I did not play the role of</p> <p>11 the security officer. So I'm certain that the</p> <p>12 security officers could answer that better. But</p> <p>13 based off of my memory, I believe they did.</p> <p>14 Q What do you believe the security officers</p> <p>15 wrote down at the scene?</p> <p>16 A I do not know.</p> <p>17 Q Do you have any idea of what they might</p> <p>18 have written down?</p> <p>19 A Based off of what I recall, the security</p> <p>20 officers might have wrote down what time that the</p> <p>21 offender might have been placed in custody, or</p> <p>22 what type of dope that they was coming to purchase</p> <p>23 or attempt to purchase, and the amount of money</p> <p>24 that they may have been offering to attempt to --</p>	<p>470</p> <p>1 notes during a reverse sting?</p> <p>2 A I don't recall, but I'm certain it perhaps</p> <p>3 happened, and I don't recall.</p> <p>4 Q What does it mean to be certain it perhaps</p> <p>5 happened?</p> <p>6 A I do not recall, sir.</p> <p>7 Q All right.</p> <p>8 A Do not recall.</p> <p>9 Q Do you recall ever seeing any notes that</p> <p>10 were taken during a reverse sting?</p> <p>11 A As I'm sitting here today, I do not</p> <p>12 recall, sir.</p> <p>13 Q Do you recall being at the police station</p> <p>14 and participating in filling out reports of a</p> <p>15 reverse sting?</p> <p>16 A I do not recall, but I'm certain that I</p> <p>17 had at some point in time. I do not recall.</p> <p>18 Q Do you recall what that process looked</p> <p>19 like of filling out reports related to reverse</p> <p>20 stings at the station?</p> <p>21 A It's been over 10 years ago, and I don't</p> <p>22 recall the specifics. If we did a reverse sting</p> <p>23 operation, we're filling out whatever part --</p> <p>24 partly putting in the information on the</p>

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<p style="text-align: right;">471</p> <p>1 offenders' names, you know, possibly the amount of 2 money that they offered to purchase, the drugs 3 which they asked for. And I don't recall all the 4 specifics. 5 Q Do you recall what sources of information 6 you used to fill in the details? 7 A Again, I do not recall, sitting here 8 today, sir. 9 Q Do you recall how the team decided who 10 would be the attesting officer on the arrest 11 reports? 12 A Again, I do not recall each operation. 13 Q Do you recall any of the decisions on who 14 would be the attesting officer for the 4/26/2006 15 [sic] reverse sting? 16 A No, sir, I do not recall. 17 Q Is the attesting officer on a reverse 18 sting the one who would be completing the arrest 19 report typically? 20 A The arresting officer would be the officer 21 who is going to court on the arrest, and I don't 22 recall from this particular date how we decided 23 that. But if I'm listed as Box 1, then that 24 determination was based off of probably -- I don't</p>	<p style="text-align: right;">473</p> <p>1 Q And it was your typical practice -- well, 2 the team's typical practice that the first -- Box 3 1, which here is actually Box 45; right? I just 4 want to make sure that the record is clear. 5 We're saying "Box 1" because you're the 6 first officer listed in the box? 7 A That's correct. 8 Q But that's in Box 45? 9 A That's correct. 10 Q And the typical practice of the team would 11 be whoever is listed in that box was either the 12 one selling -- or pretending to sell the drugs or 13 collecting money from potential buyers. 14 A That's correct. 15 Q And I think I did though -- before we went 16 down this road -- tried to ask you a different 17 question, which is is the person who is listed as 18 the attesting officer on the arrest reports, is 19 that the person who creates those arrest reports? 20 A The person that's on the first -- as the 21 arresting officer is the person that's going to go 22 to court. He prepared -- 23 Q I know, but that's a different question. 24 A And I'm trying -- I understand.</p>
<p style="text-align: right;">472</p> <p>1 know how that determination was made. I don't 2 recall from April 24th, 2006. 3 Q Well, is the person going to court -- 4 should that person have personal knowledge of what 5 happened that day? 6 A Either they played a role as a buy 7 officer -- or I'm sorry -- the person that was 8 selling drugs or the guy who was collecting money. 9 And I don't know what role that I played on that 10 particular day. I know I'm listed as Box 1, as 11 the first reporting officer or the first arresting 12 officer. 13 Q You either were the one pretending to have 14 drugs to sell or the one collecting money from 15 people? 16 A Possibly but I don't recall April 24th. 17 Q When you say "possibly," were there other 18 roles you could have had and still be listed as 19 the first arresting officer? 20 A No. Like I said, I don't recall from this 21 arrest; but the role that I usually play, I was 22 not the process -- I mean, the security officer 23 who would place the individuals in custody after 24 they attempted to purchase narcotics.</p>	<p style="text-align: right;">474</p> <p>1 MR. STEFANICH: He said attesting, not 2 arresting. 3 A The first attesting officer basically is 4 the same as the first arresting officer. 5 But to answer your question, we will -- as 6 a team, we all assisted in some form or fashion in 7 helping write these reports. 8 Now, if I was the first arresting officer, 9 my other team members would help me out when we 10 would do these reverse sting operations because 11 sometimes we will lock up multiple offenders. 12 To make the processing go faster, once we 13 were inside the 2nd District, they would help 14 assist in writing reports. And in none of these 15 words we would ask an individual to falsify any 16 information in the reports or do anything of that 17 nature. 18 Q I know you've said repeatedly you didn't 19 falsify any reports. So please just try to answer 20 the question. If I ask you if you've falsified a 21 report, give me that information, but it will make 22 things go faster today if you can just try to 23 answer the questions. 24 A And I thought I was. How am I not</p>

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41 (475 to 478)

<p style="text-align: right;">475</p> <p>1 answering the question?</p> <p>2 Q The question didn't ask you anything about</p> <p>3 falsifying a report. It asked if the person who</p> <p>4 was the attesting officer after a reverse sting</p> <p>5 was the person who created the arrest report.</p> <p>6 A And I thought I gave an example. I said</p> <p>7 sometimes members of my team, they would help</p> <p>8 assist me writing these reports. We would all</p> <p>9 have a part to play in the processing of all the</p> <p>10 individuals that we would arrest during the</p> <p>11 reverse sting operation.</p> <p>12 Q So sometimes, yes; sometimes, no?</p> <p>13 A Yes. Sometimes, yes; sometimes, no.</p> <p>14 Q I'm just going to show you an example. So</p> <p>15 let's mark this as Exhibit 47. This is the arrest</p> <p>16 report of Cleothus Morris.</p> <p>17 (Smith Deposition Exhibit 47 marked for</p> <p>18 identification and attached to the transcript.)</p> <p>19 Q You've had a chance to look at this</p> <p>20 report?</p> <p>21 A Yes, I have.</p> <p>22 Q So this is -- is this an arrest report</p> <p>23 that is memorializing the same arrest as in</p> <p>24 Exhibit 46, the vice case report?</p>	<p style="text-align: right;">477</p> <p>1 Q What is the first, second -- what does the</p> <p>2 fact that there are multiple people listed as</p> <p>3 first, second, and assisting officers tell you</p> <p>4 about whether multiple people prepared the actual</p> <p>5 document?</p> <p>6 A Well, first and second arresting officers</p> <p>7 are officers that would be the officers that would</p> <p>8 possibly testify if this particular arrest had to</p> <p>9 go to trial. Attesting officer is someone who</p> <p>10 probably attested to the report because they</p> <p>11 created the report on the computer-generated</p> <p>12 arrest report.</p> <p>13 And they would have -- Robert Gonzalez,</p> <p>14 listed as the attesting officer, he would have</p> <p>15 helped me -- while helping prepare this report,</p> <p>16 probably something -- prepared the narrative that</p> <p>17 I -- since this is a preprinted -- not preprinted,</p> <p>18 but this is from an attempted PCS arrest, you</p> <p>19 know, it's pretty much he was just assisting in</p> <p>20 that, and the narrative is going to be basically</p> <p>21 the same as reflected in the vice case report.</p> <p>22 So that's -- and like I said, that would</p> <p>23 help us during the process when you have multiple</p> <p>24 offenders, to help speed up the process.</p>
<p style="text-align: right;">476</p> <p>1 A Yes.</p> <p>2 Q You're the first arresting officer listed</p> <p>3 on page 3; correct?</p> <p>4 A That's correct.</p> <p>5 Q And Robert Gonzalez is the attesting</p> <p>6 officer?</p> <p>7 A Yes.</p> <p>8 Q And can you tell by looking at this report</p> <p>9 who created the arrest report?</p> <p>10 MR. STEFANICH: I'll object to the form</p> <p>11 and the term "created."</p> <p>12 MR. RAUSCHER: Yeah. That's fair.</p> <p>13 Q Did multiple people work on preparing the</p> <p>14 information -- I'm going to try again.</p> <p>15 Did multiple people prepare this arrest</p> <p>16 report, or did one person do that?</p> <p>17 A As I stated before, we did sometimes have</p> <p>18 multiple teammates to help out and help prepare</p> <p>19 reports.</p> <p>20 Q And when you look at this report, can you</p> <p>21 tell whether multiple people had a role in</p> <p>22 preparing it one way or the other?</p> <p>23 A Only by the names that are listed on the</p> <p>24 report -- first, second, and assisting officers.</p>	<p style="text-align: right;">478</p> <p>1 Q So the fact that Robert Gonzalez is listed</p> <p>2 as the attesting officer suggests to you that he</p> <p>3 is the one who pulled together the information and</p> <p>4 typed up this report?</p> <p>5 A Yes. He created the arrest report.</p> <p>6 Q Okay. What does it mean to you to create</p> <p>7 an arrest report? Actually, let me ask it more</p> <p>8 specifically.</p> <p>9 What does it mean to you to create this</p> <p>10 arrest report?</p> <p>11 A That he was assisting by helping write the</p> <p>12 report based off of my -- off of my arrest. Like</p> <p>13 I said, if I allowed him to attest this report,</p> <p>14 it's not something that would be nefarious or</p> <p>15 anything like that.</p> <p>16 He was just simply helping out based off</p> <p>17 the information that was already on the vice case</p> <p>18 report. Like I said, he was assisting to help</p> <p>19 speed up the process while we had multiple</p> <p>20 offenders on an arrest.</p> <p>21 Q Let me try it a different way because it</p> <p>22 might have been confusing the way I asked it.</p> <p>23 What would Robert Gonzalez have done?</p> <p>24 Like what were the mechanical steps?</p>

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<p style="text-align: right;">479</p> <p>1 Mechanically, what would he have done to draft 2 this report? Like to make this report a thing, 3 what would he have to do? He would -- I'm just 4 giving an example, I don't know if this is right, 5 but I want to make sure that -- I want to try to 6 make the question understandable. 7 A I understand. 8 Q Would he look at a vice case report and 9 type in that information? Pull down boxes? What 10 sorts of things would he have had to do? 11 A The arrest report is on the computer 12 system. He would have to put in his PC number and 13 his password to enter the computer system to do 14 so, to generate an arrest report, which is already 15 preprinted out in the computer system. 16 And then he would just put in the 17 offender's demographics, like the height and 18 weight, the date of birth, the color of their 19 eyes, the color of their hair, their home address. 20 He is also, like I said, assisting us on 21 this arrest. He could put down the charge. Like 22 I said, for right here, so it was attempt PCS. 23 Like I said, he could have put in the narrative 24 based off the narrative from my vice case report.</p>	<p style="text-align: right;">481</p> <p>1 potentially call for a legal conclusion. 2 A I don't understand your question. 3 BY MR. RAUSCHER: 4 Q Well, as a police officer, does it matter 5 to you if you get the time of an arrest correct on 6 a report? 7 A Yes, that's correct. But, like I said, a 8 lot of times you might not have a chance to look 9 at your watch while you're dealing with an 10 offender which you're trying to place into 11 custody. Because if you have a combative offender 12 or if a person is trying to run from you, your 13 first thought is to try to apprehend this 14 offender. 15 Once they're placed in -- can I finish 16 saying what I was going to say? 17 Q Yes. 18 A After you place them in custody, stuff 19 like that, then you might look at your watch, and 20 you might say, Okay, well, this incident might 21 have occurred at this time or something like that. 22 So you're trying to make it as close to 23 the time -- the actual time, but if something is 24 taking place in the event that's going on, you</p>
<p style="text-align: right;">480</p> <p>1 Q And then would he have had to get the 2 information -- for example, on the time of arrest, 3 would he have had to get that from you or 4 Mohammed? 5 A I'm certain he probably would have. 6 Q And how would you have kept track of the 7 time of arrest for all the various people who were 8 arrested that day? 9 A I don't recall from that day; but, like I 10 said, most report times are usually approximation 11 times -- approximated. 12 Q Why approximate at all? 13 A I can't recall from that particular day; 14 but based off of experience, a lot of times when 15 you're out there in the field and you're doing a 16 mission like a reverse sting operation or 17 something like that or a narcotics mission, you 18 might lose track of the time. So you would try to 19 reflect the time as accurately as possible and 20 make it as close to the time that the incident 21 actually occurred. 22 Q What's the reason -- like does it matter 23 if the time is right for the arrest? 24 MR. KOSOKO: Objection to form and may</p>	<p style="text-align: right;">482</p> <p>1 would say -- it's like if someone is shooting at 2 you. You don't have time to look at your watch. 3 Okay. Now, the shooting began at 1510 hours. 4 Q Sir, I really do not think that was at all 5 responsive to my question. I understand that you 6 are -- 7 A And as I stated, sir, sometimes the times 8 are approximated because we might not have the 9 chance to look at our watch. 10 Q I did not ask you that question. Why it 11 is the case that a time might be wrong. 12 We know that the times are wrong on a lot 13 of these because there are two different times of 14 arrest for the same person; right? 15 A That's correct. 16 Q Okay. What I asked you, what I tried to 17 ask was as a police officer, does it matter to you 18 to try to get the time right? Can you answer that 19 yes or no? 20 A yes. 21 MR. STEFANICH: Objection; he did answer 22 yes at the beginning. 23 Q All right. Maybe the next question was 24 why -- as a police officer, why does it matter to</p>

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43 (483 to 486)

<p style="text-align: right;">483</p> <p>1 you to try to get the time of arrest right? I</p> <p>2 don't want to know why it might not be right. I</p> <p>3 just want to know why it matters to you, as a</p> <p>4 police officer, to try to get it right.</p> <p>5 A Like I said, you try to get it right so it</p> <p>6 could be somewhat correct or as accurate as</p> <p>7 possible.</p> <p>8 Q Is there any reason why it matters to have</p> <p>9 it accurate?</p> <p>10 A I don't know, sir. I can't give you a</p> <p>11 clear definition for that because, as I said,</p> <p>12 there's a lot of factors come into play when</p> <p>13 you're making these arrests, and so our times</p> <p>14 being off maybe a minute or two.</p> <p>15 Q Well, for example, if someone said I was</p> <p>16 actually in a different place when they're saying</p> <p>17 I was arrested, it would be important to be able</p> <p>18 to look back at the report and say this is an</p> <p>19 accurate time of arrest; right?</p> <p>20 A And that's -- again, that's a hypothetical</p> <p>21 question. Like I said, I would not falsify a</p> <p>22 different location, if it occurred -- if the</p> <p>23 arrest didn't occur at the exact location that I</p> <p>24 reflected in my report.</p>	<p style="text-align: right;">485</p> <p>1 Q Would you put the gender of the person who</p> <p>2 was arrested on the report before you went out to</p> <p>3 the location for a reverse sting?</p> <p>4 A To the best of my memory, no.</p> <p>5 Q Can you think of any valid reason to do</p> <p>6 that?</p> <p>7 A As I stated before, to the best of my</p> <p>8 memory, I don't recall if we did or did not.</p> <p>9 Q But you think you didn't do it; right?</p> <p>10 A I don't recall.</p> <p>11 Q Who would -- and I'm sorry if I asked you</p> <p>12 this; and if I did, just tell me.</p> <p>13 But who would make the determination of</p> <p>14 when someone was arrested during a reverse sting?</p> <p>15 A Sir, I don't recall.</p> <p>16 Q Do you recall who was supposed to make the</p> <p>17 call -- rephrase -- I'm going to rephrase that.</p> <p>18 Would the -- would it be one of the two</p> <p>19 officers who interacted with the person, or would</p> <p>20 it be security who would be responsible for</p> <p>21 looking at the clock and saying about what time</p> <p>22 it was?</p> <p>23 A Based off my memory, my experience working</p> <p>24 as a tactical officer, it would probably be the</p>
<p style="text-align: right;">484</p> <p>1 Q It would help you to support the</p> <p>2 prosecution if someone had an alibi defense, and</p> <p>3 you said my time on the report is correct; right?</p> <p>4 MR. KOSOKO: Objection; form, calls for a</p> <p>5 legal conclusion, and incomplete hypothetical.</p> <p>6 Go ahead.</p> <p>7 A Yes. As I stated before, you try to get</p> <p>8 the times as accurate as possible. There's many</p> <p>9 circumstances that could prevent you from</p> <p>10 accurately telling the correct time.</p> <p>11 Q What are the circumstances that could</p> <p>12 prevent you from getting the time right when</p> <p>13 you're just typing up two reports, a vice case</p> <p>14 report and an arrest report?</p> <p>15 A Again, sir, I don't recall from this</p> <p>16 particular date.</p> <p>17 Q I mean, are there any that you can think</p> <p>18 of when you're just -- why -- any reasons you</p> <p>19 could think of why an arrest time --</p> <p>20 A Human error.</p> <p>21 Q Okay. Do you know why there were two</p> <p>22 different attesting officers used on arrest</p> <p>23 reports from this reverse sting April 24, 2006?</p> <p>24 A No, I do not.</p>	<p style="text-align: right;">486</p> <p>1 officer who is placing the offender in custody.</p> <p>2 Q And is that the security person or the</p> <p>3 drug seller?</p> <p>4 A The security person.</p> <p>5 Q Got it.</p> <p>6 Are there any documents you can think of,</p> <p>7 that you can look at to determine who was doing</p> <p>8 security on April 24, 2006?</p> <p>9 A Possible but I don't know at this</p> <p>10 particular moment.</p> <p>11 MR. RAUSCHER: We're going to mark the</p> <p>12 next one 48.</p> <p>13 (Smith Deposition Exhibit 48 marked for</p> <p>14 identification and attached to the transcript.)</p> <p>15 Q Is this another arrest as part of the</p> <p>16 reverse sting on April 24, 2006?</p> <p>17 A Yes, it is.</p> <p>18 Q Is this a report of -- a vice case report</p> <p>19 of John Pierce's arrest?</p> <p>20 A Yes, it is.</p> <p>21 Q And is that your name in the bottom</p> <p>22 left-hand corner, what we call "Box 1"?</p> <p>23 A That's correct.</p> <p>24 Q And I say "what we call," but I mean it's</p>

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44 (487 to 490)

<p style="text-align: right;">487</p> <p>1 been referred to in this deposition as Box 1 and 2 what you all call as Box 1? 3 A That's correct. 4 Q And Mohammed is in Box 2, which is 46 on 5 the report? 6 A That's correct. 7 Q Who signed this report? 8 A That appears to be my hand signature. 9 Q Do you know why -- did you sign for both 10 of you? 11 A Yes. 12 Q Do you know why you signed this one and 13 Mohammed signed the last one we just looked at for 14 Cleothus Morris? 15 A I could not tell you. 16 Q Does it look like it's your handwriting, 17 the rest of the things that are written in here? 18 A Yes, it is. 19 Q All right. How did you get the date of 20 arrival time? 21 A I don't recall, sir. 22 Q As you see it now, 11:15, do you think 23 it's wrong or right? 24 A Sitting here today, I don't recall.</p>	<p style="text-align: right;">489</p> <p>1 Q -- arrest? 2 A Sitting here today, I do not recall. 3 Q You don't know if you went off memory or 4 if someone gave you that information? 5 A I do not recall. 6 Q How are the -- how is the money 7 inventoried during a reverse sting? 8 A Like I said, I do not recall because I 9 wasn't part of the security team. Somehow they 10 would keep track of it. They were -- like I said, 11 maybe make a note of it, for whatever that 12 particular offender might -- the amount of money 13 that a particular offender offered or tendered to 14 purchase whatever said drug of choice that they 15 were asking for. 16 Q Do you think that you memorized how much 17 money each person asked you; or when you prepared 18 this report, would you have had to go back and 19 look at something or ask someone? 20 A Again, I'm not certain how it was done, 21 and I can't speak from -- recall from April 24th. 22 Q Would you and Mohammed have been switching 23 on and off roles of who would be selling the drugs 24 and who would be collecting the money?</p>
<p style="text-align: right;">488</p> <p>1 Q And you know that Lionel White's arrest 2 report says 11:30 arrival time. 3 A I don't recall. 4 Q You don't recall that? 5 A I don't recall without looking at the 6 Lionel White report, and it states one time -- if 7 I stated a different arrival time, someone made a 8 mistake. Like I said, sometimes you do have human 9 error that occurs. 10 Q And then date of arrest time -- well, 11 sorry, it says "date of occurrence" in Box 5. 12 That time is supposed to signify the time 13 of arrest; right? 14 A Yes. And I also said the times are 15 approximated also. 16 Q Understood. I just want to make sure 17 because it says "occurrence." I want to make sure 18 that we mean -- we're talking about arrest when it 19 says that. I know you've said they're 20 approximate. 21 A That's correct. 22 Q Do you know how you came up with 11:35 for 23 John Pierce's -- 24 A No, I do not.</p>	<p style="text-align: right;">490</p> <p>1 A I don't recall from April 24th. 2 Q What about normally how would it work 3 during a reverse sting? 4 A Sometimes we would. 5 Q Okay. Do you see where it says, 6 "nickname, DJ," on here? 7 A Yes. 8 Q Do you know if that's John Pierce's 9 nickname? 10 A If it's written in the report, yes. I 11 would have had to have discovered that by 12 interviewing him when I was processing him or 13 somehow by running his name. 14 Q You don't know who John Pierce is, do you? 15 A As stated before, I do not recall him at 16 this present moment, and I don't recall ever 17 seeing him prior to this arrest. 18 Q And it says "number of arrestees" and 19 "number of offenders," and it says one in both of 20 those? 21 A That's correct. 22 Q Why does it say that instead of listing 23 all the people arrested during the reverse sting? 24 A Again, I don't know. Because like I said,</p>

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45 (491 to 494)

<p style="text-align: right;">491</p> <p>1 it's probably an error.</p> <p>2 Q Should it -- for a reverse sting, should</p> <p>3 it list everybody who was arrested?</p> <p>4 A Generally, it should state that; but like</p> <p>5 I said, there is a -- people do make mistakes, and</p> <p>6 there is a chance that it was a mistake.</p> <p>7 Q Is there a chance that you swept someone</p> <p>8 up in this reverse sting who didn't come and ask</p> <p>9 for drugs?</p> <p>10 A No, sir, because we never did that.</p> <p>11 Q And it says again in here, an</p> <p>12 undercover -- offender approached an undercover</p> <p>13 officer and asked to purchase quote, "blow," end</p> <p>14 quote, which is a street terminology for heroin.</p> <p>15 Do you see that?</p> <p>16 A Yes, I do.</p> <p>17 Q Is that an actual quote?</p> <p>18 A That is not an actual quote.</p> <p>19 Q And you did that because you were trained</p> <p>20 to do it exactly that way?</p> <p>21 MR. STEFANICH: Objection; asked and</p> <p>22 answered.</p> <p>23 A As I stated before, based off of my</p> <p>24 memory, that is the way I was trained to write the</p>	<p style="text-align: right;">493</p> <p>1 drugs? Why not just use the report you already</p> <p>2 have?</p> <p>3 MR. KOSOKO: Objection. That's fine.</p> <p>4 A People have a different choice of drugs or</p> <p>5 different preferences for drugs that they use.</p> <p>6 BY MR. RAUSCHER:</p> <p>7 Q Yeah. But so what? It's illegal to ask</p> <p>8 for drugs. What's the difference if the report</p> <p>9 says blow or crack or a name or anything else?</p> <p>10 A Because I wouldn't try to falsify a</p> <p>11 report, and I would put down what they asked for.</p> <p>12 Q What would be false if you said that they</p> <p>13 asked for blow but they really asked for crack</p> <p>14 cocaine?</p> <p>15 A Because they asked for one particular drug</p> <p>16 instead of the other.</p> <p>17 Q So it's not false to say they asked for</p> <p>18 blow because they asked for a different kind of</p> <p>19 heroin, but it is false to say they asked for blow</p> <p>20 if they asked for crack cocaine?</p> <p>21 A Blow is --</p> <p>22 MR. STEFANICH: Objection to form.</p> <p>23 A As I said, blow is the street terminology</p> <p>24 for heroin. Whether -- I am aware -- like I said,</p>
<p style="text-align: right;">492</p> <p>1 report.</p> <p>2 Q And so maybe we can save some time today.</p> <p>3 If every report, every vice case report</p> <p>4 from this reverse sting says the exact same thing,</p> <p>5 is it fair to say none of them are actual quotes</p> <p>6 attributed to the person who was arrested?</p> <p>7 A That's correct.</p> <p>8 Q Do you know whether there are any reports</p> <p>9 out there from April 24, 2006, for people asking</p> <p>10 for any drugs other than heroin?</p> <p>11 A I don't believe so. I would have to see</p> <p>12 all the reports.</p> <p>13 Q Would you ever arrest someone during a</p> <p>14 reverse sting who came up and asked for drugs but</p> <p>15 not specifically heroin? Would you ever use a</p> <p>16 vice case report saying they asked for blow, or</p> <p>17 would that be wrong?</p> <p>18 A As I stated before, if they asked for</p> <p>19 anything other than blows, then I would reflect</p> <p>20 that they asked for crack cocaine. I would have</p> <p>21 put crack cocaine in the report or put rocks,</p> <p>22 which is street terminology for crack cocaine.</p> <p>23 Q What's the difference? Why would it</p> <p>24 matter if they're just coming there asking for</p>	<p style="text-align: right;">494</p> <p>1 I don't recall all the different names of the</p> <p>2 different heroin lines that they used in Ida B.</p> <p>3 Wells.</p> <p>4 We used blow to cover all of the different</p> <p>5 heroin that was sold. Heroin is heroin. Whether</p> <p>6 they called it, whatever, X-Box or what other</p> <p>7 names they were using in the Ida B. Wells. Heroin</p> <p>8 is heroin. Blow is the street terminology for</p> <p>9 heroin. That's why we would put blow in the</p> <p>10 reports. Based off of my training, that's what I</p> <p>11 said.</p> <p>12 Now, someone else might have written their</p> <p>13 report differently than I did, but that's the</p> <p>14 way -- based off of my training and what I recall,</p> <p>15 how I've written my reports.</p> <p>16 Q Do you think that that was sensible</p> <p>17 training you received?</p> <p>18 MR. STEFANICH: Objection; foundation,</p> <p>19 form.</p> <p>20 A Well, you would have to talk to someone in</p> <p>21 the training academy at the Chicago -- the Chicago</p> <p>22 Police Academy.</p> <p>23 Q About whether -- well, no, I want to know</p> <p>24 if you have an opinion.</p>

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46 (495 to 498)

<p style="text-align: right;">495</p> <p>1 Does it make sense, as a police officer a</p> <p>2 long time, to write something specific that</p> <p>3 somebody didn't actually say as opposed to just</p> <p>4 saying a general they asked for drugs or they</p> <p>5 asked for heroin?</p> <p>6 MR. STEFANICH: Objection; form</p> <p>7 foundation.</p> <p>8 MR. BURNS: Join.</p> <p>9 A Sir, again, if the person asks for blows,</p> <p>10 okay, or whatever, they're saying they're coming</p> <p>11 to buy X-Box or whatever, they're still asking for</p> <p>12 heroin. And, like I said, I put -- and I can't</p> <p>13 speak for other members of my team. I'm speaking</p> <p>14 for myself based off of how I've written my</p> <p>15 reports.</p> <p>16 From the best of my memory, I put blows in</p> <p>17 there because I didn't remember all of the</p> <p>18 different dope lines that they used in the Ida B.</p> <p>19 Wells because they would change the names of the</p> <p>20 dope lines frequently. They would change them</p> <p>21 every week. They would change them monthly. I</p> <p>22 could not keep track of all the times that they</p> <p>23 changed the names of the lines of dope that they</p> <p>24 had.</p>	<p style="text-align: right;">497</p> <p>1 or another.</p> <p>2 But this do look like it could have been</p> <p>3 my report; but, like I said, I don't recall the</p> <p>4 arrest. And this is a truthful report. Nothing</p> <p>5 in this report is false.</p> <p>6 Q Well, it is false if you were attributing</p> <p>7 a quote to someone they didn't say?</p> <p>8 A It's not a direct quote. As I stated</p> <p>9 before, the blow is not directly what they said,</p> <p>10 just because blow is in quotation marks.</p> <p>11 Q It doesn't say that on the report, though;</p> <p>12 right? You're explaining it now, but it doesn't</p> <p>13 say what you're saying on the report, does it?</p> <p>14 A No. It doesn't state specifically that</p> <p>15 they asked for X-Box or China White. I can't</p> <p>16 remember all the different names of the different</p> <p>17 heroin lines in the Ida B. Wells, and I've stated</p> <p>18 that many times. I stated that during my COPA</p> <p>19 investigation. I've said that several times this</p> <p>20 afternoon.</p> <p>21 Q It does say they specifically asked to</p> <p>22 purchase, quote/unquote, "blow."</p> <p>23 A It does not state that specifically, that</p> <p>24 they --</p>
<p style="text-align: right;">496</p> <p>1 BY MR. RAUSCHER:</p> <p>2 Q Would it have been more accurate to just</p> <p>3 wait until you did the reverse sting and actually</p> <p>4 do the reports based on what happened?</p> <p>5 A Sir, if a person was coming to buy dope,</p> <p>6 my job is to arrest them. And I -- this is a</p> <p>7 truthful report. They're coming to buy heroin.</p> <p>8 It doesn't mean that they actually -- as I stated</p> <p>9 before, that they actually said let me buy blows</p> <p>10 or whatever.</p> <p>11 If they stated they was coming to buy</p> <p>12 X-Box, it's still blow. It's -- X-Box is blow,</p> <p>13 heroin. Blow is the street terminology for</p> <p>14 heroin, and I would try to keep it -- that was my</p> <p>15 practice.</p> <p>16 Q I thought that you said earlier you don't</p> <p>17 remember if you're the one who wrote this report.</p> <p>18 A I don't recall, but like I said, this is</p> <p>19 based -- based on the way I'm looking at it, like</p> <p>20 I said, sitting here today, it looked like I may</p> <p>21 have wrote this -- written this report. But I</p> <p>22 don't recall from -- you know, like I said, all</p> <p>23 the people assisting me on this, on my team</p> <p>24 helping prep these reports, I can't state one way</p>	<p style="text-align: right;">498</p> <p>1 Q I just read it. Are you saying I misread</p> <p>2 that?</p> <p>3 A Yes, you are.</p> <p>4 Q All right.</p> <p>5 A You're misinterpreting it. It says in</p> <p>6 summary --</p> <p>7 Q Right. But hold on. I'm asking you a</p> <p>8 different question.</p> <p>9 Did I misread it?</p> <p>10 A Yes. You are misreading it.</p> <p>11 Q So you're saying it does not say here</p> <p>12 asked to purchase, quote/unquote, "blow."</p> <p>13 A As I said, quote/unquote blow --</p> <p>14 Q Does it say that?</p> <p>15 A It says "blow," and blow is in quotation</p> <p>16 marks --</p> <p>17 Q So I accurately --</p> <p>18 A -- but that doesn't mean that they --</p> <p>19 Q Hold on. Please hold on.</p> <p>20 I want to make sure for the record that</p> <p>21 you are not saying -- I understand. You may have</p> <p>22 a disagreement on how to interpret this, but I</p> <p>23 think it's important --</p> <p>24 A You're misinterpreting it.</p>

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47 (499 to 502)

<p>499</p> <p>1 Q Hold on. Okay. Sir, just hold on a 2 second. 3 MR. STEFANICH: Let him answer -- or let 4 him ask the question. 5 Q I want to make sure for the record that it 6 is clear that you are not saying that I am 7 misstating or misreading what it says. 8 The words on there are "asked to purchase 9 'blow.'" Blow is in quotes; correct? 10 A That is correct. 11 Q All right. 12 A And you're misinterpreting -- 13 Q That's my question. 14 A -- that. 15 Q Okay. Your attorney can ask you follow-up 16 questions later. We may have exhausted this topic 17 for now. 18 MR. RAUSCHER: We're going to mark 19 Exhibit 49. 20 (Smith Deposition Exhibit 49 marked for 21 identification and attached to the transcript.) 22 Q Have you had a chance to review this 23 report? 24 A Yes, I have.</p>	<p>501</p> <p>1 are we fabricating times, I don't recall ever 2 doing anything of that nature. Whatever time that 3 was reflected on the report is the time that -- 4 approximation time. As I stated before, we would 5 try to keep the times as close to the actual 6 occurrence. 7 Q How would the flow of traffic work during 8 reverse stings? Would a lot of people come up at 9 once? Would it be spaced out -- 10 MR. STEFANICH: Objection; form. 11 Q -- a certain amount of time? 12 A And that varies. It happened at various 13 amount of times. I can't sit here and say what 14 happened exactly on April 24th, but sometimes it 15 would happen at different times, varying -- you 16 know, sometimes it could happen all at once. I 17 don't recall from April 24th. 18 Q Would there be times when there would be a 19 line of people waiting to buy drugs? 20 A They would not be lined up waiting to buy 21 drugs. 22 Q How would you -- where would they be 23 waiting to buy drugs? 24 A They would be waiting in many different</p>
<p>500</p> <p>1 Q Robert Gonzalez is the attesting officer? 2 A Yes. 3 Q And so does that mean he likely created 4 this report? 5 A That is likely. 6 Q And do you know where he got the 11:40 7 arrest time from? 8 A I do not recall. 9 Q You don't remember talking to him about 10 the arrest time? 11 A I do not recall. 12 Q Other than human error, do you have any 13 explanation for why the times of arrest don't 14 match between the vice case report and the arrest 15 report? 16 A As I'm sitting here today, no, I do not. 17 Q Did you ever see during reverse stings 18 people have inventory kits? 19 A I don't recall, sir. 20 Q When you created vice case reports from 21 reverse stings, did you try to space out the time 22 of arrests in sort of even increments on the 23 reports? 24 A I don't recall. If you're trying to say</p>	<p>502</p> <p>1 locations. 2 Q During a reverse sting, where would people 3 wait to buy drugs? 4 A During a reverse sting operation, I don't 5 know where they would be lined up. But if you're 6 asking me as my experience as a police officer, if 7 people were coming to purchase, to buy drugs, they 8 would be waiting all over the place. The Ida B. 9 Wells was a pretty big area. 10 MR. RAUSCHER: All right. We're going to 11 mark Exhibit 50. 12 (Smith Deposition Exhibit 50 marked for 13 identification and attached to the transcript.) 14 Q You've had a chance to look at this? 15 A Yes, I have. 16 Q You're Box 1? 17 A Yes. 18 Q Kallatt Mohammed is Box 2? 19 A That's correct. 20 Q Who signed this report? 21 A That's not my hand signature. I don't 22 know if Mohammed signed for me or if someone else 23 on my team signed for me, but it wouldn't have 24 happened without my authorization.</p>

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48 (503 to 506)

<p>503</p> <p>1 Q Is that Ronald Watts' signature on the</p> <p>2 bottom right-hand corner.</p> <p>3 MR. BURNS: Object to foundation.</p> <p>4 A Based on my memory, it appears to be so.</p> <p>5 Q That looks like his handwriting to you?</p> <p>6 A Based on my memory, it appears to be so.</p> <p>7 Q Did he authorize people to sign his name</p> <p>8 on reports, to your knowledge?</p> <p>9 MR. KOSOKO: Objection.</p> <p>10 A I don't recall.</p> <p>11 Q Do you remember anything about the arrest</p> <p>12 of Cleveland Smith?</p> <p>13 A No, I do not.</p> <p>14 Q Do you know who Cleveland Smith is?</p> <p>15 A No, I do not, sir.</p> <p>16 MR. RAUSCHER: Let's mark 51. This is</p> <p>17 going to be the arrest report.</p> <p>18 (Smith Deposition Exhibit 51 marked for</p> <p>19 identification and attached to the transcript.)</p> <p>20 Q Leano is the attesting officer here?</p> <p>21 A That is correct.</p> <p>22 Q That means he likely created the report?</p> <p>23 A That's correct.</p> <p>24 Q And do you know where he got the</p>	<p>505</p> <p>1 report?</p> <p>2 A Yes, I have.</p> <p>3 Q Again, you're Box 1. Mohammed is Box 2.</p> <p>4 A That's correct.</p> <p>5 Q This is your signature this time?</p> <p>6 A Yes, it is.</p> <p>7 Q Do you know why you signed some and</p> <p>8 Mohammed signed some?</p> <p>9 MR. STEFANICH: Objection; asked and</p> <p>10 answered.</p> <p>11 A No, I cannot guess. I mean, I could give</p> <p>12 you a guess, and I do not know from this</p> <p>13 particular day --</p> <p>14 Q All right.</p> <p>15 A -- other than he was my partner, and I</p> <p>16 authorized him to sign my reports.</p> <p>17 Q Yeah. I guess I will take -- is that the</p> <p>18 only reason? Like was it just a workload thing</p> <p>19 you think, or is there any particular reason why</p> <p>20 you would have split up signing?</p> <p>21 A As I stated earlier, when we did reverse</p> <p>22 sting operations, we all assisted one another</p> <p>23 because we were dealing with multiple offenders.</p> <p>24 Q And this one again says 11:15 arrival</p>
<p>504</p> <p>1 information to put in this report from?</p> <p>2 A Just guessing, he would have probably</p> <p>3 gotten it from me or possibly from the vice case</p> <p>4 report.</p> <p>5 Q Do you know whether you were in the room</p> <p>6 with him when he completed this report?</p> <p>7 A I do not recall, sir.</p> <p>8 Q Actually, just looking at the picture in</p> <p>9 the top right-hand corner on the front of</p> <p>10 Exhibit 51, does that refresh your recollection as</p> <p>11 to whether you know Cleveland Smith?</p> <p>12 A It's not a clear picture of him. We have</p> <p>13 the same last name, but he's definitely not</p> <p>14 related to me. As I sit here today, I don't</p> <p>15 recall Cleveland Smith.</p> <p>16 Q Would the arrest report narratives be</p> <p>17 filled out before you went out on the reverse</p> <p>18 stings, or would that all be done after?</p> <p>19 A That would be done after.</p> <p>20 MR. RAUSCHER: We're going to mark</p> <p>21 Exhibit 52.</p> <p>22 (Smith Deposition Exhibit 52 marked for</p> <p>23 identification and attached to the transcript.)</p> <p>24 Q Have you had a chance to look at this</p>	<p>506</p> <p>1 time?</p> <p>2 A That's correct.</p> <p>3 Q You don't know where that came from, do</p> <p>4 you?</p> <p>5 A No. Like I said, probably an approximated</p> <p>6 time.</p> <p>7 Q Do you know how you approximated the time?</p> <p>8 A As of today, I do not recall.</p> <p>9 Q Do you know Lorainer (phonetic) or Lorener</p> <p>10 Williams?</p> <p>11 A No, I do not recall that name.</p> <p>12 Q Do you remember anyone with the name</p> <p>13 Peaches being around Ida B. Wells?</p> <p>14 A No, I do not.</p> <p>15 Q Or do you know anyone by the name Peaches</p> <p>16 from anywhere from your police work?</p> <p>17 A No, I do not.</p> <p>18 MR. RAUSCHER: All right. We're going to</p> <p>19 mark Exhibit 53.</p> <p>20 (Smith Deposition Exhibit 53 marked for</p> <p>21 identification and attached to the transcript.)</p> <p>22 Q You had a chance to look at this?</p> <p>23 A Yes, I have.</p> <p>24 Q Do you know why Leano is the attesting</p>

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49 (507 to 510)

<p>507</p> <p>1 officer?</p> <p>2 A Probably because he was assisting us in</p> <p>3 preparing these reports.</p> <p>4 Q You don't know why that work was split up</p> <p>5 between Leano and Gonzalez that day?</p> <p>6 A Because he probably was also assisting us.</p> <p>7 That's the only thing I can assume, sir.</p> <p>8 Q Were the vice case reports definitely</p> <p>9 signed on April 24, 2006?</p> <p>10 A Like I said, I don't recall if on that</p> <p>11 particular time. The best off of my memory, the</p> <p>12 reports were signed on the day that the reports</p> <p>13 were prepared.</p> <p>14 Q And they were typically prepared -- from a</p> <p>15 reverse sting, they would be prepared the day of</p> <p>16 the sting?</p> <p>17 A No. But I meant by prepared on the day</p> <p>18 that the actual arrests were made.</p> <p>19 Q They were signed after the arrests?</p> <p>20 A Yes.</p> <p>21 Q Were the reports prepared on a day that</p> <p>22 was before the arrest?</p> <p>23 A Like I said, if we did a reverse sting</p> <p>24 operation, sometimes we did some on the fly and</p>	<p>509</p> <p>1 been pre-prepared?</p> <p>2 A Because the space for the amount of money</p> <p>3 that was tendered is left blank and there's no --</p> <p>4 the names on this report, just looking at the</p> <p>5 report, are handwritten for the names of the</p> <p>6 offenders.</p> <p>7 Q And everything else in the narrative is</p> <p>8 the same in all of them; correct?</p> <p>9 A That is correct. And the times have not</p> <p>10 been -- they were handwritten also.</p> <p>11 Q Okay. On a day when you preplanned a</p> <p>12 reverse sting, how did you approach the building</p> <p>13 typically? I know you don't remember this day</p> <p>14 specifically, but how did you typically approach a</p> <p>15 building where you were going to conduct a reverse</p> <p>16 sting when you had preplanned the sting?</p> <p>17 A We would come from different locations --</p> <p>18 different -- different positionings.</p> <p>19 Q Tell me about -- tell me what you mean by</p> <p>20 that.</p> <p>21 A We used all types of different methods.</p> <p>22 Sometimes we would come on foot. Sometimes we</p> <p>23 would come by vehicle.</p> <p>24 Q And then when you got there, how did you</p>
<p>508</p> <p>1 sometimes we prepared for them.</p> <p>2 Now, if the reports -- if we were -- knew</p> <p>3 that we were going to do a reverse sting</p> <p>4 operation, we might have prepared those reports</p> <p>5 the day before.</p> <p>6 Q Got it.</p> <p>7 These -- the way that these read, where</p> <p>8 they're identical with spaces for the money, that</p> <p>9 suggests to you this was a preplanned reverse</p> <p>10 sting; right?</p> <p>11 A I don't recall. I can only guess. I</p> <p>12 don't recall --</p> <p>13 Q What's your guess?</p> <p>14 A -- on this particular day.</p> <p>15 Q I know you don't recall this date, but I</p> <p>16 mean, looking at the reports, they are all</p> <p>17 identical, the space for money.</p> <p>18 Does that suggest to you, based on your</p> <p>19 practice, that it was a preplanned reverse sting?</p> <p>20 MR. KOSOKO: Objection; form.</p> <p>21 A Like I said, I don't recall from this</p> <p>22 particular date. It looked like it could have</p> <p>23 been pre-prepared. I don't recall, sir.</p> <p>24 Q Why is it that it looks like it could have</p>	<p>510</p> <p>1 get into the building? What did you do to get in</p> <p>2 the building?</p> <p>3 A Again, we used different methods.</p> <p>4 Usually, like anyone else, when you walk -- you</p> <p>5 have to walk into the building.</p> <p>6 Q You just walked in?</p> <p>7 A We would run sometimes, might walk. Like</p> <p>8 I said, it varied from time -- each day. I don't</p> <p>9 recall from this particular date.</p> <p>10 Q Was it more common that you'd walk in or</p> <p>11 run in?</p> <p>12 A I don't recall each time how specifically</p> <p>13 that we did it. Sometimes if -- it depended on</p> <p>14 how many people were out there doing security and</p> <p>15 stuff. I don't recall each time.</p> <p>16 Q When you say depended on how people are</p> <p>17 out there doing security, do you mean civilians</p> <p>18 who are working security for drug sales outside of</p> <p>19 the building?</p> <p>20 A Wherever they had working security.</p> <p>21 Q But do you mean -- you mean civilians who</p> <p>22 are working security for drug sales?</p> <p>23 A Everybody we encountered were civilians.</p> <p>24 Q Well, I'm trying to draw a distinction</p>

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50 (511 to 514)

<p>511</p> <p>1 between you doing pretend security on a reverse 2 sting and civilians doing security. 3 You're talking about civilians. 4 A Yes. Like I said, yeah, they were not the 5 police. 6 Q So you would approach; and depending upon 7 how much security there was, that might change 8 whether you walk or run into the building? 9 A It might change our approach and how we'd 10 do it, if we ran or walk. Like I said, I don't 11 recall how we did it each specific time. 12 Q And you don't recall how you did it 13 April 24, 2006? 14 A No, I do not. 15 Q Did people frequently yell "clean up" or 16 something like that when you approached the 17 buildings? 18 A Sometimes. 19 Q Was there some period of time between when 20 you got to the building and when you started the 21 reverse sting? 22 A I'm sorry? 23 Q So when you got to a building, did it take 24 some time to get set up for a reverse sting?</p>	<p>513</p> <p>1 sorry. 2 A Sometimes it would be short. Sometimes it 3 could be long. And I don't recall how long -- how 4 many minutes. I don't recall it being an hour, 5 but I couldn't give you -- again, give you an 6 exact time. 7 Q You're saying you don't recall it ever 8 taking an hour, or you're just not sure? 9 A Like I said, I'm not certain. 10 Q Is there anywhere you could look? Like, 11 did you keep records of that type of information? 12 A From the best of knowledge, I don't know 13 if they kept time on that or not. 14 Q If you arrested someone -- so, say, you 15 had a reverse sting planned. You got to the 16 building. You immediately arrested somebody 17 before you started the reverse sting. 18 Would you write in the report that you 19 went to the building to conduct a reverse sting? 20 A I'm certain we probably did. I'm not 21 certain how we did it from time to time. 22 Q Just quickly going back to Exhibit 53, the 23 narrative says "he approached an undercover 24 officer," but it's talking about a female</p>
<p>512</p> <p>1 A I'm certain it probably did. 2 Q What steps did you have to take typically 3 to get set up for a reverse sting once you got to 4 the building? 5 A I don't recall each particular time. If 6 we were coming down there, if people were buying 7 drugs, we would place some people in custody. We 8 would try to get people out of that area that do 9 not belong. That was the main objective, trying 10 to clear the people out. 11 Q How long would it typically take to clear 12 out the area so that you could set up a reverse 13 sting? 14 A I couldn't give you a time frame. I 15 couldn't tell you how long it took. 16 Q 5 minutes? 10? 15? An hour? 17 A I don't recall if it was five minutes or 18 an hour. I can't recall how long it took. I 19 can't -- 20 Q Do you think sometimes it was really 21 short, and sometimes it might have even been up to 22 an hour? 23 A It depends. 24 Q Would there be anywhere you could -- I'm</p>	<p>514</p> <p>1 offender. 2 Do you see that? 3 A Yes, I do. 4 Q Do you know why it says "he" instead of 5 "she"? 6 A I don't know. It probably was a mistake. 7 Q But this information was not -- this 8 wasn't pre-prepared; correct? 9 A No. The arrest reports are not pre- -- 10 preprinted because they have a CB number, and each 11 CB number gets generated -- the number is 12 generated, and it cannot be prepared in advance. 13 (Smith Deposition Exhibit 54 marked for 14 identification and attached to the transcript.) 15 Q We're on Exhibit 54. 16 You've had a chance to look at this? 17 A Yes, I have. 18 Q Is this a report you prepared or someone 19 else? 20 A I don't -- can't tell if I prepared it 21 or not but that's my -- appears to be my signature 22 at the bottom. 23 Q All right. Does it look like you signed 24 for Mohammed also?</p>

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51 (515 to 518)

<p>515</p> <p>1 A Yes, it does.</p> <p>2 Q And so you filled in the date of arrest</p> <p>3 and date of arrival at the top?</p> <p>4 A It appears so.</p> <p>5 Q The date of arrival -- it says, Date R/O</p> <p>6 arrived, dash, time.</p> <p>7 Does that signify when you arrived at the</p> <p>8 building?</p> <p>9 A And as I stated many times before, all of</p> <p>10 the times are approximated.</p> <p>11 Q Let me re-ask that one.</p> <p>12 A That's what's stated on the report.</p> <p>13 Q I know that you're saying they're</p> <p>14 approximate. I just want to make sure that what</p> <p>15 it is supposed to signify is when you got to the</p> <p>16 building, not some other time.</p> <p>17 A That is correct.</p> <p>18 Q Okay. Do you know who Lynn Howard is?</p> <p>19 A No, I do not.</p> <p>20 Q And I'm going to -- well, do you know</p> <p>21 where the time of arrest came from?</p> <p>22 A No, I do not.</p> <p>23 MR. RAUSCHER: We'll mark the arrest</p> <p>24 report as 55.</p>	<p>517</p> <p>1 Q When you -- back at the time, would it</p> <p>2 have been your practice to review this type of</p> <p>3 arrest report when you were first arresting</p> <p>4 officer even if Gonzalez or Leano prepared the</p> <p>5 report?</p> <p>6 A Yes, as long -- as well as the sergeant</p> <p>7 and also the watch commander also.</p> <p>8 Q If you would have caught the difference in</p> <p>9 times on the arrest reports versus the vice case</p> <p>10 reports, would you have corrected it?</p> <p>11 MR. KOSOKO: Objection; form.</p> <p>12 A If I noticed the times in the arresting --</p> <p>13 I mean, my supervisor also as well as the watch</p> <p>14 commander should have noticed that. The final</p> <p>15 determination on these or the final approval is</p> <p>16 given by the watch commander. So if he -- if I</p> <p>17 didn't notice it, he didn't notice it either.</p> <p>18 Q Let me try that again.</p> <p>19 A I understand your question, sir.</p> <p>20 Q Can you answer it, please?</p> <p>21 A I do not have an answer for that. I gave</p> <p>22 you an example.</p> <p>23 Q You don't have -- all right. Well, let me</p> <p>24 just make sure you did answer the question because</p>
<p>516</p> <p>1 (Smith Deposition Exhibit 55 marked for</p> <p>2 identification and attached to the transcript.)</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q Does seeing this report refresh your</p> <p>5 recollection about who Lynn Howard is?</p> <p>6 A No, it does not.</p> <p>7 Q Do you see the picture in the top</p> <p>8 right-hand corner?</p> <p>9 A Yes, I do.</p> <p>10 Q That doesn't help you remember who he is?</p> <p>11 A No, it does not.</p> <p>12 Q Robert Gonzalez is the attesting officer.</p> <p>13 That means he likely is the one who filled</p> <p>14 out this report?</p> <p>15 A That is correct.</p> <p>16 Q And he would have needed to get the</p> <p>17 substantive information from you or Kallatt</p> <p>18 Mohammed?</p> <p>19 A That is correct.</p> <p>20 Q You don't know why the arrest time on this</p> <p>21 report doesn't match up to the time on the vice</p> <p>22 case report that you prepared?</p> <p>23 A No. Again, I just attribute it to human</p> <p>24 error.</p>	<p>518</p> <p>1 you answered a different one.</p> <p>2 The question was if you would have caught</p> <p>3 the difference in time on the arrest time from the</p> <p>4 arrest report and the vice case report, would you</p> <p>5 have corrected it?</p> <p>6 A Yes, I possibly would have.</p> <p>7 Q You're just not sure either way if you</p> <p>8 would have?</p> <p>9 A I would have probably corrected it, sir.</p> <p>10 Q And why would you have wanted to correct</p> <p>11 it?</p> <p>12 A Again, like I said, these times are</p> <p>13 approximated; but if I noticed that, then I would</p> <p>14 have probably corrected it and made it the correct</p> <p>15 time.</p> <p>16 Q Because you want your reports to be</p> <p>17 accurate.</p> <p>18 A Yes, and this report is accurate.</p> <p>19 Q One of the two is not accurate in some</p> <p>20 ways; right?</p> <p>21 A As again --</p> <p>22 MR. KOSOKO: Object to form.</p> <p>23 MR. STEFANICH: Join.</p> <p>24 A Just because the times are off by a few</p>

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52 (519 to 522)

<p style="text-align: right;">519</p> <p>1 minutes here or there does not mean that the 2 narrative part or the portion of the incident that 3 is described in the narrative is not accurate. 4 Again, the times are approximated, but that does 5 not mean that the -- like I said, the incident 6 which occurred that led to the arrest is false. 7 BY MR. RAUSCHER: 8 Q All right. So it doesn't really matter if 9 the time of arrest is right. 10 MR. KOSOKO: Objection to form, misstates 11 testimony. 12 A No. You keep making that assumption, and 13 I've never said that. 14 Q Okay. Does it matter? 15 A The time -- yes, it does. You try to be 16 as accurate as possible, sir, but there is human 17 error. And when you're out there in the field, we 18 don't have -- you know, like I said, you don't 19 always look at your watch. I don't know how we 20 determined the times. These times are 21 approximated. We try to be as close to the time 22 as possible. 23 Q One of them is wrong, though. It has 24 to be.</p>	<p style="text-align: right;">521</p> <p>1 a mistake. One person might have reported the 2 time differently than another person. That does 3 not mean that the information or that what had 4 occurred, the incident that occurred is false. 5 Q That's not the only detail that's not 6 accurate because we've already established that 7 nobody actually asked to purchase, quote/unquote, 8 "blow"; right? 9 MR. KOSOKO: Objection; form, misstates 10 prior testimony. 11 MR. STEFANICH: Join. 12 A Sir, I did not state that they -- it 13 specifically stated to buy blows. Blow is, like I 14 said, the street terminology for heroin. You keep 15 putting that in my mouth and saying that I said 16 that. I did not say that. 17 Q So you're saying somebody did come up and 18 say they wanted to purchase, quote/unquote, 19 "blow"? 20 MR. STEFANICH: Objection; 21 mischaracterizes his testimony. 22 A I'm not going to answer that question 23 because I've answered it numerous times, what I 24 meant by that.</p>
<p style="text-align: right;">520</p> <p>1 A Yeah. But I'm still not going to admit 2 that that is -- the time is off by five minutes or 3 two minutes or whatever, that that makes the 4 report false. That is a human error. 5 As you see, this report was attested by 6 Robert Gonzalez. At some point in time, he may 7 have made a mistake when he was preparing the 8 arrest report as far as the time that was -- the 9 offender was placed in custody. 10 Q It's your position that the reports are 11 accurate because these people were coming to 12 purchase heroin; is that right? 13 A That is correct. 14 Q And so if you got the details wrong, it 15 doesn't mean that the report is inaccurate? 16 A The details are not wrong, sir. The 17 information is truthful that they came to purchase 18 narcotics. 19 Q That's a summary of what happened, but the 20 details aren't all accurate. 21 A The details -- 22 MR. KOSOKO: Objection; form. 23 A -- are accurate. Like I said, again, the 24 times are approximated; and the person could make</p>	<p style="text-align: right;">522</p> <p>1 BY MR. RAUSCHER: 2 Q I'm not asking you what you meant by it. 3 What I'm saying is can we agree that the 4 people who were arrested on this date did not come 5 up to you and say they wanted to, quote, "purchase 6 blow," end quote? 7 MR. STEFANICH: Objection; asked and 8 answered. 9 You can answer it again. 10 A And that's not what I'm saying, that they 11 specifically asked to buy blow. 12 Q You're agreeing with me that that didn't 13 happen that way? 14 A No, I am not agreeing with you. 15 Q So they did ask to purchase, 16 quote/unquote, "blow"? 17 A Not quote/unquote "blow." They attempted 18 to purchase blow or heroin, which is street 19 terminology. That's why -- you keep saying that 20 they specifically asked for blow, and I did not 21 say what they specifically said. All I said is 22 that they came to purchase blow, and that does not 23 mean that they exactly said "blow." 24 Nobody is going to walk up to an officer</p>

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53 (523 to 526)

<p style="text-align: right;">523</p> <p>1 and say "blow." Like looking at them, what do you 2 mean by blow? Because if we -- I'm not going to 3 get in that because blow could be something more 4 porn- -- if you want to get into the terminology, 5 more pornographic than anything. 6 So they did not specifically say "blow." 7 They were attempting to purchase blow, which is 8 the street terminology for heroin. 9 Q Why didn't you put quotes around any other 10 words in here? 11 A Sir, I stand by my report. 12 MR. RAUSCHER: All right. We're going to 13 mark Exhibit 56. 14 (Smith Deposition Exhibit 56 marked for 15 identification and attached to the transcript.) 16 Q Have you had a chance to look at this? 17 A Yes, I have. 18 Q Do you know who Teresa Butler is? 19 A No, I do not. 20 Q Who signed this report? 21 A I don't know by the handwriting, but 22 that's not my signature. But, again, like I said, 23 if someone on my team signed for me, it would not 24 have been without my authorization.</p>	<p style="text-align: right;">525</p> <p>1 And I'd like to point -- 2 MR. STEFANICH: There's no question 3 pending. 4 BY MR. RAUSCHER: 5 Q Go ahead. What do you want to point out? 6 A In the narrative of the arrest reports, 7 "blows" is not in quotation marks. 8 Q So that's violating your training? 9 A No. 10 MR. BURNS: Objection; foundation. 11 A It's not violating my training. But, like 12 I say, if we're making a big issue about the exact 13 word "blow" being in quotation marks, it's not 14 quoted (phonetic) -- in quotation marks on the 15 narrative of the arrest report. 16 Q So are you saying you were trained only to 17 use the word quotes and blows on -- I mean, I'm 18 not going to ask it that way. 19 You can't be saying that you were trained 20 to only use the word quotes and blows on vice case 21 reports and not arrest reports; right? 22 A I'm not saying that. 23 MR. BURNS: Objection; form, foundation. 24 A I'm not saying that, sir.</p>
<p style="text-align: right;">524</p> <p>1 Q You don't know where the time of arrest 2 came from on this report? 3 A No, I do not. 4 MR. RAUSCHER: We're going to mark this 5 as 57. 6 (Smith Deposition Exhibit 57 marked for 7 identification and attached to the transcript.) 8 Q Do you recognize Teresa Butler in the 9 picture here? 10 A No, I do not. 11 Q Again, this also refers to "he" in the 12 narrative for a female arrestee. 13 A Yes, I see that. 14 Q And this is -- Leano was the attesting 15 officer here? 16 A That is correct. 17 Q That means he's likely the one who typed 18 that; is that correct? 19 A That is correct. 20 Q Just a typo you think? 21 A I would assume so. 22 Q Do you know where he got that 23 12:00 o'clock arrest time from? 24 A No, I do not.</p>	<p style="text-align: right;">526</p> <p>1 BY MR. RAUSCHER: 2 Q All right. 3 A You're just trying to make -- like I said, 4 errors can occur in the reports; and you're making 5 a big issue about the word being quoted in the 6 vice case report. 7 And also -- and as far as the difference 8 of times and all of that, like I said, it could be 9 a mistake that occurred. I'm just trying to point 10 out that the word "blow" is not quoted -- in 11 quotation marks in the narrative of the arrest 12 report. 13 Q All right. So was it a mistake to use 14 quotes in the vice case report? 15 A I'm not saying that it is a mistake 16 at all. 17 Q So why are you pointing out that it's not 18 in quotes in the arrest report? 19 A I'm just trying to reflect -- 20 MR. STEFANICH: Objection; asked and 21 answered. 22 A -- that matter. 23 Q Why? What is the difference to you? 24 A It's the same difference as you saying</p>

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<p style="text-align: right;">527</p> <p>1 that they said specifically -- according to my</p> <p>2 vice case report, that they specifically said</p> <p>3 "blow."</p> <p>4 Q One has quotes and one doesn't, which</p> <p>5 wouldn't that suggest that the quote is a quote?</p> <p>6 A I didn't state that they specifically said</p> <p>7 "blows." Because if they had said -- you know,</p> <p>8 like I said, blow, I put in quotation marks is to</p> <p>9 signify -- this is based on my knowledge or my</p> <p>10 training that I received. Blow is in quotation</p> <p>11 marks; and as I stated before earlier, each person</p> <p>12 write their reports differently.</p> <p>13 Q So they may not --</p> <p>14 A Blow is just to signify that it's the</p> <p>15 street terminology for heroin.</p> <p>16 Q Leano and Gonzalez may have had different</p> <p>17 training, and they may not have been trained to</p> <p>18 put the word "blow" in quotation marks?</p> <p>19 MR. BURNS: Objection; form, foundation.</p> <p>20 A I don't know. You would have to ask them.</p> <p>21 Q Well, I'm asking because you said other</p> <p>22 people may have had different training, and you're</p> <p>23 pointing out a difference in the reports.</p> <p>24 A I don't know why they wrote that. I'm</p>	<p style="text-align: right;">529</p> <p>1 Q I never said --</p> <p>2 A -- put words in my mouth.</p> <p>3 Q Sir, I never said anything at all remotely</p> <p>4 like what you just said about --</p> <p>5 A Yes, you did. When you said --</p> <p>6 Q About being pornographic?</p> <p>7 A -- the offenders -- no, I was making an</p> <p>8 example --</p> <p>9 Q Okay. But I didn't ask you anything like</p> <p>10 that.</p> <p>11 A -- what the word could be also used for.</p> <p>12 Because as I said, you know, street terminology</p> <p>13 could mean different things.</p> <p>14 Q But no -- I'm sorry.</p> <p>15 A You specifically said that each individual</p> <p>16 that was arrested during this reverse sting</p> <p>17 operation came and asked to buy blows. I did not</p> <p>18 state in my reports, and it's not reflected that</p> <p>19 just because the word "blow" is in quotation</p> <p>20 marks, that that's what they said. Because if</p> <p>21 they just came up to me and said "blow," that</p> <p>22 would suggest something else. I don't know what</p> <p>23 you mean by blow.</p> <p>24 Q When you say, I don't know what you mean,</p>
<p style="text-align: right;">528</p> <p>1 just saying -- trying to point out the difference.</p> <p>2 Q Why go to the trouble of explaining that</p> <p>3 blows is street terminology for heroin instead of</p> <p>4 just saying they wanted to purchase heroin, if</p> <p>5 you're not trying to attribute something to the</p> <p>6 person who is doing the potential buying?</p> <p>7 MR. STEFANICH: Objection; asked and</p> <p>8 answered.</p> <p>9 A Again, as I stated before, we put blows in</p> <p>10 there because, like I said, that was the street</p> <p>11 term for heroin.</p> <p>12 Q I thought you said nobody used that term</p> <p>13 because it was pornographic?</p> <p>14 A No. I said you're making the -- you're</p> <p>15 trying to say that they specifically said "blows."</p> <p>16 And I'm saying blow could mean many different</p> <p>17 things. There's a pornographic terminology for</p> <p>18 blow also. I'm not going to go into that.</p> <p>19 Q But just to be clear, nobody today at all</p> <p>20 has said anything like that except for you;</p> <p>21 correct?</p> <p>22 A No. I'm just bringing -- making an</p> <p>23 example. You're trying to twist my words</p> <p>24 around --</p>	<p style="text-align: right;">530</p> <p>1 you're talking about --</p> <p>2 A I said they came to ask to buy blows.</p> <p>3 They came to -- they asked to buy blows. I didn't</p> <p>4 say that they specifically said "blows."</p> <p>5 Q So you're saying if someone came up to you</p> <p>6 during a reverse sting and said I want to buy</p> <p>7 blows, you would not know what they meant?</p> <p>8 A It does say in the report --</p> <p>9 Q I'm asking you a question.</p> <p>10 A And I'm trying to answer the question.</p> <p>11 It does not say that I want to buy blows.</p> <p>12 It does not say in quotation marks in my report,</p> <p>13 in the vice case reports that I want to buy blows.</p> <p>14 It said that they came and I -- you're trying to</p> <p>15 be in quotation marks specifically what they're</p> <p>16 saying.</p> <p>17 Q I'm not trying to be. It says it on the</p> <p>18 report. I'm reading from the report.</p> <p>19 A Okay. And it does not state specifically</p> <p>20 that they said, "I came to buy blows." They asked</p> <p>21 to purchase blow.</p> <p>22 Q And are you saying to me that if someone</p> <p>23 came up to you during a reverse sting and said</p> <p>24 they want to purchase blows, you might have</p>

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55 (531 to 534)

<p>531</p> <p>1 misinterpreted that to be --</p> <p>2 A No, I'm not.</p> <p>3 Q -- a pornographic --</p> <p>4 A You're misinterpreting the report.</p> <p>5 MR. RAUSCHER: All right. We're on</p> <p>6 Exhibit 58.</p> <p>7 (Smith Deposition Exhibit 58 marked for</p> <p>8 identification and attached to the transcript.)</p> <p>9 BY MR. RAUSCHER:</p> <p>10 Q Have you had a chance to review this?</p> <p>11 A Yes, I have.</p> <p>12 Q Did you sign this?</p> <p>13 A Yes, I did.</p> <p>14 Q You also filled in the handwritten parts?</p> <p>15 A It appears to be my writing, yes.</p> <p>16 Q Do you know who Charles Riley is?</p> <p>17 A No, I do not.</p> <p>18 Q No memory of arresting Mr. Riley or</p> <p>19 participating in his arrest?</p> <p>20 A I do not recall the arrest of anyone. I'm</p> <p>21 not saying I wasn't there because, obviously, I</p> <p>22 was there; but I do not recall Charles Riley or</p> <p>23 the individuals on April 24th, 2006.</p> <p>24 Q All right. You're not sure when -- where</p>	<p>533</p> <p>1 A Yes.</p> <p>2 Q And did you do that when you were a member</p> <p>3 of the Watts tac team?</p> <p>4 A Yes, I did.</p> <p>5 Q And was that -- other members of the team,</p> <p>6 did they participate in those?</p> <p>7 A Yes, they did.</p> <p>8 Q Where did those happen?</p> <p>9 A They happened in different areas in the</p> <p>10 2nd District. I don't remember all of the</p> <p>11 specific locations.</p> <p>12 Q Did it happen at Ida B. Wells?</p> <p>13 A From the best of my -- what I recall, I</p> <p>14 don't recall it happening in the Ida B. Wells.</p> <p>15 Q You do not recall participating in such an</p> <p>16 operation at Ida B. Wells; is that what you're</p> <p>17 saying?</p> <p>18 A From the best of my knowledge, I do not</p> <p>19 recall.</p> <p>20 MR. RAUSCHER: All right. We're going to</p> <p>21 mark the next one as 59.</p> <p>22 (Smith Deposition Exhibit 59 marked for</p> <p>23 identification and attached to the transcript.)</p> <p>24</p>
<p>532</p> <p>1 the time came from; is that right?</p> <p>2 A No. Again, like I said, it was probably</p> <p>3 an approximated time.</p> <p>4 Q I am going to ask you a question. I am</p> <p>5 not trying to dwell on this point, but did you</p> <p>6 ever participate in reverse stings or anything</p> <p>7 like that of like fake prostitution stings?</p> <p>8 A Yes, we have.</p> <p>9 Q You have. That was part of the Watts tac</p> <p>10 team?</p> <p>11 A It wasn't just a part of the Watts tac</p> <p>12 team. It was a part of all tac teams in the</p> <p>13 Chicago Police Department, not just in the</p> <p>14 2nd District.</p> <p>15 Q So you've done it -- you've been in</p> <p>16 reverse prostitution stings throughout the Chicago</p> <p>17 Police Department?</p> <p>18 A I'm not saying throughout the Chicago --</p> <p>19 just in the 2nd District. I'm just trying to make</p> <p>20 you aware that that's a mission that was done by</p> <p>21 other tac teams in all the districts in the</p> <p>22 Chicago Police Department.</p> <p>23 Q I'm just asking about your personal</p> <p>24 experience.</p>	<p>534</p> <p>1 BY MR. RAUSCHER:</p> <p>2 Q Is this a five-page report in your copy,</p> <p>3 sir?</p> <p>4 A Yes, it is.</p> <p>5 Q Do you recognize the person in the</p> <p>6 first -- upper right-hand part of the first page?</p> <p>7 A No, I do not.</p> <p>8 Q All right. This is an arrest report of</p> <p>9 Charlie Riley, it says, from the same day as the</p> <p>10 vice case report?</p> <p>11 A That's correct.</p> <p>12 Q Leano is the attesting officer?</p> <p>13 A Yes.</p> <p>14 Q So he created the report?</p> <p>15 A Yes, it appears so.</p> <p>16 Q And do you know where he got the 12:05</p> <p>17 arrest time from?</p> <p>18 A No, I do not.</p> <p>19 MR. RAUSCHER: Let's take a quick break</p> <p>20 actually.</p> <p>21 MR. STEFANICH: Sure.</p> <p>22 THE VIDEOGRAPHER: Off the record, 4:03.</p> <p>23 (A recess was taken from 4:04 p.m. to</p> <p>24 4:11 p.m.)</p>

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535	<p>1 THE VIDEOGRAPHER: Back on the record, 2 4:11. 3 MR. RAUSCHER: We're going to mark this as 4 Exhibit 60. Maybe it will speed it up, maybe now 5 let's just mark Exhibit 61 at the same time. 6 (Smith Deposition Exhibits 60 and 61 7 marked for identification and attached to the 8 transcript.) 9 MR. KOSOKO: Vice is -- 10 MR. RAUSCHER: Vice is 60. 11 MR. KOSOKO: Vice is 60? 12 MR. RAUSCHER: And the arrest report is -- 13 right? 14 MR. KOSOKO: 61, yeah. 15 MR. RAUSCHER: Yes, 61. 16 BY MR. RAUSCHER: 17 Q Have you had a chance to review these two 18 reports? 19 A Yes, I have. 20 Q Is it your handwriting on Exhibit 60? 21 A No, it is not. 22 Q All right. You think it might be 23 Mohammed's? 24 A I don't recall if it was Mohammed's hand</p>	537	<p>1 officer for 61 means he likely is the one who 2 created this report? 3 A Most likely, yes. 4 Q Using information from you or Mohammed? 5 A That is correct. 6 MR. RAUSCHER: All right. Let's mark 7 Exhibit 62 as the vice case report and 63, the 8 arrest report. 9 (Smith Deposition Exhibits 62 and 63 10 marked for identification and attached to the 11 transcript.) 12 Q Have you had a chance to look at these two 13 reports? 14 A Yes, I have. 15 Q Do you recognize the man whose picture 16 appears on the top right-hand corner of 17 Exhibit 63? 18 A No, I do not. 19 Q Is it your handwriting on Exhibit 62? 20 A It does not appear to be. 21 Q These are both reports of an arrest of 22 Timothy Brown on April 24, 2006; correct? 23 A That's correct. 24 Q And do you know where the -- do you know</p>
536	<p>1 signature. Someone on my team, probably with my 2 authorization, signed the report. 3 Q And given your roles in the reverse sting, 4 it's likely it was your -- or it's likely 5 Mohammed; right? 6 A Again, I don't recall Mohammed's 7 handwriting. As I said, it could be possibly 8 someone else on the team; but it would have been 9 someone I authorized to sign for my report. 10 Q Do you know Dale Morrow? 11 A No, I do not. 12 Q Looking at his picture on the top 13 right-hand corner of the first page of Exhibit 61, 14 does that refresh your recollection as to whether 15 you knew him? 16 A No, it does not. 17 Q He doesn't look familiar to you? 18 A No, he does not. 19 Q Where did you get the information, if you 20 know, it says "vehicle used by offender," and it 21 says "on foot." 22 A I do not recall. 23 Q All right. We'll mark -- actually right 24 before we do that, Gonzalez as the attesting</p>	538	<p>1 where the time of arrest comes from on the two 2 reports -- or the times I should say? 3 A I do not recall. 4 Q For the arrest report, Gonzalez is the 5 attesting officer. 6 That means he likely created the report 7 but with information from you or Mohammed? 8 A That is correct. 9 MR. RAUSCHER: All right. We'll mark two 10 more. 64 will be the vice case report, and 65 11 will be the arrest report. 12 (Smith Deposition Exhibits 64 and 65 13 marked for identification and attached to the 14 transcript.) 15 MR. KOSOKO: Vice is 64? 16 MR. RAUSCHER: Yes. And the arrest report 17 is 65. 18 Q Have you had a chance to look at these 19 reports? 20 A Yes, I have. 21 Q Do you recognize George Green in the 22 picture in Exhibit 65? 23 A No, I do not. 24 Q You have no memory of participating in the</p>

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<p>539</p> <p>1 arrest of Mr. Green on April 24, 2006?</p> <p>2 A I do not recall the arrest on April 24th,</p> <p>3 2006.</p> <p>4 Q On Exhibit 65, Leano is listed as the</p> <p>5 attesting officer; right?</p> <p>6 A That is correct.</p> <p>7 Q And so he likely created the report but</p> <p>8 with information from you or Mohammed?</p> <p>9 A That is correct.</p> <p>10 Q Is it your handwriting and signature on</p> <p>11 Exhibit 64?</p> <p>12 A It appears it is.</p> <p>13 Q So you filled out this report, the</p> <p>14 typed -- you filled out the handwritten portions</p> <p>15 of Exhibit 64?</p> <p>16 A It appears so.</p> <p>17 Q Why did you put 1438 for the time of</p> <p>18 occurrence and time of arrival?</p> <p>19 A I have no clue, sir.</p> <p>20 Q Those are incorrect.</p> <p>21 A I'm just guessing it could be. I have no</p> <p>22 clue, sitting here today.</p> <p>23 Q Well, do you think you did two reverse</p> <p>24 stings that day?</p>	<p>541</p> <p>1 uncommon.</p> <p>2 Q If you did spend that much time with the</p> <p>3 reverse sting, would the date and time arrived</p> <p>4 still be incorrect?</p> <p>5 A I don't recall why I put that date and</p> <p>6 time of arrival at that time -- using that time on</p> <p>7 that particular date.</p> <p>8 Q But that isn't when you arrived at 575</p> <p>9 East Browning on April 24, 2006.</p> <p>10 A Again, it had to be an error. I don't</p> <p>11 recall, sir.</p> <p>12 Q The arrest time on George Green's arrest</p> <p>13 report and on his vice case report appears to be</p> <p>14 hours off to me.</p> <p>15 Am I reading that incorrectly?</p> <p>16 A No, you're not.</p> <p>17 Q Do you have any opinion as to which one,</p> <p>18 if either, is accurate?</p> <p>19 A I am not certain, sir.</p> <p>20 Q Is there anything you could look at to</p> <p>21 help you determine which, if either, are</p> <p>22 accurate?</p> <p>23 A At the present moment, I don't know.</p> <p>24 Maybe if there was some type of reflection on an</p>
<p>540</p> <p>1 A I don't recall, sir.</p> <p>2 Q There is -- 11:15 to 1438, how many hours</p> <p>3 are there in between there?</p> <p>4 A From what time to what time?</p> <p>5 Q From 11:15 in the morning or 11:30 in the</p> <p>6 morning to 1438, how many hours?</p> <p>7 A That was probably at least three hours</p> <p>8 or so.</p> <p>9 Q Do you think you left 575 East Browning at</p> <p>10 some point and then came back at 1438?</p> <p>11 A I don't recall, sir.</p> <p>12 Q That would be, what, 2:38?</p> <p>13 A Yeah, 2:38.</p> <p>14 Q So about three some hours in there?</p> <p>15 A Yes.</p> <p>16 Q Do you think you spent about three hours</p> <p>17 at 575 East Browning running a reverse sting that</p> <p>18 day, April 24, 2006?</p> <p>19 A I don't recall, but it is possible.</p> <p>20 Q Would that be on the long side for a</p> <p>21 reverse sting?</p> <p>22 A Again, like I said, I don't recall how</p> <p>23 many -- how much time we spent on a reverse sting</p> <p>24 operation but it's not -- it would not be</p>	<p>542</p> <p>1 A&A sheet or some -- or PCAD to show what time</p> <p>2 that we were down on the -- in total during this</p> <p>3 reverse sting operation.</p> <p>4 Q I'm sorry. So if you had an A&A sheet and</p> <p>5 it said what time you ended and if it was before</p> <p>6 1438, then you would know that -- you'd think 1225</p> <p>7 is more accurate; is that what you're saying?</p> <p>8 A I'm saying if I had the A&A sheet, we</p> <p>9 could probably -- or the PCAD, which is like an</p> <p>10 event history, to document how many times -- how</p> <p>11 much time we spent on this event. It would</p> <p>12 probably let me know what the accurate times were.</p> <p>13 Q Would they specify what time you were</p> <p>14 arresting people?</p> <p>15 A I'm not certain. I'm not a supervisor,</p> <p>16 and I don't recall.</p> <p>17 Q Have you ever seen an A&A sheet that</p> <p>18 listed arrest times on it?</p> <p>19 A It wouldn't be on the attendance sheet.</p> <p>20 I'm sorry. I misspoke and said attendance -- the</p> <p>21 A&A sheet. It would be on the PCAD, which is like</p> <p>22 an event history of the arrest.</p> <p>23 Q Got it.</p> <p>24 Have you reviewed PCADs as a police</p>

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<p style="text-align: right;">543</p> <p>1 officer?</p> <p>2 A Yes, and it's been years ago.</p> <p>3 Q Do you know if any such records exist</p> <p>4 of these arrests, the ones we've just been</p> <p>5 looking at?</p> <p>6 A I do not know.</p> <p>7 (Smith Deposition Exhibits 66 & 67 marked</p> <p>8 for identification and attached to the</p> <p>9 transcript.)</p> <p>10 MR. RAUSCHER: All right. We're going to</p> <p>11 mark 66 and 67. The vice case report will be the</p> <p>12 first one.</p> <p>13 Q Have you had a chance to look at these?</p> <p>14 A Yes, I have.</p> <p>15 Q Do you recognize Thomas Mitchell in the</p> <p>16 picture in the first -- or in the arrest report,</p> <p>17 first page?</p> <p>18 A No, I do not.</p> <p>19 Q Do you know who Mr. Mitchell is?</p> <p>20 A No, I do not.</p> <p>21 Q Is it your handwriting on Exhibit 66?</p> <p>22 A It appears to be.</p> <p>23 Q Again, do you know why it says arrival</p> <p>24 time was 1438?</p>	<p style="text-align: right;">545</p> <p>1 reports, at least that I've seen, of the reverse</p> <p>2 sting -- or a complete list of arrestees for the</p> <p>3 reverse sting that you participated in April 24,</p> <p>4 2006.</p> <p>5 None of them tried to purchase anything</p> <p>6 other than heroin, according to the reports; is</p> <p>7 that true?</p> <p>8 A That appears to be so.</p> <p>9 Q Did you let anybody go who tried to</p> <p>10 purchase a different type of drug like crack</p> <p>11 cocaine?</p> <p>12 A I do not recall the arrest and what</p> <p>13 occurred on that date; and from my knowledge and</p> <p>14 experience doing the reverse sting operations, I</p> <p>15 don't recall us ever letting anyone go.</p> <p>16 Q So if someone would have tried to purchase</p> <p>17 crack cocaine, you would have arrested them?</p> <p>18 A That is possible.</p> <p>19 Q It's possible or that's what would have</p> <p>20 happened?</p> <p>21 A That's what would have happened.</p> <p>22 Q You would not have picked a day and said</p> <p>23 we're only arresting the people that try to buy</p> <p>24 heroin today.</p>
<p style="text-align: right;">544</p> <p>1 A Again, I do not know.</p> <p>2 Q On that one you didn't put any time of</p> <p>3 arrest; right?</p> <p>4 A Yes, it appears to be an error.</p> <p>5 Q And so do you know how Gonzalez got a</p> <p>6 12:30 arrest time when he filled out the arrest</p> <p>7 report?</p> <p>8 A No, I do not, sir.</p> <p>9 Q And I guess I should back up a step.</p> <p>10 Gonzalez, as the attesting, likely is the</p> <p>11 person who created this arrest report?</p> <p>12 A That appears to be true.</p> <p>13 Q And he would have had to use information</p> <p>14 from you or Mohammed to do that?</p> <p>15 A Apparently so.</p> <p>16 Q You have no idea whether Mr. Thomas was</p> <p>17 arrested at 12:30 on April 24, 2006, do you?</p> <p>18 A I don't recall.</p> <p>19 MR. PALLES: I believe you mean</p> <p>20 Mr. Mitchell.</p> <p>21 MR. RAUSCHER: Yeah, I do. Thank you.</p> <p>22 A I don't recall.</p> <p>23 Q All right. We've looked at, what I will</p> <p>24 represent, what I believe is the complete list of</p>	<p style="text-align: right;">546</p> <p>1 A Based on my memory, we did not do that.</p> <p>2 Q So does that mean that nobody tried to</p> <p>3 purchase any drugs from you on April 24, 2006,</p> <p>4 during the reverse sting other than heroin?</p> <p>5 A That's what I'm saying.</p> <p>6 Q That's -- you don't have a memory, but</p> <p>7 that's how it looks based on the reports?</p> <p>8 A Based on the reports, that's what's in the</p> <p>9 reports, yes.</p> <p>10 Q And was that a common occurrence where</p> <p>11 people throughout a whole reverse sting would only</p> <p>12 try to buy one kind of drug?</p> <p>13 A I don't know if it's common or uncommon.</p> <p>14 Q Would that happen more frequent -- was it</p> <p>15 more common that people would try to buy different</p> <p>16 kinds of drugs throughout the reverse sting or</p> <p>17 that every single person who came through tried to</p> <p>18 buy the same kind of drugs?</p> <p>19 A I couldn't tell you how often it happened.</p> <p>20 I didn't keep a record of how often a person came</p> <p>21 to buy one particular drug or another.</p> <p>22 Q How -- was it more common that you'd have</p> <p>23 to fill out -- I'm going to rephrase that.</p> <p>24 Did you commonly create narrative sections</p>

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<p>547</p> <p>1 of vice case reports in advance of reverse stings 2 that had different kinds of drugs? So you'd have 3 one that said heroin and one that said crack 4 cocaine. Was it common that you did that, or was 5 that infrequent? 6 A Again, as I stated, sir, I don't recall 7 how we did it on that particular day. Like I 8 said, at some point in time we may -- it's 9 possible that we did for both heroin and crack 10 cocaine. 11 Q It's possible that you did it that way, 12 and it's possible you didn't do it that way? 13 A It's possible that we probably did not 14 also, but I don't recall on that particular day. 15 Q You said it's possible that you probably 16 did not do it that way also, where you filled out 17 two different kinds of reports? 18 A There's a possibility; but to the best of 19 my memory, we did both. 20 Q Your best memory is that you usually would 21 have both reports ready to go? 22 A From the best of my memory, yes. 23 Q And that's frequently how you did it? 24 A I wouldn't say how frequently that we did</p>	<p>549</p> <p>1 MR. RAUSCHER: RD numbers. Thanks. 2 A Yes. You can get an event number prior to 3 you obtaining an RD number. So based off of my 4 information, you can get the RD number after the 5 event had occurred. 6 BY MR. RAUSCHER: 7 Q You'd get the RD number after the event 8 had occurred. 9 A I said you can, but I can't recall how it 10 was done on that day. 11 Q You could get it -- 12 A You can generate an event number prior to 13 generating an RD number. 14 Q So just looking at the RD number up here 15 in the right-hand corner, when is that number 16 generated? 17 A I don't know if it was done before or 18 after the offenders were placed in custody. 19 Q And you don't know whether it was done 20 before or after they were taken back to the 21 2nd District? 22 A No, I do not. 23 Q Do you know where Lionel White, Sr., was 24 arrested on April 24, 2006? It's not in there</p>
<p>548</p> <p>1 it; but to the best of my memory, we did it. 2 Q And so presumably on this day, you had 3 both kinds of reports ready to go, but nobody came 4 up and tried to buy anything other than heroin. 5 A I cannot state; but if it's in the report 6 that's all they asked for, and that's what we 7 arrested these individuals for, for blows, then 8 yes, I stand by the report. 9 Q What's the number on the top -- it says RD 10 number in the top right-hand corner. 11 A That's a report number -- record number. 12 Q When does that number get generated or how 13 does it -- well, how and when does the RD number 14 get generated? 15 A On the date and time of the occurrence. 16 Q Once you're back at the station? 17 A No. You can ask for an event number on 18 scene. 19 Q Okay. If during a reverse sting -- would 20 you ever get event numbers during the sting, or 21 would it at least wait until after the reverse 22 sting was over? 23 MR. STEFANICH: Event numbers or RD 24 numbers?</p>	<p>550</p> <p>1 from what you've seen so far. I'm asking if you 2 know. 3 A Off the top of my head, no, I do not. 4 Q Do you know where he first encountered 5 police officers on April 24, 2006? 6 A Not off the top of my head, no. 7 Q Do you know whether he was taken down to 8 the lobby of 575 East Browning by officers from an 9 apartment on a higher floor? 10 A From the best of my memory, no. 11 Q That didn't happen to the best of your 12 memory. 13 A To the best of my memory, no, it did not. 14 Q Is that an independent memory or something 15 that you are basing on reading in reports? 16 A It's not based on what I read. If you -- 17 I recall the arrest that was made of Lionel White; 18 and though I don't recall the incident that 19 occurred from the arrest or the physical 20 altercation that was described in the report, but 21 there's nothing in the reports that I believe that 22 he was taken from another location and brought to 23 a different location and processed and arrested. 24 So I'm saying I -- you know, I do not</p>

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Transcript of Elsworth Smith, Jr., Volume II

60 (551 to 554)

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<p>551</p> <p>1 believe that he was at a different location prior 2 to being arrested at the address that is listed in 3 the reports. 4 Q I'm not even saying a different building. 5 I'm just saying from one place in the building to 6 another, from an apartment to the lobby. 7 A I don't believe so. 8 Q And now you're saying you don't believe 9 that it happened. 10 Is that because the reports don't reflect 11 that or because you have a memory of where you saw 12 him being arrested? 13 A I don't recall the -- all of the incident, 14 like I said, what had occurred on that date; but 15 based on my knowledge of working with the officers 16 on my team, I do not think that they would falsify 17 a report. 18 Q So you're basing it on reports, not your 19 personal memory. That's all I'm trying to say. 20 A Based on my personal memory and also the 21 reports. 22 Q Okay. Which part of Lionel White's arrest 23 do you remember? 24 A Like I said, all I remember, as I stated</p>	<p>553</p> <p>1 typically worked. It could depend on -- it 2 depends. 3 Q Is it fair to, at least, say that the 4 physical scuffle didn't happen when he was being 5 placed into the transport vehicle? 6 A Yes. The altercation could have happened 7 before -- had to happen before he was placed into 8 custody. 9 Q Because you didn't see it. 10 A Yes. As I state in my to/from report, I 11 wasn't in a position to observe the physical 12 altercation which took place. 13 Q Do you remember which other officers were 14 around, if any, when you placed Lionel White into 15 the transport vehicle? 16 A I don't recall. 17 MR. RAUSCHER: All right. We're going to 18 mark Exhibit 68, a vice case report. 19 (Smith Deposition Exhibit 68 marked for 20 identification and attached to the transcript.) 21 Q Have you had a chance to review this 22 report? 23 A Yes, I have. 24 Q All right. This is a vice case report of</p>
<p>552</p> <p>1 before, at some point in time that there was a -- 2 Lionel White, he was transported -- I placed him 3 in the transport vehicle to take to the 4 2nd District and also there was him talking trash 5 to Alvin Jones at some point in time, and that's 6 all I can recall. 7 Q You remember that you placed Lionel White 8 in the transport vehicle? 9 A Yes. And I believe -- and I don't recall 10 the exact words I used, but it was in my to/from 11 report that I stated that. 12 Q Okay. What -- tell me about getting 13 Lionel White into the transport vehicle. 14 A I don't recall. Like I said, just based 15 off of my to/from report, that they asked me what 16 physical contact did I have with Lionel White on 17 that date. I stated in my to/from report that I 18 put him in the transport vehicle. 19 Q All right. And was he brought to you, 20 or did you have to go get him to bring him out 21 to the -- 22 A I do not recall, sir. 23 Q How would it typically work? 24 A I do not recall. I can't say how it</p>	<p>554</p> <p>1 Lionel White's arrest on April 24, 2006, at 575 2 East Browning; correct? 3 A That's correct. 4 Q The same location as the reverse sting 5 that we just looked at on all those reports on the 6 same day at the same building; right? 7 A That's correct. 8 Q Did you prepare this report? 9 A It doesn't appear to be. 10 Q Your name is Box 2; right? 11 A That's correct. 12 Q That's actually Box 46 but referred to as 13 Box 2? 14 A That's correct. 15 Q What does it mean that your name is Box 2 16 on this report? 17 A That I was working with Alvin Jones at 18 this particular time. 19 Q You were working with Al Jones when Lionel 20 White was arrested? 21 A I was working with him on that day. 22 Q Why is your name Box 2 on this report with 23 Jones but Box 1 with Mohammed and not Jones on all 24 the other reports?</p>

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61 (555 to 558)

<p>555</p> <p>1 A I have no idea, sir. At some point in 2 time, like I said, obviously, if he's listed on 3 this report, we had to be working together at some 4 point in time. That's all I can state. I don't 5 know why. Alvin Jones prepared this report, so I 6 can't answer for him.</p> <p>7 Q But you would have reviewed it.</p> <p>8 Well, who signed your signature? Is that 9 your handwriting or his?</p> <p>10 A It appears to be Alvin Jones' signature.</p> <p>11 Q But you reviewed this before he signed it 12 because you wouldn't have had him sign it if he 13 wasn't authorized to.</p> <p>14 A That's his signature; but I'm certain if 15 he signed for me, I would have not allowed him to 16 sign my name if I did not review it. And I can't 17 recall the incident which occurred, but I 18 definitely would not have allowed him if I 19 believed the information in the report was false.</p> <p>20 Q Why didn't you -- did you ask him at the 21 time why are you putting me as the second?</p> <p>22 A I don't recall what I asked him on that 23 day.</p> <p>24 Q You don't know whether any of the</p>	<p>557</p> <p>1 Q So this is one -- this was completed after 2 the arrest of Mr. White; right?</p> <p>3 A I would assume so.</p> <p>4 Q That would be the practice for a fully 5 typed report like this; wouldn't it? It would be 6 done after an arrest?</p> <p>7 A That is generally the practice; but, like 8 I said, I do not recall on this particular date.</p> <p>9 Q Do you know why this report lists so many 10 people as witnesses and the other reports from 11 that day didn't list anybody?</p> <p>12 A I do not know, sir. It's two different 13 type of arrests.</p> <p>14 Q What's the differences between the 15 arrests?</p> <p>16 A One is for an actual possession of a 17 controlled substance, and I don't know if he was 18 charged with aggravated battery, it doesn't appear 19 to be listed on this report or not, and the other 20 one was part of a reverse sting operation.</p> <p>21 Q So Lionel White was not part of the 22 reverse sting arrests?</p> <p>23 A Like I said, I don't recall but to the 24 best -- based on the best of my memory, I do not</p>
<p>556</p> <p>1 substantive information in this report is 2 accurate, do you?</p> <p>3 A I believe it's accurate because based on 4 my experience of working with him, that I wouldn't 5 believe that he would falsify a report.</p> <p>6 Q All right. There's something -- a 7 notification to Detective Cisco.</p> <p>8 Do you see that?</p> <p>9 A Yes, I do.</p> <p>10 Q What does that mean?</p> <p>11 A That he had to notify the detectives.</p> <p>12 Q Do you know why?</p> <p>13 A Because if he -- there was a fight or 14 physical altercation between himself and an 15 offender, he probably was trying to charge the 16 offender with a battery to a police officer, and 17 that's why he would have to contact the 18 detectives.</p> <p>19 Q This report is almost entirely printed 20 except for the signatures; right?</p> <p>21 A That's correct.</p> <p>22 Q There may be a couple things filled in 23 like age or end of an inventory number; right?</p> <p>24 A That's correct.</p>	<p>558</p> <p>1 believe so.</p> <p>2 Q Well, if you don't recall, how do you have 3 a memory of it?</p> <p>4 A Like I said, based on the best of memory, 5 I don't recall.</p> <p>6 Q So you don't know one way or the other 7 whether he was part of the reverse sting arrests?</p> <p>8 A No, I do not.</p> <p>9 Q Did you do any of the inventorying of the 10 material that was taken from Lionel White?</p> <p>11 A I don't recall, sir.</p> <p>12 Q Do you know whether the times on this 13 report are accurate as to the occurrence time and 14 the arrival time?</p> <p>15 A I'm not the arresting officer. I'm the 16 second reporting officer, and I do not know. I 17 believe that my partner prepared this report, that 18 the times would be as close to -- as accurate as 19 possible.</p> <p>20 Q When did you review this report at the 21 time -- around the time? Would it have been the 22 same day, April 24, 2006?</p> <p>23 A Yes. Possibly, I would have.</p> <p>24 Q I'm sorry. Go ahead.</p>

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62 (559 to 562)

<p>559</p> <p>1 A No. I'm just saying I don't recall the 2 arrest, but I would have possibly reviewed it. 3 Q Would that have been your practice, to 4 review the vice case report the same day as the 5 arrest? 6 A Yes. That's what you do. 7 Q So at the time, you would have known 8 whether the date of occurrence and date of arrival 9 time was correct; right? 10 A Again, like I said, the times are 11 approximate and may be overlooked at times. It 12 could have been an error. 13 Q When your name is going on somewhere as 14 the second reporting officer, when your signature 15 is going on there, what does that mean? What does 16 it signify? 17 A That you was assisting in some -- at some 18 part of the arrest or something, or you was just 19 working with that individual on that particular 20 day of the arrest. 21 Q Why -- what would be the purpose of 22 putting your name in there and signing a report if 23 all you did was work with somebody or you didn't 24 have anything to do with the arrest?</p>	<p>561</p> <p>1 bringing Lionel White to the transport, or are you 2 just basing that off of the fact that you wrote 3 something like that in a to/from report a long 4 time ago? 5 MR. STEFANICH: Object; asked and 6 answered. 7 A I don't recall this -- the date of this 8 arrest or the incident that occurred; but I would 9 not have wrote something in a to/from, which is 10 also an official police document -- and also I 11 know the ramifications of lying on or falsifying a 12 report. No, I would not have done that. 13 BY MR. RAUSCHER: 14 Q I'm not asking you that right now. I'm 15 asking you -- 16 A Just because I don't -- sitting here 17 today, I don't recall the arrest or the incident 18 which occurred, at that time I probably did have 19 knowledge of it. 20 Q That's actually my question is just do you 21 have a personal recollection of bringing Lionel 22 White to the transport, or were you saying that 23 because you wrote it in a to/from? I'm not trying 24 to give an -- I'm just asking you a question.</p>
<p>560</p> <p>1 A That's typically how we did it. I was 2 assigned to work with this person, and that's how 3 we would do it. We would work -- put the 4 individual who you was working with at the 5 particular time of the incident which occurred. 6 Q Did you ever think about why you were 7 doing it that way? 8 A No, I did not. 9 Q Have you given it any thought since you 10 stopped working on the 2nd District Watts team? 11 A No, I have not. 12 Q As you look at the report now, can you 13 think of any good reasons why someone who may not 14 have been in the arrest at all should be listed as 15 the second reporting officer and sign the report? 16 A No, I do not. 17 Q Are you signing onto the accuracy of the 18 report when you put your name and your signature 19 on there? 20 A Yes. Again, like I said, I would not have 21 allowed Officer Jones or any other officer to sign 22 my name on a report if I didn't feel that the 23 information in the report was accurate. 24 Q Do you have a personal recollection of</p>	<p>562</p> <p>1 A I don't recall. Sitting here today, I do 2 not recall. 3 MR. RAUSCHER: All right. Let's mark this 4 as Exhibit 69. 5 (Smith Deposition Exhibit 69 marked for 6 identification and attached to the transcript.) 7 BY MR. RAUSCHER: 8 Q Do you recognize this document? 9 A This is an inventory report. 10 Q For Lionel White's April 24, 2006, arrest? 11 A That is correct. 12 Q Did you prepare this report? 13 A It doesn't appear to be. 14 Q And why do you think you didn't prepare 15 it? 16 A Because that's not my PC number at the 17 bottom of the -- in the left-hand -- very bottom 18 left-hand corner. 19 Q Do you know whose PC number that is? 20 A No, I do not. 21 Q Do you know how this report was created? 22 A It was created on the computer. 23 Q Do you know where the information came 24 from to go into this report?</p>

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63 (563 to 566)

563	<p>1 A No, I do not.</p> <p>2 Q Did you ever create inventory reports as a</p> <p>3 part of the Watts tac team?</p> <p>4 A Yes, I have.</p> <p>5 Q And how did you -- what was your practice</p> <p>6 for creating inventory reports? How did you get</p> <p>7 the information you needed?</p> <p>8 A As I'm sitting here, I can't recall how I</p> <p>9 did it. Based off of information or -- whatever</p> <p>10 occurred that day, you know, based off of my own</p> <p>11 observation; or if I'm helping assist another</p> <p>12 teammate or my partner, based off the information</p> <p>13 that they provided to me.</p> <p>14 Q Do you remember a time when you were</p> <p>15 sending Fentanyl to the DEA?</p> <p>16 A Do I recall specifically myself?</p> <p>17 Q Was there a program in place that you</p> <p>18 remember where heroin -- or some of the heroin or</p> <p>19 Fentanyl that the team recovered would go to the</p> <p>20 DEA?</p> <p>21 MR. KOSOKO: Objection; form.</p> <p>22 A From the best of my memory, I do not</p> <p>23 recall.</p> <p>24</p>	565	<p>1 Q And is everything in this to/from report</p> <p>2 accurate?</p> <p>3 A Yes, it is because I would not falsify a</p> <p>4 report.</p> <p>5 Q Why did you start the to/from report by</p> <p>6 saying, "This statement is not being given</p> <p>7 voluntarily, but under duress. I am only giving</p> <p>8 this statement at this time because I know that I</p> <p>9 could lose my job if I refuse the direct order</p> <p>10 being given to me."</p> <p>11 MR. KOSOKO: Objection to form. It may</p> <p>12 also possibly call for a legal conclusion.</p> <p>13 A Because we are always advised by the FOP,</p> <p>14 the Fraternal Order of Police, to begin our</p> <p>15 to/froms with that statement.</p> <p>16 Q Do you have any issue with OPS or IPRA or</p> <p>17 COPA investigating civilian complaints?</p> <p>18 A No, I do not.</p> <p>19 Q So is it true that you were only giving</p> <p>20 this statement under duress?</p> <p>21 MR. KOSOKO: Objection to the form,</p> <p>22 foundation, may possibly violate attorney/client</p> <p>23 privilege, and may call for a legal conclusion.</p> <p>24</p>
564	<p>1 MR. RAUSCHER: Okay. We're going to</p> <p>2 mark 70.</p> <p>3 (Smith Deposition Exhibit 70 marked for</p> <p>4 identification and attached to the transcript.)</p> <p>5 BY MR. RAUSCHER:</p> <p>6 Q Do you recognize this document?</p> <p>7 A Yes, I do.</p> <p>8 Q And what is this?</p> <p>9 A A to/from report.</p> <p>10 Q Is this the to/from report you were</p> <p>11 referring to a little bit ago when you talked</p> <p>12 about escorting White to the transport vehicle?</p> <p>13 A Yes.</p> <p>14 Q Fair to say that at the time you</p> <p>15 drafted -- well, let me ask.</p> <p>16 Did you create this by yourself?</p> <p>17 A Yes, I did.</p> <p>18 Q And did you do that in November of 2006?</p> <p>19 A Yes, sir.</p> <p>20 Q When you drafted this to/from statement,</p> <p>21 did you have a memory of transporting White to the</p> <p>22 transport vehicle?</p> <p>23 A If that's what I put in my to/from report,</p> <p>24 yes.</p>	566	<p>1 BY MR. RAUSCHER:</p> <p>2 Q Does that -- can you answer that without</p> <p>3 revealing any attorney/client discussions?</p> <p>4 A What was your question again?</p> <p>5 Q Were you giving this statement under</p> <p>6 duress?</p> <p>7 A Yes.</p> <p>8 Q Did you want to cooperate in the</p> <p>9 investigation into Lionel White's complaint?</p> <p>10 A I'm willing to cooperate in any</p> <p>11 investigation. That's why I'm here.</p> <p>12 MR. KOSOKO: Can we go off the record.</p> <p>13 MR. RAUSCHER: Yeah. Sure.</p> <p>14 MR. KOSOKO: It's important.</p> <p>15 MR. RAUSCHER: That's fine.</p> <p>16 THE VIDEOGRAPHER: Off the record, 4:46.</p> <p>17 (A recess was taken from 4:46 p.m. to</p> <p>18 4:47 p.m.)</p> <p>19 THE VIDEOGRAPHER: Back on the, 4:47.</p> <p>20 Q So I just asked you some questions about</p> <p>21 the statement that you wrote, that you were under</p> <p>22 duress, and I'm not trying to ask for a legal</p> <p>23 conclusion about what duress might mean, but I</p> <p>24 think you've already answered.</p>


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64 (567 to 570)

<p>567</p> <p>1 My question at the end was did you want to 2 help in the investigation into Lionel White's 3 complaint? 4 A Not only Lionel White, any investigation. 5 That's why I'm sitting here today. I'm 6 cooperating with this investigation. 7 Q And because of that, you told the truth 8 when you wrote this to/from statement. 9 A Yes, I did. 10 MR. RAUSCHER: All right. We're going to 11 mark 71. 12 (Smith Deposition Exhibit 71 marked for 13 identification and attached to the transcript.) 14 Q Do you recognize this document? 15 A Yes, I do. 16 Q Can you tell us what it is? 17 A It's an arrest report. 18 Q Is it the arrest report of Lionel White 19 from April 24, 2006? 20 A That is correct. 21 Q Did Alvin Jones create this report? 22 A Yes, he did. 23 Q And you're listed as the second arresting 24 officer because you were his partner that day?</p>	<p>569</p> <p>1 that refers to? 2 A From the best of my memory, I don't recall 3 chasing Lionel White. I think I would recall 4 that. But based off of reading this report, A/O, 5 I would assume that would have been Alvin Jones. 6 Q What's the 2 -- what's 0271 for the 7 transport? 8 A That's the wagon, Beat 271. 9 Q And do you know how the time for the 10 transport is filled in? 11 A I don't recall how it was. 12 Q If the time for the -- the time on the 13 transport is the same for Lionel White and 14 everybody else, does that mean they were all 15 transported in the wagon together? 16 A Like I said, I don't know how the time was 17 placed in here. I don't know. 18 Q It would have been -- 19 A So it could have been an approximate time. 20 I'm not certain. 21 Q You don't know how that information gets 22 filled into an arrest report about transport 23 details? 24 A There again, it's been many years since</p>
<p>568</p> <p>1 A Yes. 2 Q Would you have reviewed this report around 3 the time it was created? 4 A I don't recall if I did, but I'm certain I 5 possibly did. 6 Q It would have been your practice to review 7 this report because your name is listed as the 8 second arresting officer? 9 A Yes. 10 Q Does the second arresting officer signify 11 something different than assisting arresting 12 officer to you? 13 A Well, the second arresting officer could 14 be also an assisting officer also. 15 Q So when you look at a report, unless it 16 specifies a particular person's role, you can't 17 tell what the second arresting officer did as 18 opposed to the assisting arresting officer? 19 A No, you cannot. 20 Q Do you know whether you gave chase to 21 Lionel White on April 24, 2006? 22 A No, I do not. 23 Q It says "A/O gave chase." 24 You don't know who that -- do you know who</p>	<p>570</p> <p>1 I've done any report; and, like I said, just 2 looking at this, referencing these other reports 3 that you mentioned, the transport time was 4 similar. Obviously, it was handwritten in here. 5 So it could have been an error on the reports. 6 Q No. I'm not saying that they were 7 handwritten anywhere. They're typed in the arrest 8 reports. 9 A Or typed in the reports. It could have 10 been typed in the report. It could have been an 11 error. 12 Q Or they could have been transported at the 13 same time. I'm just asking. 14 A I don't have a -- I don't recall what 15 time. If they were transported all at the same 16 time or not, I don't recall. 17 Q Do you know why the vice case report for 18 Lionel White's arrest doesn't list aggravated 19 assault of a peace officer? 20 A No. But just guessing, I don't know. He 21 had to try to get approval from the state's 22 attorneys' office. Again, human error, probably 23 didn't put it on there at that point in time. I 24 don't know why, but you would have to ask Officer</p>

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65 (571 to 574)

<p style="text-align: right;">571</p> <p>1 Jones.</p> <p>2 MR. RAUSCHER: All right. Let's take a</p> <p>3 short break.</p> <p>4 THE VIDEOGRAPHER: Off the record, 4:53.</p> <p>5 (A recess was taken from 4:53 p.m. to</p> <p>6 4:55 p.m.)</p> <p>7 THE VIDEOGRAPHER: Back on the record,</p> <p>8 4:55.</p> <p>9 MR. RAUSCHER: I think by agreement of all</p> <p>10 the counsel for scheduling, we are going to end</p> <p>11 today's deposition. We just completed plaintiffs'</p> <p>12 questioning for Officer Smith on Lionel White,</p> <p>13 Sr.'s, arrest, and then we will resume at a</p> <p>14 different date for different cases.</p> <p>15 THE VIDEOGRAPHER: This concludes day two</p> <p>16 of Elsworth Smith, Jr., the time, 4:55.</p> <p>17 (Off the record at 4:55 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">573</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC</p> <p>2</p> <p>3 I, Joanne Ely, Certified Shorthand</p> <p>4 Reporter No. 84-4169, CSR, RPR, and a Notary</p> <p>5 Public in and for the County of Kane, State of</p> <p>6 Illinois, the officer before whom the foregoing</p> <p>7 deposition was taken, do hereby certify that the</p> <p>8 foregoing transcript is a true and correct record</p> <p>9 of the testimony given; that said testimony was</p> <p>10 taken by me stenographically and thereafter</p> <p>11 reduced to typewriting under my direction; that</p> <p>12 review was requested; and that I am neither</p> <p>13 counsel for, related to, nor employed by any of</p> <p>14 the parties to this case and have no interest,</p> <p>15 financial or otherwise, in its outcome.</p> <p>16 IN WITNESS WHEREOF I have hereunto set my</p> <p>17 hand and affixed my notarial seal this 17th day of</p> <p>18 March, 2020.</p> <p>19</p> <p>20 My commission expires: May 16, 2020</p> <p>21</p> <p>22 <i>Joanne E. Ely</i> </p> <p>23 Notary Public in and for the</p> <p>24 State of Illinois</p>
<p style="text-align: right;">572</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3 I, ELSWORTH SMITH, JR., do hereby</p> <p>4 acknowledge that I have read and examined the</p> <p>5 foregoing testimony, and the same is a true,</p> <p>6 correct, and complete transcription of the</p> <p>7 testimony given by me and any corrections appear</p> <p>8 on the attached errata sheet signed by me.</p> <p>9</p> <p>10</p> <p>11</p> <p>12 _____</p> <p>13 (DATE) (SIGNATURE)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	

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