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CRIMINAL INVESTIGATION

SP-03-10-177  
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**CERTIFIED  
COPY**

TAKEN IN THE PRESENCE OF  
JOHN HANLON, ESQUIRE,  
JEANETTE CAMACHO, ESQUIRE,  
TIMOTHY DONNELLY, ESQUIRE,  
ASSISTANT STATE ATTORNEYS,  
INVESTIGATOR RICHARD RIHA,  
INVESTIGATOR DAN MURRAY and  
PATRICIA BAILEY, NOTARY PUBLIC,  
BROWARD COUNTY COURTHOUSE,  
201 SOUTHEAST 6TH STREET,  
FORT LAUDERDALE, FLORIDA,  
ON JANUARY 9TH, 2004  
COMMENCING AT 9:00 A.M.

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SWORN STATEMENT

OF

SERGEANT STEVE FEELEY

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I N D E X

WITNESS	EXAMINATION
SERGEANT STEVE FEELEY	3

1 (Whereupon, the witness was duly sworn and testified as  
2 follows:)

3 EXAMINATION

4 BY MR. HANLON:

5 Q. Sir, your name is what?

6 A. Sergeant Steve Feeley, F-E-E-L-E-Y.

7 Q. And, sir, you're employed by the Broward County  
8 Sheriff's Office; is that not true?

9 A. Yes.

10 Q. And currently assigned to the Office of  
11 Professional Compliance?

12 A. Yes, that's correct.

13 Q. All right.

14 Sir, I'm John Hanlon. I'm an Assistant State  
15 Attorney here in Fort Lauderdale in the Special Prosecutions  
16 Unit.

17 We have a crowd of attorneys and investigators  
18 here. You know Rich Riha, one of our investigators. Dan  
19 Murray, an investigator. Our lead prosecutor on this case,  
20 Jeanette Camacho, is over here. You know Tim Donnelly, he's  
21 last but more importantly, the chief of the unit.

22 A. Yes.

23 Q. We asked you to come down. In fact, we compelled  
24 you to come down here.

25 And you have been personally served by subpoena to

1 appear today; is that not correct?

2 A. Yes, that's correct.

3 Q. Just for the record, I want to say right at the  
4 very onset, you're in no way, shape or form a target of this  
5 investigation.

6 But just so the record is perfectly clear, this is  
7 an official proceeding. You have been given what's called  
8 Use and Derivative Use Immunity by Florida Statute.

9 Should we ask you a question that would in some  
10 way incriminate you, you still must answer that question.  
11 You forfeit your Fifth Amendment Privilege.

12 But on the positive side for you, you have what's  
13 called Use and Derivative Use Immunity, which means anything  
14 you say today, should we ask you -- and again, you're not a  
15 target.

16 We have no reason to believe you're in any way,  
17 shape or form involved in any form of criminally with  
18 respect to this investigation.

19 But so the record is clear, you must answer the  
20 question, even if it would incriminate you. However, what  
21 you tell us cannot be in any way, shape or form used against  
22 you in a criminal process.

23 Any leads that would be developed from what you  
24 say or would say in this proceedings could be used against  
25 you.

1           You don't have what's called Transactional  
2 Immunity. In other words, somewhere down the road if there  
3 was independent evidence indicating in some way, shape or  
4 form you were engaged in criminal activity, that could be  
5 used.

6           The only way you could get in trouble with us  
7 today is should you lie to us. And I have absolutely no  
8 reason to believe that you would lie and you wouldn't, would  
9 you?

10           A. Absolutely not.

11           Q. Absolutely not.

12           I nor anyone in this room believes you would but  
13 so the record is perfectly clear, should you and it would be  
14 material to this inquiry, you could be charged with a third  
15 degree felony of perjury in an official proceeding.

16           The other way you could get in trouble with us or  
17 not so much with us, in trouble with the system, if you  
18 would say that I'm not going to answer a pertinent question  
19 or a relevant question in this investigation and we would  
20 have to trot you down in front of one of the judges and seek  
21 a rule to compel you to speak to us.

22           But again, we have no reason to believe that you  
23 would do that.

24           You understand?

25           A. I understand.

1 Q. I'm sure you do.

2 Something else I'm going to ask you to do, as I'm  
3 sure you're aware, this is an extremely sensitive  
4 investigation.

5 I'm going to ask you, and speaking for the office,  
6 that you not discuss with anyone what we talk about here  
7 today.

8 Now, I understand that that puts you in an  
9 extremely awkward position.

10 In any event, I'm going to ask you not to discuss  
11 this with anybody. And should you be asked by a supervisor  
12 or by anybody, that you respectfully decline.

13 And as you know as an investigator, the security,  
14 the confidentiality of this investigation is very important  
15 and we wouldn't want anything done that could jeopardize the  
16 inquiry.

17 And I'm saying that, not indicating that any  
18 criminality will be discovered or anybody charged, it will  
19 not help this investigation if every move that's made is  
20 broadcasted.

21 It's not fair to other individuals who might come  
22 in, what they say is spread around. And I know you're a  
23 professional and I would ask that you accede our request.

24 Will you do that?

25 A. Yes, I will.

1 MR. HANLON: Okay.

2 Now, let's see, what else preliminarily? Anything  
3 else? Anybody? No?

4 BY MR. HANLON:

5 Q. Could you just tell us briefly your law  
6 enforcement background.

7 A. I started in the jail, working in the jail in 1989  
8 and spent two and a half years as a detention deputy.

9 I left and went to Oakland Park and worked in  
10 Oakland Park until the Sheriff's Office merged with Oakland  
11 Park in August of 2000 and have been with the Sheriff's  
12 Office ever since.

13 About the last nineteen months or so I have been  
14 assigned to the Office of Professional Compliance charged  
15 with investigating employees' misconduct.

16 Q. You're a detective sergeant; is that correct?

17 A. Yes, sir.

18 Q. Okay.

19 And were you a detective with Oakland Park before?

20 A. Yes, I was a detective since 1994. And when we  
21 merged, I was a detective in the aggravated felonies unit  
22 working major crime and got promoted in January of 2002,  
23 just two years ago this month, and spent the first couple of  
24 months at the airport, working at the airport and then the  
25 last nineteen months in professional compliance.

1 Q. All right.

2 Now, at some point in time were you asked to  
3 either direct or investigate allegations of possible  
4 criminal misconduct that were brought to the attention of  
5 your office by a sergeant, I believe his name is Wayne  
6 Emery?

7 MS. CAMACHO: Who?

8 INVESTIGATOR RIHA: Enser.

9 BY MR. HANLON:

10 Q. Enser, I'm sorry.

11 A. Yes, I was.

12 Q. And when did that come about and under what  
13 circumstances?

14 A. I was notified on August 14th of 2003 to report to  
15 the Inspector General's office.

16 Q. Who is that?

17 A. Martin Rahinsky.

18 Q. Okay.

19 A. And I was told -- I was actually called by another  
20 co-worker who said he got the message also to report to the  
21 Inspector General's Office and that would be Mike Szish,  
22 S-Z-I-S-H.

23 Q. He's also a detective sergeant?

24 A. Yes.

25 Q. Assigned to the Office of Professional Compliance?



1 A. Yes.

2 So we met in the office. He and I met in the  
3 Inspector General's office along with Lieutenant Ulvang.

4 Q. Julian Ulvang, U-L-V-A-N-G.

5 A. Captain Dave Robshaw, R-O-B-S-H-A-W, and  
6 Lieutenant Colonel Danny Wright, W-R-I-G-H-T.

7 Q. What positions do these fellows fill at that time?

8 A. Captain Robshaw at the time was assigned to  
9 training but he was assigned to Professional Compliance for  
10 several years up until last July. He got promoted and moved  
11 out.

12 I believe -- well, I know the reason that he was  
13 in -- he was there because on August 14th Lieutenant Ulvang  
14 had only been in our office -- when Robshaw moved out,  
15 Ulvang took his spot.

16 Ulvang had been in our office only a month, month  
17 and a half and the Inspector General said in front of us  
18 that he called Lieutenant Robshaw, who is now a captain, to  
19 assist in the investigation since it appeared it was going  
20 to be, you know, a rather serious allegations.

21 And he was -- basically Dave Robshaw was brought  
22 on to assist us and help us out.

23 Q. Who is Danny Wright?

24 A. Danny Wright is the lieutenant colonel. He's in  
25 charge of the region where Sergeant Enser works. He is

1 underneath the Sheriff. He would be two underneath the  
2 Sheriff.

3 Q. What's the chain of command there from the Sheriff  
4 and then on down?

5 A. You have the Sheriff at the top. You have  
6 Colonel Carney who is under the Sheriff.

7 Q. What's his first name?

8 A. Thomas Carney.

9 Q. Good.

10 A. Then you have Lieutenant Colonel Danny Wright.  
11 And then there's a major, and I'm not absolutely certain who  
12 the major is. I want to say Dave Carry. Major Dave  
13 Carry.

14 And then the chief, which would be George Jarboe,  
15 J-A-R-B-O-E. And then a lieutenant which would be Scott  
16 Gooding. G-O-O-D-I-N-G.

17 Q. These would be the District 5?

18 A. Right.

19 Q. Upper eschalon?

20 A. If you want to go from Enser all the way to the  
21 top, that's the chain backwards.

22 Q. Okay.

23 There's a ranking individual Brennan. What's his  
24 first name and where does he fit, if you know?

25 A. His name is Lieutenant Colonel -- I believe it's

1 Tom Brennan. And he's a lieutenant colonel who oversees the  
2 criminal investigations units, a lot of the specialized  
3 units to my knowledge. I don't believe he's involved in  
4 road patrol.

5 Q. When Lieutenant Robshaw was in Professional  
6 Compliance, did he report to a captain?

7 A. Yes, he did.

8 Q. Who was that?

9 A. Stan Hodgeman.

10 Q. And was Captain Hodgeman in charge of the Enser  
11 investigation?

12 A. On the 14th of August he was out of town so -- and  
13 again, I believe that was the other reason that the  
14 Inspector General said he brought Dave Robshaw on board was  
15 because Lieutenant Julian Ulvang's immediate boss, Dan  
16 Hodgeman, was out of town.

17 So yes, he had been involved in the investigation  
18 but not the first few days.

19 Q. When did the Enser matter--

20 A. Again, it's my understanding he wrote a memo  
21 earlier that week and I could give you -- there's a date on  
22 the memo.

23 Q. Anything there that would refresh your  
24 recollection, that would be great.

25 And this material has been turned over to this

1 office, has it not?

2 A. Yes.

3 He wrote a memo on August 9th, which looks like it  
4 was a Saturday night. And according to the meetings that we  
5 had, it was turned in maybe Sunday, Monday, somewhere early  
6 in the week, and it made its way through the chain of  
7 command and we were brought on the 14th, which was Thursday.

8 Q. In summary, just briefly, what was the gist of  
9 this letter and his complaint or complaints?

10 A. Although the memo is almost five pages long, the  
11 part of the investigation that we dealt with, you know, the  
12 serious part of the memo was some allegation that he made  
13 about the improper downgrading of crime or misclassification  
14 of crime in District 5.

15 Q. And then with that information it was the  
16 intention of your office to initiate a criminal inquiry; is  
17 that right?

18 A. At that point I don't know if it was -- it was  
19 definitely an inquiry. I don't know initially on whether or  
20 not we knew there was any criminal misconduct.

21 Q. At some point in time though the indications of  
22 criminal misconduct surfaced; is that right?

23 A. Yes.

24 Q. Okay.

25 And would I be correct in saying that the

1 predicate or the center of any criminal aspects of this case  
2 would have been official misconduct; is that correct?

3 A. Yes, that's correct.

4 Q. Which is the falsification by a public employee of  
5 public records. A public employee actually falsifying a  
6 public record or a public employee causing a public record  
7 to be falsified; is that your understanding of the statute?

8 A. Yes, sir.

9 Q. Okay.

10 And that's a third degree felony; is that right?

11 A. Yes, it is.

12 MR. HANLON: Just excuse me.

13 (Whereupon, a recess was had off the record.)

14 BY MR. HANLON:

15 Q. In the interest of Florida Section 838.022,  
16 official misconduct, which makes it unlawful for a public  
17 servant with the corrupt intent to obtain a benefit for any  
18 person through falsified records.

19 MR. DONNELLY: That's since October 1st

20 MR. HANLON: Okay.

21 MR. DONNELLY: 839.25 would have been prior to  
22 October 1st. Same statute.

23 MR. HANLON: Very good. Thank you.

24 BY MR. HANLON:

25 Q. Now, do you know how the Inspector General came to

1 learn about this case?

2 A. No.

3 Q. Okay.

4 You're called to his office when?

5 A. In the afternoon on the 14th of August.

6 Q. Okay.

7 And at that point were you given marching orders?

8 A. Yes, we were.

9 Q. What were you told to do?

10 A. Interview everyone in District 5, including  
11 Sergeant Shawn Enser, which is something that -- actually  
12 interviewing Shawn Enser was the first marching order. And  
13 then to follow that up with interviewing everyone else in  
14 the district.

15 Q. About what?

16 A. About the allegations of improper downgrading,  
17 what we call reclassification of a crime.

18 Q. And did you do that?

19 A. Yes. We went to Shawn. We went and met with  
20 Shawn Enser that same afternoon and spent approximately four  
21 hours with him.

22 Q. Did you take a statement from him?

23 A. Yes. Lieutenant Ulvang took a statement from him.

24 Q. You were present?

25 A. Yes, I was.

1 Q. Okay.

2 A. And we then went and started the interviews of  
3 everyone in the district.

4 Q. And in short, what did Sergeant Enser tell you?

5 A. He was -- he was short on specifics. He gave us  
6 a copy of the letter that was written by Sergeant Mike  
7 Rosenthal, R-O-S-E-N-T-H-A-L, to a District 5 deputy by the  
8 name of Scott Pugliese, P-U-G-L-I-E-S-E, that according to  
9 him showed some reclassification or misclassification that  
10 had occurred. Much of the statement was Shaun--

11 Q. Enser?

12 A. I'm sorry, Shawn Enser voicing his displeasure  
13 with the command, you know, all the way through on the  
14 Powertrack process and the accountability process at BSO.

15 You know, Lieutenant Ulvang was the one that --  
16 you know, although I sat next to him most of the -- you  
17 know, probably eighty five or ninety percent of the  
18 conversation with Sergeant Enser was with Lieutenant  
19 Ulvang. I may have asked a few questions here or there.

20 I knew Shawn. We worked in Oakland Park  
21 together. And although I wasn't close with him, we knew  
22 each other. We've known each other since 1992.

23 So I was there to try and explain to Shawn that it  
24 was pretty serious allegations that have been made and we  
25 need specifics. And that was the gist of the conversation

1 with Sergeant Enser that night.

2 Q. Now, how did this Powertrack play into this?

3 And I'm presuming that -- and I don't want to  
4 presume.

5 Did Enser acknowledge this problem of  
6 falsification of records or downgrading of crimes to the  
7 Powertrack system?

8 A. In his memo he did and we asked him to elaborate  
9 on that. Lieutenant Ulvang really tried to press him on  
10 making a link from his allegation to Powertrack.

11 Q. Okay.

12 Now, let's talk, what is Powertrack?

13 A. Just so you understand, I just want to preface  
14 before I answer that, I have extremely limited involvement  
15 in the Powertrack process and I just want to explain the  
16 reason why.

17 Since we came over from BSO, I was in criminal  
18 investigations. I was the detective.

19 We had -- I had very little involvement as a  
20 detective with the Powertrack process. I've never been in  
21 the process -- been asked to speak of this process.

22 I attended, I believe, one or two Powertracks  
23 while I was assigned to the airport and then I sat in the  
24 audience for a few of them as a spectator.

25 But just so I can preface this, I really don't



1 have intimate knowledge of the workings.

2 If you would like a generic answer, of what  
3 Powertrack is--

4 Q. Just for the record.

5 A. -- it's an accountability process to ensure that  
6 issues and problems within Broward Sheriff's Office are  
7 being addressed by people who are responsible for those  
8 areas.

9 Q. Now, this Powertrack I understand is some sort of  
10 a weekly -- is it a weekly sort of--

11 A. Yes, it's every Tuesday and there's three  
12 sessions. And each command -- I'm sorry, most of the  
13 commands appear every six weeks. I think there's some  
14 commands that appear every twelve weeks.

15 Q. Who are called to appear or ranks?

16 A. The presenters, the people who are called to  
17 appear, the presenters are the chiefs or the captains or  
18 people who are responsible for that particular area.

19 Q. Would that include lieutenants and sergeants?

20 A. Yes.

21 Q. Okay.

22 And they are called before whom?

23 A. There is -- and I believe they call it a  
24 Powertrack board who are people -- the board is made up of  
25 the Sheriff, Colonel Carney, the lieutenant colonels and I

1 believe most, if not all, of the majors.

2 Q. Now, in the memo from Sergeant Enser -- and I  
3 understand there were a number of interviews of him; am I  
4 wrong in that?

5 A. Yes, there were multiple interviews.

6 Q. How did, if he did, and I get the impression that  
7 he did, how did he link the Powertrack accountability system  
8 to this, his reporting of the practice of downgrading  
9 crimes, how did that play?

10 A. I was not involved in the second statement but in  
11 the first statement -- the second statement is significantly  
12 longer than his first statement but I wasn't involved in  
13 that at all.

14 In the first statement he makes the correlation  
15 that by a crime not being properly classified or  
16 reclassified, that it affects the act to be accountable. It  
17 affects your accountability.

18 And the gist, what he was saying, it affects it so  
19 that it's not accurate. That's -- I don't know really how  
20 else to say it.

21 Q. Saying that by downgrading crime -- what I don't  
22 understand or would like to better understand is what does  
23 Powertrack have to do with that?

24 A. Within a district you have -- everyday people call  
25 the Sheriff's Office to report a crime. And when that

1 happens, they call a dispatcher who dispatches a call. In  
2 turn, a deputy responds out to a scene.

3 If that deputy does not properly document the  
4 report or changes the classification of a report from one  
5 thing to another, it then affects the accuracy.

6 If you're going to count all of your crime at the  
7 end of the week or at the end of the day or at the end of  
8 the month, it would then affect the numbers and that is --  
9 that's a lot of what he was talking about in his statements  
10 and in his memo.

11 Q. What is he suggesting?

12 A. He makes a couple of statements in his memo where  
13 that he's fighting a system of our supervisors playing a  
14 Powertrack game, which I can't take a hit in my zone at any  
15 cost.

16 I'm reading directly from his memo.

17 He described it as a coercive approach by  
18 supervisors to deputies to either get rid of a call or a  
19 crime instead of working it properly.

20 Q. Okay. Now, the--

21 INVESTIGATOR RIHA: Could I jump in for one  
22 minute?

23 MR. HANLON: Sure.

24 MR. RIHA: The only reason I'm saying this,  
25 whoever reads this record can follow it in some logical

1 sequence, and what you're describing is when that  
2 citizen makes a call to the Sheriff's Office to report  
3 a crime, that call is then given a case number; is that  
4 true?

5 THE WITNESS: Yes, it is.

6 INVESTIGATOR RIHA: It's also given a  
7 classification.

8 Like if a citizen is saying that somebody broke  
9 into my car, it would be a burglary auto so dispatch  
10 would then assign a header to that crime number; is  
11 that correct?

12 THE WITNESS: Yes, that's correct.

13 INVESTIGATOR RIHA: I think what you're saying  
14 then is so when the deputy responds to that citizen's  
15 call, if he changes it, he's changes it from what  
16 dispatch would have ordinarily or originally had  
17 assigned that number; is that correct?

18 THE WITNESS: Yes.

19 MR. RIHA: I just want to make that absolutely  
20 correct.

21 BY MR. HANLON:

22 Q. That appears on the document, does it not?

23 A. Yes, it does.

24 Q. What document is that?

25 A. It is called a CAD header sheet. And when you

1 call BSO to report anything and the dispatcher types that  
2 into the computer, it makes a record of that and that record  
3 is kept by BSO.

4 And it's just -- I think normally it's a one-page  
5 sheet and it talks about who the person is, what their name  
6 is, what happened, you know, basically your typical stuff  
7 dispatch would get in order to send the deputy to the scene.

8 Q. And it records who was sent, does it not?

9 A. Yes, it does.

10 Q. When that deputy arrives, and let's say he makes  
11 contact with the individual and he makes a determination  
12 that it's not a burglary auto but it's lost property, what  
13 does he record?

14 Does he fill out a document? Does he go back to  
15 dispatch? Where would it be recorded that the  
16 classification is changed?

17 A. Well, many times there are -- let me just, before  
18 I answer that question, I want to say there are many times  
19 reclassifications are done for absolutely legitimate reasons  
20 and many times that occurs.

21 And so what he would do is he would get on the  
22 radio and he would say I need, what's the case number for  
23 this call I'm on. And then he may say to the dispatcher,  
24 this is not a burglary, this is a theft because the  
25 circumstances of the dispatcher may -- the dispatcher's

1 understanding of the crime may be different than the  
2 deputy's and that often happens.

3 Q. Would this appear on the CAD header sheet?

4 A. That would appear on the CAD. The dispatcher who  
5 typed the notes in from the call and changed the call from  
6 what it's originally to what the deputy is now making it,  
7 that would appear on the CAD header sheet.

8 Q. The deputy, he fills out a daily report too; does  
9 he not?

10 A. Yes, he does.

11 Q. What would appear on that?

12 A. On the daily report, every call that he's  
13 dispatched to, you have a bunch of boxes or fields on this  
14 daily report and it's something that they generate on their  
15 laptop computer.

16 And the first box is going to be dispatch signal.  
17 And then I'm not sure what order these appear in but, you  
18 know, what time the call -- what time they were dispatched,  
19 what time they arrived, what time they completed it.

20 And then there's also a box on that daily report  
21 that said -- that I believe said coded-out signal, which is  
22 eventually when they left that call and finished that call,  
23 what that call was reclassified to, if it was changed.

24 Many times it stays -- you know, a vehicle  
25 burglary is a Signal 21. It may be coded out signal maybe a

1 21 so it wouldn't change but if there was a change, that's  
2 where they would put it.

3 Q. Now, your office prepared a summary report which  
4 bears your name, is that right, Steve Feeley?

5 A. That's me.

6 Q. Okay.

7 And in there, for instance, on Page 11, it speaks  
8 of information as attributed to Sergeant Enser, when he says  
9 I seem to have burned those bridges since the first day I  
10 contested the downgrading of crimes and refused to allow  
11 deputies that work for me to downgrade crimes and get rid of  
12 the calls.

13 And he indicates again on that paragraph that I  
14 don't seem to get asked behind closed doors as others do,  
15 quote, " just play the game", unquote. I won't if it  
16 requires me to manipulate the U.C.R.

17 Now, on Page 12 there's mention of the  
18 allegations.

19 One that jumps out, of course, is number three,  
20 deputies constantly try and get rid of the call/ crime by  
21 either not making a report, omitting facts and elements from  
22 the reports to downgrade the incident, threatening the  
23 victim and then finally getting a waiver signed.

24 Is he attributing this in this practice in some  
25 way, shape or form to the Powertrack system?

1           A.    He calls it a Powertrack game is what his words  
2           are in his memo.  It's a Powertrack game.

3                    So, you know, if you're asking me the question  
4           does he attribute it to Powertrack, the answer to that would  
5           be yes.

6           Q.    Okay.

7                    Now, in connection with your investigation and  
8           interviews of Sergeant Enser, did you undercover examples of  
9           what he was talking about?

10          A.    Yes, we did.

11          Q.    And what were they just briefly?

12          A.    That first night he gave us the memo from  
13          Rosenthal to Pugliese which detailed a Swap Shop grand theft  
14          case is what we classified it in the report.

15                   The second--

16          Q.    Is that the one where it was eventually reported  
17          or attributed to the owner of the property that it was lost  
18          property, currency that had been left somewhere and it was  
19          eventually decided he lost it rather than it was stolen?

20          A.    Yes.

21          Q.    Who worked on that case, actually had a hands-on  
22          involvement?

23          A.    The detective that worked on that was at the time  
24          Detective Rudolph Nesbitt, N-E-S-B-I-T-T.

25          Q.    Now, when you mention him -- and again, I think in



1 conjunction with your investigations you took a number of  
2 compelled statements; is that not correct?

3 A. Yes.

4 Q. Should we blunder in any way, shape or form ask  
5 you about anything that you might have gathered in  
6 connection with these compelled statements, will you please  
7 stop us because we don't want to delve into that area.

8 A. Okay.

9 Q. You indicated in your report who you took  
10 compelled statements from. Did you take a compelled  
11 statement from Nesbitt?

12 A. Yes, we did.

13 Q. Okay.

14 Who else had hands-on at the Swap Shop case?

15 A. Sergeant Rosenthal was the person who took the  
16 initial report.

17 Q. And now, you had indicated earlier in the  
18 statement that Sergeant Enser had turned over to you a memo  
19 or a piece of paper or something that it was given to him by  
20 Rosenthal; is that right?

21 A. I don't think we ever determined where Enser got  
22 it from.

23 Q. Okay.

24 But in any event, he had his hands on a Rosenthal  
25 memo or document or piece of paper attributed to Rosenthal;

1 is that right?

2 A. Yes.

3 Q. And you interviewed Rosenthal eventually about it,  
4 didn't you?

5 A. Yes, I did.

6 Q. Did that bear upon the Swap Shop case?

7 A. Yes.

8 Q. And basically what did Rosenthal say in his  
9 statement -- which was not compelled; is that correct?

10 A. Yes, that's correct, it was not compelled. It was  
11 a witness statement.

12 Q. What did Rosenthal tell you?

13 A. That he responded to the Swap Shop. He was  
14 working a detail there. He met with the worker in a booth  
15 at the Swap Shop.

16 The worker indicated that someone had stolen a bag  
17 of -- it was like a fanny pack, I believe, of money -- that  
18 contained money and a few other things, some personal  
19 things.

20 It was a significant amount of money. I believe  
21 it was twenty eight hundred dollars. And that they looked  
22 around for it and they couldn't find it.

23 And that he classified the case as a grand theft  
24 after interviewing and speaking with the reportee. And the  
25 bag of money had contained basically the weeks receipts for

1     that booth.

2           Q.     And now, in connection with your investigation,  
3     the victim of the theft was interviewed and it was his  
4     belief the money was not lost, that it was stolen; is that  
5     right?

6           A.     Yes.

7           Q.     So after Rosenthal classifies it as he does, what  
8     happens according to Rosenthal?

9           A.     He said he gets it back. He completes an event  
10    report, turns it in and he gets it back interoffice mail  
11    from a deputy by the name of Scott Pugliese. I believe he  
12    said maybe a week later or so.

13                   Sergeant Rosenthal doesn't work in that district.  
14    He worked -- at the time he worked in the neighboring  
15    district.

16                   He gets this interoffice mail package back asking  
17    him to reclassify this report and another report.

18           Q.     What was the other one?

19           A.     The other one was involving a report that  
20    Rosenthal had recovered some -- sorry, that Rosenthal had  
21    reported as a recovered stolen vehicle.

22           Q.     Out of Baltimore?

23           A.     Out of Baltimore, right. That appears to have  
24    been a misclassification of Rosenthal's part.

25                   It was a little bit of a conflict on the truck

1 wasn't stolen and that reclassification appears to have been  
2 correct. The request to have that reclassified appears to  
3 have been a genuine request.

4 Q. So back on the Swap Shop, the money, it comes back  
5 from Pugliese and Pugliese says what?

6 A. According to Rosenthal there's a sticky note on  
7 there saying please reclassify this to a lost property.

8 Q. Now, you spoke to Pugliese?

9 A. Yes, I did.

10 Q. And that was a witness statement?

11 A. Yes.

12 Q. Okay.

13 What does Pugliese tell you?

14 A. He says he's not sure who sent it or why he sent  
15 it back or who told him to send it back.

16 Because it has been eighteen months after the time  
17 when I took his statement from the time that this happened,  
18 maybe not eighteen months but it was more than a year and he  
19 was a little foggy on exactly who told him to send it back.

20 Q. Okay.

21 And then the chain of command, would that have  
22 been -- I mean, can a deputy -- would it have been logical  
23 for someone to direct Pugliese or would he take it upon  
24 himself to do something like that?

25 A. I believe I asked him that question and he said he

1 did -- he would not have taken it upon himself and most  
2 likely been directed.

3 I believe he speculated that it was Sergeant  
4 Tischart who told him to do that.

5 Q. What's his first name?

6 A. Robert. T-I-S-C-H-A-R-T.

7 Q. You took a compelled statement from him, did you  
8 not?

9 A. Yes.

10 Q. Or somebody did?

11 A. Yes, I did.

12 Q. Okay.

13 Now, in talking to Rosenthal, based with Enser  
14 putting out there that folks were playing the quote,  
15 " Powertrack game", unquote, did anyone ask Rosenthal about  
16 that?

17 A. Yes.

18 Q. What did he say?

19 A. He said that he's heard rumblings and had some  
20 firsthand knowledge of -- and I think he used the word  
21 power-tracking but I know that's how Enser referred to it,  
22 but Rosenthal was more of a -- he knew of some  
23 misclassifications or some reclassifications that had  
24 apparently been done.

25 Q. Did he attribute those reclassifications to the

1 reason being because of Powertrack and its accountability,?  
2 Did Rosenthal give you any reason why these instances took  
3 place?

4 A. I think that he attributed it to wanting to have  
5 less crime.

6 Q. Why would that be?

7 A. Because it's part of the accountability process of  
8 Powertrack.

9 Q. Okay.

10 Is the reduction of crime a strong topic of  
11 concern or consideration during these Powertrack sessions to  
12 your knowledge?

13 A. It's one of many.

14 Q. Okay.

15 So Rosenthal tells you that it's his belief, did  
16 he not -- I'm just trying to paraphrase me and correct me if  
17 I am wrong -- did he tell you it's his belief that these  
18 changes could be laid at the feet of the Powertrack  
19 accountability and a desire to show a reduction in crime?

20 A. I don't think we really got into that with  
21 Rosenthal. You know, it's -- although I understand the  
22 question that you're asking, it really wasn't, you know--

23 Q. The reason?

24 A. We talked about the reduction of crime. That's  
25 kind of -- he said there's a pressure or pressure out there

1 to solve crime, you know, and I think we talked about the  
2 misclassifications of crime.

3 Q. Of course--

4 A. Lowering the numbers.

5 Q. -- that's a desirable thing, is that not right, a  
6 desire to reduce crime?

7 A. Sure.

8 Q. I get the impression that it was Enser's feeling  
9 that there's one way you solve the crime, you actually solve  
10 it or you somehow say that there's no crime committed?

11 A. That's a big part of Enser's complaint.

12 Q. That's right?

13 A. Yes, it is.

14 Q. Let's jump ahead, while you were involved in that  
15 investigation, did you come to any conclusion as to the  
16 accuracy of what Enser was saying?

17 A. Based on my investigation here, I've concluded  
18 that there are several -- there were several, and I like to  
19 use the word questionable incidents of reclassification or  
20 misclassification of crime within District 5.

21 Q. Right.

22 And there was the Swap Shop situation we talked  
23 about?

24 A. Right.

25 Q. There was the automobile break-ins that I believe

1 were handled by a Deputy Kantor?

2 A. Yes.

3 Q. What's his first name?

4 A. Michael; K-A-N-T-O-R.

5 Q. Those were a couple areas, right?

6 A. Yes. There was a -- what we classify as a lost  
7 canoe or stolen canoe.

8 Q. That was where the hawser, H-A-W-S-E-R, was cut  
9 and it was classified it must have drifted away; is that the  
10 one?

11 A. Yes.

12 Q. And there was another one, right, if you recall?

13 A. Well, the fourth one would have been cab fare/  
14 lost wheel summary which were two different reports.

15 Q. And based on your experience, the cab is where the  
16 guy beat the cab driver out of his fare and took off with  
17 the fare, is that the one?

18 A. I believe it was a woman, yeah.

19 Q. And based on your experience -- let's talk about  
20 the cab fare, that was initially reported as what?

21 A. As a theft I believe.

22 Q. Okay.

23 And then what did it end up as?

24 A. I believe it ended up as a theft.

25 Q. Okay.



1           Was there any effort to change that?

2           A.    Yes, there was.

3           Q.    Who did that and what was the change?

4           A.    I just want to go to my--

5           Q.    Sure, absolutely.

6           A.    -- report.

7           Deputy by the name of Caldwell.

8           Q.    What's first name?

9           A.    Chris. Christopher.

10           Okay, Chris was asked to reclassify a report from  
11 a civil matter to -- I'm sorry, from the theft to a civil  
12 matter.

13           Q.    Did he tell you who told him to do that?

14           A.    We determined that from -- we never interviewed  
15 him but we determined that through a review of the reports  
16 and a criminal investigation, supervisor called a C.I.  
17 supervisor, who at the time was Sergeant Pete Suttler, had  
18 sent him the report back with a request to have it changed  
19 to a civil matter.

20           Q.    Suttler, you took a compelled statement from him,  
21 didn't you?

22           A.    No, we did not.

23           Q.    Did he give you a voluntary statement?

24           A.    Yes, he did. Yes, he did but I don't believe that  
25 -- because this one was never reclassified, I don't believe

1 we asked Pete Suttler about that.

2 Q. All right.

3 Who handled that lost boat case?

4 A. It was a community -- you mean originally?

5 Q. Yeah?

6 A. Community Service Aide by the name of Veronica  
7 Landsmann, L-A-N-D-S-M-A-N-N.

8 Q. What was that initially reported as?

9 A. She actually reported that as lost property.

10 Q. And did it stay lost property?

11 A. No, it did not.

12 Q. Why not?

13 A. Enser, Sergeant Enser I believe sent it back to  
14 her indicating that it was most likely going to be a theft  
15 of the boat.

16 It was going to be a theft and she needed to  
17 reclassify it because it was lacking some information in the  
18 report. The report was not -- was not very lengthy.

19 Q. Now, this gal was interviewed; is that right?

20 A. Yes, she was.

21 Q. Did she tell you why she did that?

22 A. Yes, she did.

23 Q. What did she say?

24 A. She said that many times she would classify  
25 reports as lost property if the victim had very little or no

1 information about the circumstances involving when it was  
2 stolen, where it was stolen, if there were any witnesses, if  
3 they had no witnesses to say that it was stolen.

4 That's when they would reclassify it. Not  
5 reclassify it, she would classify it.

6 Q. Did she tell you why she did that, handled the  
7 matters in that fashion?

8 A. It was kind of the way she was trained or told to  
9 do things.

10 Q. Okay.

11 Did she tell you who told her?

12 A. Yeah, we discussed that in her statement. I just  
13 want to make sure I get this right so I'm looking at her  
14 statement.

15 I asked her why she classified the report as lost  
16 property if the person who was reporting this was originally  
17 reporting it as lost property.

18 Landsmann replied I was just always told to, if no  
19 one saw anyone take the boat, we were told to put it in as  
20 lost property.

21 And she said she was told to classify theft  
22 reports to lost properties by Tischart and Enser -- Sergeant  
23 Tishcart and Sergeant Enser who were her supervisors at the  
24 time.

25 Q. Now, with regard to Kantor, as I recall there were

1 a series of maybe four break-ins of vehicles and how they  
2 were initially reported.

3 A. I think that's correct.

4 Q. Was there not like four cars broken into?

5 A. Yes. And they were all initially reported as  
6 vehicle burglaries.

7 Q. What did they end up as?  
8 Would you like more water?

9 A. That would be great.

10 Q. What did they end up?

11 A. Suspicious incidents.

12 Q. Okay.

13 Now, did someone catch that?

14 A. No.

15 Q. You folks did?

16 A. We did.

17 Q. And you interviewed Kantor?

18 A. Yes.

19 Q. And he gave you a sworn voluntary statement?

20 A. Yes, he did.

21 Q. What did he tell you? Just briefly, did he tell  
22 you why he did that?

23 A. Yes, he did.

24 Q. What was his response?

25 INVESTIGATOR RIHA: Was that an involuntary

1 statement?

2 THE WITNESS: We took a series of three statements  
3 from Deputy Kantor.

4 BY MR. HANLON:

5 Q. And they were voluntary, right?

6 A. Two of them were. The first one was absolutely  
7 voluntary. The second time we asked him to come back and  
8 clarify a few things, again, because we didn't know at the  
9 time what we were dealing with or what the story was.

10 We talked to Kantor and then we talked to another  
11 deputy by the name of Chad Bailey and then we talked to  
12 Kantor again.

13 So because of something that Chad Bailey told us  
14 yes, I'm confident in saying that the first two were  
15 voluntary but that's a decision that you guys have to make,  
16 I guess, whether or not you want to ask me or tell you what  
17 he said in those first two.

18 Q. But there wasn't, you didn't give him the quote "  
19 Garrity preamble" in either the first two?

20 A. No, we did not.

21 Q. The only thing that would smack in the certain  
22 involuntariness would be the second statement because we  
23 asked you to come back and talk to you?

24 A. Yes.

25 Q. But you didn't tell him if you do not talk to us,

1 the usual Garrity business about insubordination, refusal  
2 and all that?

3 A. No, we didn't.

4 Q. And it's your feeling that what he told you in the  
5 second statement was voluntary?

6 A. Yes, it's my belief.

7 Q. Okay.

8 What did he tell you in the first two?

9 A. The first one was a very short statement  
10 indicating -- this was on the 15th of August -- indicating  
11 he was unaware of any improperly classifying crime in  
12 District 5.

13 We asked him specifics, if he heard any rumors,  
14 innuendos that supervisors were doing away with calls or  
15 making calls or crimes non-crimes to avoid the appearance of  
16 a higher crime rate and he replied he was not aware of that  
17 situation.

18 MR. HANLON: All right.

19 During his second statement -- before you go into  
20 that, if anybody has a different view?

21 Go ahead.

22 THE WITNESS: Okay. I know you want to ask me  
23 what he said in the second statement. It will be a  
24 little easier if I told you what happened with the  
25 statement right before that.

1 BY MR. HANLON:

2 Q. With Chad Bailey?

3 A. Yes.

4 Do you want me to tell you?

5 Q. Yes.

6 A. Chad told us he heard three or four hands that  
7 Sergeant Davidson, his first name is Wesley, W-E-S-L-E-Y,  
8 that Davidson asked Kantor to change the classification of a  
9 crime.

10 And then he went onto explain that Kantor had told  
11 him there was a series of vehicle burglaries that occurred  
12 in his zone, in Chad Bailey's zone on Chad Bailey's day off  
13 and he was kind of letting him know and he said that.

14 Q. The " he" being?

15 A. Bailey said that Kantor told him that Davidson  
16 either told him to change the report or reclassify them.

17 And Bailey offered that Kantor wasn't real  
18 comfortable with that but whether or not -- whether he  
19 changed it or not, Bailey did not have any firsthand  
20 knowledge of that because he was off on that day.

21 Q. So with this you go back to Kantor?

22 A. Right. We say you sure there wasn't anyone  
23 telling you something you weren't supposed to do, some  
24 vehicle burglaries, things like that.

25 And that's when he indicated that during the

1 previous Powertrack reporting cycle -- and the cycle is six  
2 weeks -- he was dispatched to, I believe he said it was  
3 three vehicle burglaries in an area and that the victims  
4 either didn't want -- had changed their mind and had  
5 indicated they didn't want to file reports.

6 Q. And you went back and interviewed those people and  
7 that was not the case?

8 A. According to them, that was not the case with all  
9 four. And it wasn't three, it was four vehicle burglaries  
10 because we then asked Kantor to produce his daily report.

11 Q. Now, you surfaced that Kantor case.

12 Through your investigative technique to surface  
13 this thing with Kantor, what did you do? What documents did  
14 you review?

15 A. We told him right there and then, we said we want  
16 to see your daily report, show us what you're talking  
17 about.

18 So he went out to his police car and printed his  
19 daily report and we looked at it and we saw what he was  
20 talking about.

21 And in that daily report it showed that he was  
22 actually dispatched to four vehicle burglaries in a  
23 neighborhood.

24 Q. Would that appear on his daily or would that be  
25 from a review of the dispatch documents?



1 A. No, that was from his daily report.

2 Q. Okay.

3 Now, you also, in just summarizing -- I know it's  
4 tedious for you, I'm trying to get a summary of the  
5 investigation -- you also interviewed a number of deputies  
6 in District 5?

7 A. Yes.

8 Q. And you interviewed upper management in District  
9 5, which would have been Lieutenant Gooding, and what's his  
10 first name?

11 A. Scott.

12 Q. He's the investigative lieutenant?

13 A. Yes.

14 Q. And you interviewed Captain Jarboe, what's his  
15 first name?

16 A. George.

17 Q. If I understand it correctly, they were asked  
18 about -- what were they asked? Tell us in brief.

19 A. We asked them is there any system in place in the  
20 district to improperly classify crime and they both silently  
21 denied.

22 Q. All of them denied--

23 A. All of them.

24 Q. -- from whom you took voluntary statements?

25 A. Yes.

1           Q.    Now, and I asked the question earlier, from  
2   looking at Sergeant Shawn Enser's complaints and talking  
3   about the Powertrack game and the downgrading of crimes,  
4   deputies trying to rid the call or crime by either not  
5   making a report, omitting facts, whatever that we mentioned  
6   earlier, at some point did you come to the conclusion that  
7   Enser was correct? And I get the impression that he's  
8   laying this off on the Powertrack system.

9                   At some point in time as the lead investigator did  
10   you come to the conclusion of what Enser was saying was  
11   correct or wasn't?

12           A.    Again, with the information that's in front of  
13   you, that was in front of me, it certainly seemed like there  
14   were some questionable things going on within the district  
15   that, you know, we looked at and investigated it.

16                   But again we're being told in interviews, on  
17   one-on-one interviews, that this isn't going on.

18                   So I guess to draw a conclusion on what's in front  
19   of you or what's in front of me at that point was there was  
20   some questionable classification going on in the district.

21           Q.    Okay.

22                   Did you ever form -- did you ever come to the  
23   conclusion, either you or any of your associates, as to why  
24   this was going on?

25           A.    You know, we took a statement from Deputy Pugliese

1 about this, an actual witness statement having nothing to do  
2 with the case he's involved in.

3 And he talked about there's intense pressure to  
4 solve crime and to clear crime within the district, so I  
5 guess it all comes down from the accountability.

6 You know, you want to clear a crime. There's ten  
7 crimes in your zone, you want to clear them. The stuff  
8 that's in front of me certainly looks like this was done,  
9 you know.

10 The answer to the question is I don't know why it  
11 was done. You know, I don't know if it's directly tied  
12 into Powertrack. I don't know if it's directly tied into  
13 supervisors pushing this. You know, we're just not sure.

14 Q. Okay.

15 There could be any number of reasons for it?

16 A. Yes.

17 Q. A lazy deputy?

18 A. Yes.

19 Q. A lazy detective?

20 A. Yes.

21 Q. But would a reason be as enunciated by Enser?

22 A. I'm sorry.

23 Q. For the reclassification of crime, there could be  
24 any number of reasons?

25 A. Yes.

1 Q. A deputy could be taking it upon himself because  
2 he's a slug and he's lazy and he doesn't want to work the  
3 case; is that right?

4 A. Sure.

5 Q. But could a reason be the Powertrack, the pressure  
6 to lower crime and to appear--

7 A. That is a possibility.

8 Q. Okay.

9 And that crossed your mind?

10 A. Yes.

11 Q. Okay.

12 Now, before I forget, is there any financial  
13 reward for doing well in front of Powertrack that you know  
14 of?

15 A. I know that there have been bonuses associated  
16 with that but I do not know that for one hundred percent  
17 certainty.

18 Q. Okay.

19 Does your performance on Powertrack in any way  
20 impact upon your desirability for additional responsibility  
21 or advancement within the Sheriff's Office?

22 A. Again, you know, you're asking me to speculate  
23 because I really don't have a lot of--

24 Q. All right.

25 A. I never stood in front of this board. I heard

1 people that do well within the system do well within the  
2 agency.

3 Q. Right.

4 A. I think, you know, that's understandable, you  
5 know.

6 Q. Now, in connection with this, at some point in  
7 time it was decided, was there a decision made that in the  
8 view of you folks that you had discovered evidence of  
9 criminal culpability on behalf of anyone?

10 A. Yes.

11 Q. And who was that?

12 A. Deputy Kantor.

13 Q. And that would have been an official misconduct  
14 charge?

15 A. Yes.

16 Q. All right.

17 And that would have been the falsification of his  
18 daily report?

19 A. Yes.

20 Q. And that evidence supporting that would have been  
21 the fact that he had indicated on his report that these  
22 folks didn't want to make a report but after interviewing  
23 him, that was not the case?

24 A. That's correct.

25 Q. Okay.

1           And at some point in time was it decided to bring  
2   this thing, this case to the State Attorney's Office?

3           A.    Yes, it was.

4           Q.    Whose decision was that, if you know?

5           A.    It is a decision that was made collectively by  
6   myself and Lieutenant Ulvang, who is the executive  
7   lieutenant.

8           What happens is when a case -- when there's  
9   something in front of you that looks like it could be  
10  potential misconduct or a criminal misconduct, it is routine  
11  for us to prepare a package, put a memo on it and ship it to  
12  you guys.

13          And it was routine and I believe it still is  
14  routine that that is normal business practices for us.   And  
15  I discussed it with Lieutenant Ulvang that this looked like  
16  official misconduct and I discussed it with Captain Hodgeman  
17  that this looked like official misconduct and he agreed.  
18  It was a conversation I had with Hodgeman probably back in  
19  September.

20          Q.    2003?

21          A.    Yes.

22          And, you know, ultimately Lieutenant Ulvang signed  
23  off on it and came down here but, you know, we're all -- he  
24  and I made this decision together.

25          Q.    Okay.

1 MS. CAMACHO: I have one quick question, was  
2 Deputy Kantor the only one you had concerns about?

3 THE WITNESS: For official misconduct at the  
4 time. It seemed to be the most egregious out of all of  
5 them.

6 MS. CAMACHO: Why do you say that?

7 THE WITNESS: Because he went to four different  
8 calls on one day in one area and basically did what  
9 Shawn Enser alleged in his memo, he got rid of four  
10 crimes in one day.

11 And so we routinely send cases that we feel, you  
12 know -- yeah, that's the one that we decided to send  
13 down here, you know.

14 Without getting into the Garrity on the other  
15 ones--

16 MS. CAMACHO: Right.

17 THE WITNESS: -- the decision was made to send him  
18 down here.

19 MS. CAMACHO: Just real quick, for example, on the  
20 Swap Shop, Sergeant Rosenthal did not reclassify that,  
21 did he?

22 THE WITNESS: No, he did not.

23 MS. CAMACHO: Who actually did that?

24 THE WITNESS: It was the Detective Rudy Nesbitt.

25 MS. CAMACHO: Did you ever go back and review any

1 of his previous reports to see if he had done that?

2 THE WITNESS: No, we did not.

3 MS. CAMACHO: So in other words, you only looked  
4 at one particular case with Detective Nesbitt and did  
5 not look at any previous reports?

6 THE WITNESS: That's correct.

7 MS. CAMACHO: Was there any particular reason for  
8 that?

9 THE WITNESS: Yes.

10 MS. CAMACHO: All right. I guess we'll get to  
11 that.

12 Go ahead.

13 MR. HANLON: We're there. We were getting  
14 there.

15 BY MR. HANLON:

16 Q. To your knowledge, of course, Enser goes --  
17 Sergeant Enser goes on the record and indicates that this  
18 accountability situation is causing or the downgrading of --  
19 correct me if I'm wrong, Enser is saying the downgrading of  
20 crime to a great extent is related to the foot of this  
21 accounting system; is that right?

22 A. Yes.

23 Q. Is this the first time that's ever surfaced at the  
24 Sheriff's Office to your knowledge?

25 A. I don't know.



1 Q. Okay.

2 Based on Sergeant Enser's allegations, was there  
3 ever any discussions to broadening this investigation beyond  
4 Kantor and/or beyond District 5?

5 A. Yes.

6 Q. Okay.

7 Now, how did that come up and at what point and  
8 who suggested the broadening of the investigation?

9 A. There were several meetings.

10 Q. And let me ask you this: It was your desire to  
11 broaden the investigation?

12 A. Yes.

13 Q. Okay, why?

14 A. Because it would give us a better idea of whether  
15 or not Enser's allegations were in fact true or accurate.  
16 Accurate is probably a better word.

17 It would have given us the opportunity with --  
18 especially with Kantor, to determine whether or not he has  
19 done this in the past and see if there was a pattern and see  
20 if anyone else was tied into -- anyone else was tied into it  
21 or if anyone else was doing it.

22 Q. All right.

23 A. And I said it before, Kantor was not hiding  
24 anything. I mean, Kantor laid it right there in his daily  
25 report so that was an issue early on that I looked at and

1 said, you know, we should look into this.

2 Q. Okay.

3 Was it your feeling that this might not only be a  
4 District 5 problem?

5 A. The only thing I can say that there was an issue  
6 that was brought up by Sergeant Rosenthal indicating that  
7 detectives or deputies in District 4 had been asked to lie  
8 and he said that in his statement. That's in my  
9 Investigative Action Report.

10 You know, what type of review should have been  
11 done at the time, I'm not really sure where this was going  
12 to go or where exactly it should go but those are two issues  
13 that were right out in front of us.

14 Q. When you say " us", that's yourself?

15 A. The people that are responsible for this  
16 investigation.

17 Q. Yourself, Lieutenant Ulvang?

18 A. Captain Robshaw, the Inspector General.

19 Q. The feeling I get, you're telling me it was your  
20 feeling that the investigation should be broadened. It was  
21 Lieutenant Ulvang's feeling that it should be, is that  
22 right, in discussions with him?

23 A. Yes.

24 Q. Now, Captain Robshaw--

25 A. Yes.

1 Q. -- who was the captain in charge of--

2 A. Captain Hodgeman.

3 Q. -- Hodgeman, was he of the same view?

4 A. Yeah. He was gone for the first two weeks of this  
5 case so I think it was the first two weeks so he wasn't  
6 really, you know--

7 Q. Up-to-speed?

8 A. That's a good -- that's good terminology.

9 Q. All right.

10 Now, did you communicate your views or the views  
11 of Professional Compliance with the Inspector General?

12 A. Yes.

13 Q. When was that, if you have any idea?

14 A. We met with -- we met with the Inspector General  
15 obviously on that day. Then we had another meeting again  
16 the following--

17 Q. That day being the initial meeting?

18 A. The first meeting.

19 Q. In the first meeting he tells you what?

20 A. He just gave us our marching order so to speak.

21 Q. Which were?

22 A. Go out interview people, interview Enser. And I  
23 believe we also got the marching order to try and get a hold  
24 of some former employees, to see if there was any validity  
25 of that. Maybe people that would be retired that would not

1 be afraid to talk from the district.

2 Q. Did you do that?

3 A. We found one guy. His name was Scott McDaniel,  
4 M-C-D-A-N-I-E-L. He retired about a year and a half, I  
5 think, before this investigation started.

6 Q. What was his position at the time he retired?

7 A. Deputy.

8 Q. What did he tell you?

9 A. You know, he gave us no sign that any  
10 misclassification was going on or anything like that.

11 Q. So you conduct your investigation and at some  
12 point in time you come to the feeling that hey, we should go  
13 further and you have another meeting with Inspector General  
14 Rahinsky?

15 A. Right.

16 Q. And that's when?

17 A. We had one on the 15th.

18 Q. What time was that one?

19 A. I think, again, it was Julian, Dave Robshaw,  
20 myself, the Inspector General.

21 Q. That's the 15th of September?

22 A. Of August.

23 Q. August, I'm sorry, of 2003?

24 A. Right.

25 We talked -- that was the one we talked about

1 getting the former employees and stuff. And actually I  
2 think that was the same night that we went and talked to  
3 Scotty McDaniel, that same night. We had another meeting  
4 that Sunday morning at 10:30 in the morning.

5 Q. What date was that?

6 A. The 17th of August.

7 Q. Who was at that one?

8 A. That one, they called Stan Hodgeman in off his  
9 vacation for that but then he went back on vacation. I  
10 think they called him in to bring him up-to-speed.

11 Q. Who is at this meeting?

12 A. Dave Robshaw, Julian Ulvang, Stan Hodgeman, myself  
13 and the Inspector General.

14 Q. Rahinsky?

15 A. Yes.

16 And he said at that point -- again we talked about  
17 what we had. We talked about what the allegations were.

18 We discovered that Kantor thing at that point.  
19 We had discovered that things had -- we had interviewed  
20 Rosenthal at that point. It was more of just bring him  
21 up-to-speed so to speak.

22 And at that time, during that meeting, which was  
23 three days after the investigation started, we had -- I have  
24 a note in my daily planner that indicates that the Inspector  
25 General put a hold on any document review and any interviews

1 with past employees in District 5.

2 Q. What was the document review he said to put a hold  
3 on?

4 A. Well, at the time we were talking about Kantor  
5 dailies looking at the -- to start looking at these daily  
6 reports.

7 Q. Of others other than Kantor?

8 A. Right.

9 We sent an E-mail to Julian Ulvang shortly  
10 afterwards, although we talked about getting a document  
11 review and, you know, looking at the district at that  
12 point.

13 And I'm skipping ahead to the 19th.

14 Q. Of August?

15 A. Of August.

16 And we sent an E-mail, said we want to look at six  
17 months of daily reports, six months of unfounded reports,  
18 six months of larceny reports, six months of lost property  
19 reports, six months of property damage reports and six  
20 months of those CAD header sheets for the part one crimes  
21 that had been reported in the district.

22 Q. That's sent to whom?

23 A. Lieutenant Ulvang.

24 Q. Okay.

25 What was his response to that?

1           And when you say " we", who is the we who wanted  
2 to do that?

3           A.    I.    I mean, it was a decision that I think at the  
4 time Julian was certainly on board with having to look into  
5 this and, you know, so we sent that up to him.

6           Q.    " Him" being?

7           A.    To Julian with the understanding that Julian was  
8 going to forward it to the Inspector General saying this is  
9 what we need, if you want to get started on looking to see  
10 if there's any truth to the Enser complaint.

11          Q.    Did this E-mail apply merely to District 5?

12          A.    Yes.

13          Q.    Was that forwarded to the Inspector General, if  
14 you know?

15          A.    I don't know.

16          Q.    Was it discussed with the Inspector General?

17          A.    Well, we discussed it at that Sunday meeting.

18          Q.    What did the Inspector General tell you?

19          A.    We weren't going to do anything with document  
20 reviews or employees and interviews at that point.

21          Q.    Did he tell you why?

22          A.    No.

23          Q.    Okay.

24                So with that, what did you do? The investigation  
25 was over?

1           A.    No.    What happened is the boat -- the boat case  
2           or the canoe case and the stuff trickled in at that point.

3                    You know, Enser gave us that stuff about the lost  
4           wheels. Enser gave us the boat case. Enser gave us  
5           obviously the Swap Shop case and we started interviewing  
6           everybody. It was time consuming getting all these  
7           interviews wrapped up.

8           Q.    Sure.

9           A.    We spent, you know, literally weeks. And I still  
10          think there were a few people we hadn't interviewed in the  
11          district because they were on military leave.

12          Q.    Did you ever do any of those records reviews that  
13          you mentioned?

14          A.    No.

15          Q.    You never did any record reviews at all, proactive  
16          record reviews I guess is the best way to--

17          A.    No, not -- no, not having to do with anything  
18          with District 5.

19          Q.    Or with any district?

20          A.    No.

21          Q.    Now, as your investigation is progressing,  
22          subsequent to that meeting you already mentioned with  
23          Inspector General Rahinsky, did you have any other meetings  
24          with him?

25          A.    We had a meeting, I think it was the following



1 Friday which would be the 22nd. The notes from my meetings  
2 -- yeah, we did have a meeting on the 22nd.

3 Q. Of August?

4 A. Yes.

5 Q. And who was at that?

6 A. It was Mike Szish, who helped us early on with the  
7 interviews, myself, Ulvang, Robshaw, I'm not sure if Colonel  
8 Wright was there or not, and the Inspector General.

9 Q. What was discussed?

10 A. We talked about how Enser had named Lahiff,  
11 Freshwaters and Freshwaters' culpability.

12 I really again don't know, I don't have a good  
13 recollection of what exactly that was because Ulvang and  
14 Robshaw had done this, you know, long interview with Enser  
15 that whole week.

16 And Ulvang had agreed we were going to split that  
17 part of the investigation. He was going to do that end of  
18 it.

19 Q. And that's Robert Freshwaters?

20 A. Right.

21 Q. And what is -- Lahiff, L-A-H-I-F-F, is it?

22 A. Right.

23 Q. What's his first name?

24 A. Robert.

25 Q. And compelled statements were taken from them,

1 right?

2 A. Yes.

3 Q. So what else was discussed at this meeting?

4 A. The need for records review again was discussed  
5 there.

6 Q. What was the decision made with regard to that and  
7 what records reviewed?

8 Let me ask you this: What records did you want to  
9 review, the same ones that you had indicated earlier?

10 A. Actually Robshaw had indicated that he told the  
11 Inspector General that we had to do a record review of the  
12 daily reports.

13 Q. Only in 5 at this point?

14 A. Yeah, I think we were still--

15 Q. Yeah.

16 A. -- looking at 5.

17 Q. Why did now Captain Robshaw bring that up again?

18 A. He was concerned that if we didn't do it, someone  
19 else would.

20 Q. Okay.

21 This is laid in front of the Inspector General?

22 A. Yes.

23 Q. And what decision was made?

24 A. We have to date not done one.

25 Q. What did the Inspector General tell Robshaw?

1           A.    I don't think he told him anything.    I think he  
2 was looking -- you know, the Inspector General at times will  
3 go around the room, what do you think, what do you think,  
4 what do you think, you know.

5           Q.    Okay.

6           A.    And it was during that meeting that, you know, I  
7 had voiced -- now that I'm recalling the meeting, my thing  
8 was with Kantor at that time, you know because I think it  
9 was egregious with Kantor.

10           I just have notes in my thing Dave having spoke up  
11 too about the same topic.

12           Q.    Which would be to expand your look at Kantor?

13           A.    Right.

14           Q.    What was decided with regard to that?

15           A.    We didn't.

16           Q.    Okay.

17           A.    There really wasn't we're not doing it because of  
18 this or because that of. It was just, you know.

19           Q.    Nobody ever responded as to when it was brought up  
20 gee, we believe this thing should be expanded? Nobody ever  
21 said it wasn't expanded? Did anybody ever give you any  
22 reason why it wasn't?

23           A.    No, we were just -- just a couple notes I have in  
24 my daily planner saying we want to stick with the specifics  
25 of what we have.

1 Q. What does that mean?

2 A. Stick with the cases that we have in front of us.  
3 The incidents, the questionable conduct that we have in  
4 front of us.

5 Q. Okay.

6 Did you have subsequent meetings with the  
7 Inspector General?

8 A. I think that was -- the last one that we had a  
9 meeting on was on the 22nd. I went through my notes this  
10 morning. That was probably it as far as meetings go.

11 Q. There's no question in your mind, at least as far  
12 as up from you up through Captain Robshaw there was a desire  
13 to expand the investigation?

14 A. Yes.

15 Q. And that was never done?

16 A. No, to my knowledge it wasn't.

17 Q. And at some point in time this case was brought to  
18 the State Attorney's Office?

19 A. I guess I should -- I want to just put one other  
20 thing in there that we didn't discuss about review.

21 There was some type of a review that had been done  
22 by FDLE. And I think it's important because I don't want --  
23 to answer the last question I answered about the document  
24 review, I don't know the scope or the nature of this  
25 investigation that FDLE did other than to know just at the

1 same time our investigation was going on, FDLE had come in  
2 to look at to do an audit of crime in a couple zones within  
3 District 5.

4 Q. Do you know what prompted that?

5 A. It's my understanding from reading, this is just  
6 what I'm getting in the newspaper, there was a dispute  
7 between Fort Lauderdale and BSO about the way crime was  
8 reported into two district.

9 Q. What districts were they?

10 A. Two zones in District 5.

11 Q. What zones are they?

12 A. The area off Davie. I think 501 and 502 but don't  
13 quote me on that but there's two zones.

14 Q. Melrose Park, is that the one?

15 A. Maybe Riverland.

16 Q. What was the complaint?

17 A. There was some type of a dispute between the two,  
18 between BSO and Fort Lauderdale on the way crime had been  
19 reported.

20 And I think the Sheriff had called in FDLE and  
21 asked to have them come in and do an audit and I don't know  
22 the nature, the scope or the results of that investigation.

23 Q. Do you know any of the parties in Fort Lauderdale  
24 or B.S.O. that would have had some hands-on-involvement in  
25 that?

1           A.    I think it was the Sheriff directly and I know  
2 Dawn Tracy from our records division was involved in  
3 collecting that information for the audit.

4           Q.    What does Dawn Tracy do?

5           A.    She's in charge of U.C.R. She's actually the one  
6 -- she's kind of the U.C.R. guru for BSO.

7           Q.    What's U.C.R.?

8           A.    Uniform Crime Reporting.

9           Q.    That's the report of crimes to the FBI?

10          A.    I think we report it to FDLE who in turns reported  
11 it to the FBI.

12          Q.    And the Uniform Crime Reporting, does that tie  
13 into this crime classification question?

14          A.    Yes, it does.

15          Q.    As I understand it, Uniform Crime Reporting is  
16 interested in the reporting of specific crimes by  
17 definition; is that right?

18          A.    Yes.

19          Q.    Okay.

20                And of course BSO reports consistent with the  
21 U.C.R. procedures, is that right, or are supposed to anyway?

22          A.    Yes, it's my understanding.

23          Q.    Okay.

24                Now, does the Broward County Sheriff's Office  
25 define crime in a similar fashion as defined by Uniformed

1 Crime Reporting, if you know?

2 A. There are some differences I believe but I'm not  
3 the person to answer that question.

4 Q. Okay.

5 This Dawn Tracy, does she get involved at all in  
6 the forwarding back and forth the reclassification of  
7 crimes?

8 A. From talking to her, my understanding is when a  
9 report goes to records, someone in her office reviews it to  
10 ensure that it's classified the way it's supposed to be  
11 classified.

12 If it's not, it goes back to the district to say,  
13 you know, this isn't -- this should be this or this  
14 shouldn't be this.

15 Q. Was she ever interviewed with the information  
16 that's provided by Enser to get her feel as to trends or  
17 whatever?

18 A. No.

19 Q. Okay.

20 She's never been interviewed?

21 A. We've spoken numerous times, you know, about  
22 certain issues. When we were looking for the lost boat  
23 case, she helped us. I mean, we talked about the lost  
24 wheels case.

25 You know, she said that report actually was never

1 turned into records but she used that as an example. If  
2 that had come into records, it would have been, you know,  
3 shipped right back to the district saying this is improperly  
4 classified.

5 MR. HANLON: Does anybody need a break?

6 MR. DONNELLY: Why don't we take a few minutes  
7 just to discuss scheduling.

8 (Whereupon, a recess was had off the record.)

9 MR. HANLON: Let's go on the record.

10 Sergeant Feeley, due to time constraints and  
11 people's schedules, we're going to terminate the  
12 interview at this point.

13 Speaking for the office, we definitely appreciate  
14 your candor and your expression of cooperation,  
15 complete cooperation in this investigation.

16 We're going to ask you not to discuss anything  
17 with anybody.

18 Recognizing this is very difficult for you because  
19 of your position, we're going to ask you not to discuss  
20 this with anybody, and respectfully request that you  
21 not be questioned and you have been asked by us not to  
22 talk about the investigation.

23 During the course of our interview up to this  
24 point you made reference to your daily planner. We're  
25 going to give you a subpoena duces tecum demanding the



1 production of your original planner plus any other  
2 correspondence, E-mails and whatever relative to the  
3 case that haven't been previously been turned over.

4 Now, you had expressed briefly off the record it  
5 was fully your intention and it will always be your  
6 intention to cooperate fully and you would give it to  
7 us voluntarily; however, unfortunately we're running  
8 the investigation and we're going to give you a  
9 subpoena regardless what anybody thinks about it.

10 I know that became an issue last evening. I'm not  
11 going to get into a lot of background on it.

12 It is our decision. We're making the decision as  
13 to what subpoenas will be issued and to whom they will  
14 be issued to and if there's going to be subpoenas as to  
15 statements or records and we're giving you a subpoena  
16 for those records.

17 Mr. Donnelly?

18 MR. DONNELLY: What time are you going to resume  
19 today?

20 MR. HANLON: Sergeant Feeley has indicated he  
21 will stay available for us. We're going to try to  
22 accommodate one of our other witnesses and he said he  
23 will be good enough to come back.

24 THE WITNESS: Yes, I will. Like I said, I'm  
25 happy to give you anything that you need and the

1 subpoenas are not needed but I will be happy to accept  
2 them once you do give them to me and I'll come back  
3 this afternoon.

4 MR. HANLON: With that stay available.

5 (Whereupon, this SWORN STATEMENT was adjourned to  
6 resume later in the day.)

7 (Whereupon, a recess was had off the record.)

8 MR. HANLON: Okay, we're back on the record with  
9 Sergeant Steve Feeley from the Broward Sheriff's  
10 Office.

11 He has been asked not to discuss this case with  
12 anybody. And of course he's here voluntarily; however,  
13 we took it upon ourselves to give him a subpoena.

14 INVESTIGATOR RIHA: He's still under oath.

15 MR. HANLON: Of course he's still under oath, you  
16 understand that?

17 THE WITNESS: Yes, I do.

18 BY MR. HANLON:

19 Q. Okay.

20 Now, as I recall, we were talking about, for lack  
21 of a better word, the District 5 investigation, the  
22 information provided by Shawn Enser and I believe, and just  
23 to kind of bring ourselves up-to-date, you attended a  
24 meeting or meetings requested by the Inspector General  
25 relative to the direction this case should take; is that

1 right?

2 A. Yes.

3 Q. Okay.

4 Now, at some point in time did the Inspector  
5 General give the marching orders to conduct a thorough  
6 investigation?

7 A. No.

8 Q. What were the instructions that were relayed to  
9 you by the I.G.?

10 A. Early on it was, you know, to work with what we  
11 have. To work what we have in front of us.

12 Q. Do you recall now Captain Robshaw encouraging the  
13 I.G. or providing the Inspector General with information  
14 indicating that it was his belief that the investigation  
15 should be expanded in order to ensure that it wasn't made an  
16 agency-wide problem?

17 A. Yes.

18 Q. Okay.

19 Do you recall or did the I.G., and I'm speaking of  
20 Martin Rahinsky, did he respond in any way, shape or form to  
21 that encouragement?

22 A. No.

23 Q. However, there's no question that this  
24 investigation was not expanded to our district or to other  
25 officers or other deputies within District 5?

1           A.    Not to my knowledge.

2           Q.    All right.

3                   Now, during the course of our investigation, of  
4   course we're very concerned as to information at least  
5   gleaned from Sergeant Enser and loose talk that very  
6   possibly there was an agency-wide problem with respect to  
7   the manipulation of crimes, statistics.

8                   And mention was made of an investigation in Weston  
9   and I believe you were involved in during the course of your  
10   tenure and in the Office of Professional Compliance  
11   involving a Deputy Arias; does that ring a bell with you?

12          A.    Yes, it does.

13          Q.    Now, tell me if you need to refer to your planner  
14   or whatever, what was the initial allegation of wrongdoing  
15   and when was it first brought to your attention, if you  
16   remember?

17          A.    Back in June of 2002 I responded to an in-custody  
18   death in which an individual by the name of Marion Ellison,  
19   E-L-L-I-S-O-N, died while in custody.   He had just  
20   committed a burglary and he apparently suffered some medical  
21   issues and he was taken to the hospital and he died.

22          Q.    Do you happen to have a case number or anything on  
23   this particular -- did you open a professional compliance  
24   case number or was there some sort of agency case number  
25   given to this investigation?

1 A. Yes, I do.

2 Yes, there was.

3 Q. What is it?

4 A. 11-20-941.

5 Q. What type of a number is that?

6 A. It's professional compliance case number.

7 Q. Okay.

8 Now, and of course you can refresh your  
9 recollection, who dispatched or assigned you this inquiry?

10 A. My lieutenant by the name of Randy Smith was the  
11 on-call lieutenant for our office that day and called me  
12 about 6:00 in the morning and told me that this person had  
13 died and that we were requested. We respond to all  
14 in-custody deaths.

15 Q. Okay.

16 So what was your burden? What were you supposed  
17 to do?

18 A. Our job, we have a homicide unit that responds  
19 that investigates that. We don't really investigate it per  
20 se. They do the investigation.

21 We monitor the investigation and oversee it to  
22 ensure there's no misconduct by any of our employees.

23 Q. And that the death and the investigation is  
24 handled properly from an administrative standpoint?

25 A. Yes.

1           And actually, I just want to amend something I  
2       said earlier, I gave you a case number. I don't believe  
3       that's a case number for that particular case. That was a  
4       case number that was initiated as a result of something that  
5       happened in that case.

6           Q.    And what was that something?

7           A.    I conducted -- basically it was an in-custody  
8       death. I conducted that interview. I completed a report.

9           While completing that report, I was reviewing lots  
10      of police reports generated by people involved in that case.

11          Q.    Now, when you say that case, the death?

12          A.    The death case.

13          Q.    Okay.

14          A.    There was -- I discovered some possible misconduct  
15      by a detective by the name of Arias, A-R-I-A-S.

16          Q.    Do you know what his first name is?

17          A.    I don't have that in front of me, no.

18          Q.    What was Arias' involvement with the death of this  
19      guy? When I say involvement, I'm not saying he whacked the  
20      guy but how did his name come up in connection with your  
21      investigation into this guy's untimely demise?

22          A.    Let me try to figure out how I'm going to explain  
23      this so I don't thoroughly confuse you.

24          Q.    I appreciate that.

25          A.    They arrested a guy by the name of Marion Ellison

1 for a burglary.

2 Q. And the date of that arrest was when?

3 A. In June of 2002.

4 Q. Okay.

5 A. When they arrested him, according to deputies he  
6 said he was with another guy. They located a black male in  
7 Weston walking several blocks away by the name of Arian,  
8 A-R-I-A-N, Evans.

9 When they located Evan, the deputies on scene  
10 determined that he was a co-Defendant of Marion Ellison so  
11 they arrested him for the burglary. They completed all of  
12 their reports including Detective Arias. Detective Arias  
13 completed an Investigative Action Report.

14 And in that report he wrote a narrative that said  
15 that he met with Arian Evans regarding this arrest regarding  
16 this burglary. He denied involvement.

17 He denied knowing Ellison, you know, and I'm  
18 paraphrasing this, et cetera, et cetera, and they arrested  
19 him anyways. The State subsequently dropped the charges  
20 against Arian Evans.

21 Q. That's the State Attorney's Office?

22 A. Yes.

23 As I was reviewing this case, I came across  
24 another Investigative Action Report written by the same  
25 detective, Detective Arias. In that Investigative Action

1 Report he talked about how Arian Evans admitted to all of  
2 these burglaries.

3 Q. How many are we talking about?

4 A. About four or five.

5 Q. Now, what led you to this second--

6 A. It was just there. It showed up with the  
7 paperwork when we pulled all the paperwork.

8 Q. On the death of?

9 A. Ellison.

10 Q. Ellison, okay.

11 A. So right off the bat I'm looking at these two  
12 Investigative Action Reports. One of them said the guy was  
13 completely uncooperative, denied any involvement to the  
14 case, from the June case, yet they have another  
15 Investigative Action Report where they're taking -- where  
16 they're clearing these cases after he was -- you know, after  
17 he was cooperative and confessed to these other cases.

18 Q. Is this all supposedly happening on the same day,  
19 not the other case but the interview or whatever was done to  
20 clear the cases?

21 A. Yes.

22 Q. They're all the same? In other words, you got a  
23 statement or you got--

24 A. Well, we couldn't tell. At that point we didn't  
25 know whether or not there was one interview, two



1 interviews--

2 Q. Or when they were taken?

3 A. -- or when they were taken until we started  
4 digging a little bit more.

5 Q. Wouldn't that appear on the action report as to  
6 when this guy was interviewed?

7 A. Again, not having those Investigative Action  
8 Reports in front of me--

9 Q. Yeah.

10 A. -- I can tell you the Investigative Action Reports  
11 were not -- there weren't a lot of details in those reports.

12 Q. Okay. And we realize you're testifying from  
13 memory today.

14 A. Yes.

15 So there was obviously conflicting Investigative  
16 Action Reports. So I went to my lieutenant who at that  
17 time was Dave Robshaw and I said look, these don't jive.  
18 One says he was uncooperative, one said he confessed, what  
19 do you think we should do.

20 He instructed me to open a case, a professional  
21 compliance case and conduct all the interviews so I  
22 initiated that.

23 And I spoke with first -- I don't remember off the  
24 top of my head who I spoke to first but I'll tell you I  
25 spoke with the guy who allegedly confessed and he adamantly

1 denied, Evans, that he ever confessed to anything.

2 And he made a lot of stuff and made a lot of  
3 statements in this interview with me saying I'm twenty years  
4 younger than this guy. I provided an alibi.

5 I was at a friend's house out in Weston. I was  
6 walking back to my home in Davie. I didn't do this. I  
7 didn't have anything to do with this. I didn't confess to  
8 anything.

9 Q. Was this guy ever charged with these other crimes?

10 A. No, they exceptionally cleared him.

11 Q. That's rather unusual here, would it not be, a man  
12 admits involvement and they don't charge him?

13 A. Sometimes they do, sometimes they don't. It's not  
14 unusual for a police agency to clear a bunch of cases if the  
15 guy confesses and not charge him.

16 Q. But he didn't get charged with anything?

17 A. He got arrested for the case involving Ellison  
18 that night.

19 Q. But that was not accepted for prosecution?

20 A. Correct.

21 Q. Okay.

22 A. So Ellison -- I'm sorry, Evans, says look, I was  
23 at this guy's house, they took me there and verified that I  
24 was there and they still arrested me.

25 So again that obviously concerned us at that point

1 so we went and we talked to these people who provided the  
2 alibi for Evans.

3 And this guy was in the military and he was down  
4 for the weekend and they were at somebody's house out in  
5 Weston.

6 They were drinking, having a good time. There was  
7 a little bit of an argument between Evans and a female and  
8 he just left and he started walking home and he was walking  
9 east toward Davie, which is where he lived.

10 So I got a statement from -- now I got a statement  
11 from Evans saying he wasn't there and he didn't do that. I  
12 got a statement from two individuals who said we vouched for  
13 him and told the detective that day when they came to talk  
14 to us.

15 Then I went and I spoke with a sergeant who works  
16 in District 8 by the name of David Argenti, A-R-G-E-N-T-I.

17 Dave Argenti was the sergeant that was working the  
18 road the night that Evans and Ellison were arrested.

19 Sergeant Argenti tells he has a conversation with  
20 Detective Arias about four or five days after the arrest.  
21 Argenti relays to me that Evans was extremely, extremely  
22 upset about being arrested, screaming and yelling saying I  
23 didn't do this. I didn't do this. I was walking home and  
24 claimed it was a racial thing.

25 So Argenti made the comment to Detective Arias and

1 said boy, that guy was, you know, kind of -- I think he used  
2 the word " A". I think he called him an asshole. The guy  
3 was an asshole the other night. Detective Arias told  
4 Argenti yeah, he didn't give us anything.

5 So now I have a statement from a supervisor, I  
6 have the guy saying I never confessed, I have an alibi and I  
7 have those other people saying they vouched for him.

8 So we took a few other statements of other  
9 people. There was no other, you know, incriminating  
10 evidence so to speak or anything incriminating against  
11 Detective Arias but it nonetheless was concerning at that  
12 point.

13 We thought he very well may have fabricated this  
14 evidence. So we had several meetings on this case with the  
15 Inspector General, Captain Hodgeman, Lieutenant Smith and  
16 Lieutenant Robshaw.

17 November 12th, 2002 was the date that Robshaw told  
18 me to interview everybody and start the case. On November  
19 27th I met with the Inspector General in his office and I  
20 told him that it looks like Arias fabricated a master  
21 clearance.

22 Q. Was anybody with you?

23 A. I can't say for sure who was there or not that  
24 day. I would think most likely it would have been Robshaw  
25 and Hodgeman.

1           The Inspector General said he wanted a memo so he  
2 could forward the case to the district command.

3           Actually I could tell you -- I'm sorry, I have a  
4 note here that Dave Robshaw was not there that day. It was  
5 Stan Hodgeman and maybe Randy Smith, the other lieutenant,  
6 and I.

7           So I called Dave Robshaw that day and said hey,  
8 you know, they want to send this thing back to the command.  
9 Our policy and procedure manual calls for -- normally calls  
10 for criminal misconduct cases to be handled by our office.

11          Q.   And did Rahinsky tell you why he wanted to send it  
12 back to District 8?

13          A.   No, he didn't.

14                So although our policy does allow for the  
15 Inspector General to make the final decision on who  
16 investigates what case, one of the cases -- one of the  
17 examples is official misconduct falls under professional  
18 compliance unit. Discourtesy issues and so forth go back to  
19 the command.

20                On December 2nd, 2002 I spoke with Captain  
21 Hodgeman and he informed me that he had spoken with the  
22 Inspector General and now it looks like we were keeping this  
23 case in our command because at that point the only thing  
24 that needed to be done was a Garrity statement and a review  
25 by the State Attorney's Office.

1 But he asked me to still write the memorandum to  
2 the Inspector General to brief him on what was going on.

3 So I completed that memorandum and gave it to Dave  
4 Robshaw on December 2nd.

5 On December 9th Dave Robshaw and I met with the  
6 Assistant Inspector General by the name of Roy Vrchota,  
7 V-R-C-H-O-T-A. If I recall correctly, he was acting  
8 Inspector General. I think Rahinsky may have been out of  
9 town.

10 Dave told the Assistant Inspector General that the  
11 Inspector General wanted to send the case back to District 8  
12 for them to finish.

13 The Assistant Inspector General said he didn't  
14 understand why and noted it wasn't common practice for us to  
15 send cases back to the commands that are potentially  
16 criminal in nature.

17 On December 10th Dave Robshaw and I met with Greg  
18 Page, who is the Chief of District 8, in Dave Robshaw's  
19 office. Dave Robshaw gave Greg Page the entire case file  
20 and told Greg Page the I.G., the Inspector General, wants  
21 him to finish the case.

22 Dave told Greg Page that this was the first time  
23 that he knows of that an active criminal case was being sent  
24 back to the command for completion.

25 And in my notes I have Greg Page was a little

1 taken back and stated he needed time to review the case and  
2 talk to the I.G.

3 Dave said that he would be willing to help him and  
4 gave Greg Page Tim Donnelly's name at the State Attorney's  
5 Office and told him to contact him.

6 That was the end of that case until we saw that it  
7 had come back to our office after they completed it.

8 Q. Now, do you know who Page gave it to for  
9 completion?

10 A. Yes.

11 Q. Who is that?

12 A. Lieutenant Goldberg.

13 Q. Is that Randy Goldberg?

14 A. Yes.

15 Q. Did you have any discussion with Randy Goldberg?  
16 And I understand there was a compelled statement taken from  
17 him.

18 A. I never spoke with Lieutenant Goldberg about this  
19 case.

20 Q. Other than Robshaw, Randy Smith, Vrchota, you said  
21 you were in a conversation with the I.G.?

22 A. Yes.

23 Q. Did you have any conversations with anybody else  
24 about this case?

25 A. Yes, I did.

1 Q. Who?

2 A. Patricia Windowmaker, BSO legal counsel.

3 Q. When did you speak to her and who was with you, if  
4 anybody?

5 A. On September 5th at 3:30 in the afternoon I met  
6 with Dave Robshaw and we then met with Patty Windowmaker.

7 Q. That's 2002?

8 A. That would be 2003.

9 Q. What was the gist of that conversation?

10 A. The case had been finished and when we got it back  
11 in the office, they sustained an allegation, basically  
12 carelessness to Detective Arias.

13 And the gist of the conversation with Patty  
14 Windowmaker was that certain things were never asked during  
15 -- certain things were never asked and certain things were  
16 never done in the Garrity statement and that caused us  
17 serious concerns about the case.

18 Q. What did she say?

19 A. She took my number and said she would call me if  
20 she had any questions.

21 Q. Did you ever hear from her?

22 A. No.

23 Q. Do you have any idea what she did with that  
24 information?

25 A. No.



1 Q. Do you know why or were you ever told by anyone  
2 why the case went back to the district?

3 A. No.

4 Q. Do you know of any other cases that were similarly  
5 handled?

6 A. No.

7 Q. Based on your investigation it was your feeling  
8 that the matter should have been referred by Professional  
9 Compliance to our office?

10 A. It would have been in line with what Lieutenant  
11 Robshaw and I, what was the common practice at the time and  
12 I believe continues to be the practice of our unit and yeah,  
13 my opinion, it should have gone back.

14 Q. Now again, it's his opinion, why do you think it  
15 was handled in that fashion?

16 Again, you have no firsthand knowledge as to why  
17 but why do you think based on your experience that case was  
18 handled in that fashion?

19 A. Because it would be -- it really would call for  
20 speculation.

21 Q. Well, we're asking you. I'm asking you to do  
22 that.

23 A. There's a -- it would -- what should have happened  
24 -- and again, this is my opinion -- is a comprehensive  
25 review of the way business is done involving clearance of

1 crime in that district.

2 Q. Okay.

3 So would it be your feeling, and I'm not putting  
4 words in your mouth, this would seem to be a variation on  
5 this manipulation of figures.

6 The one way being the manner in which Shawn Enser  
7 indicated it took place and now this, an incident where  
8 cases are cleared attributed to somebody when it appears it  
9 shouldn't have been. It's a variation on the same numbers  
10 game. It's a variation of the numbers game?

11 A. It is. And one of the things that came -- one of  
12 the things that I didn't bring up in this case was that this  
13 detective, when he did these cases, he made a lot of  
14 mistakes in his Investigative Action Report.

15 There were actually three Investigative Action  
16 Reports. There was one that said the guy was uncooperative  
17 and admitted to nothing.

18 There was one that said he admitted to all these  
19 burglaries, and then it contained a bunch of inaccuracies  
20 about names of people who weren't even involved in this  
21 case.

22 And a lot of what this case was finally attributed  
23 to was cutting and pasting errors from another master  
24 clearance. So he was using the same lingo, the same -- you  
25 know, although master clearance is -- sometimes I do it

1 myself, when I cut and paste the charges, allegations and  
2 things like that but this was a master clearance where the  
3 I.A.R., Investigative Action Report, in the middle was  
4 completely error ridden and contained all these  
5 inaccuracies.

6 It even contained a clearance of a burglary that  
7 occurred after Ellison, the dead guy, had died.

8 Q. And attributed to Ellison?

9 A. Attributed to Ellison. So yeah, it's, you know  
10 -- then we got this third product which was the final  
11 Investigative Action Report that was allegedly error free.

12 And that one was obviously the one that we used  
13 that completely contradicted the first Investigative Action  
14 Report.

15 Q. If you remember, would not a sergeant had to sign  
16 off on all this?

17 A. Sergeant Menghi, M-E-N-G-H-I, was the District 8  
18 Sergeant. That was his immediate supervisor.

19 Q. Was he ever spoken to?

20 A. Yeah, we took a statement from him.

21 Q. Voluntary?

22 A. Yeah. And I don't recall offhand him providing  
23 any information that was--

24 Q. That he didn't catch these inaccuracies, did you  
25 find it unusual?

1           A.     Well, apparently he did catch them but Detective  
2     Arias had already turned the report in so that's why we got  
3     the third Investigative Action Report.

4                     Menghi caught a bunch of these errors. Hey, you  
5     made a mistake. You're cutting and pasting. You're leaving  
6     other suspects' name in this report. It doesn't make  
7     sense. But Arias had already taken it right to records to  
8     get these clearance in for that month.

9                     INVESTIGATOR RIHA: Is that something that  
10    ordinarily a detective would do, would be to take  
11    reports to records to have clearance attributed to  
12    their month, if it's toward the end of the month?

13                    THE WITNESS: I wouldn't know that. I think  
14    that's what -- I think it was very close to the end of  
15    the month when those cases went in, and I remember  
16    Menghi attributing that, you know, error ridden  
17    Investigative Action Report going in when it shouldn't  
18    have.

19                    INVESTIGATOR RIHA: Just for the purpose of making  
20    a record, so the Investigative Action Report, that's a  
21    report that's prepared and maintained in the ordinary  
22    course of the Sheriff's Office business and it's an  
23    official record; is that right?

24                    THE WITNESS: Yes, it is.

25                    INVESTIGATOR MURRAY: And this was all ended out

1 by carelessness?

2 THE WITNESS: That is the underlying problem that  
3 they identified in the report. And although I  
4 understand that we can't talk about the Garrity  
5 statement, to me it's not what's in the Garrity  
6 statement, it's what's not in the Garrity statement.  
7 It's questions that were never asked in that Garrity  
8 statement that presented as much of a problem for us in  
9 our office as anyone, you know, including for myself,  
10 Dave Robshaw, the Assistant Inspector General.

11 There were some very troubling things that were  
12 not in that Garrity statement.

13 INVESTIGATOR MURRAY: So carelessness on the part  
14 of investigators and also--

15 MR. HANLON: It attributed to that.

16 INVESTIGATOR MURRAY: Yeah, but the whole -- I'm  
17 saying, the case was ended by -- how did they define--

18 MS. CAMACHO: Justify.

19 MR. MURRAY: Yeah, justify what had happened.

20 THE WITNESS: It wasn't addressed in the final  
21 report.

22 MR. HANLON: Well, they attributed -- maybe I  
23 misunderstood.

24 THE WITNESS: They attributed the mistake in the  
25 reports to carelessness.

1           And I'll give you an example, they said okay, he  
2           didn't talk about the one who was arrested for that  
3           night but he talked about these other ones.

4           Well, to me as an investigator I would say,  
5           questions just regarding that one issue, what I would  
6           say is okay, he confessed to all these crimes here, was  
7           it tape-recorded. Do you have any notes. What do you  
8           have other than your word or what's written on this  
9           report. What do you have that shows that this guy  
10          confessed.

11          You said he's got knowledge breaking into those  
12          cars and stealing this stuff. How did he get in the  
13          car. Where was the car parked. What time of day did  
14          this happen.

15          Things, so that when you ask these questions, only  
16          the person that broke into that would know the answers  
17          to those questions.

18          Did you take computers, phones, laptops, tools.  
19          What was taken out of there. And those questions,  
20          questions similar to those were never asked.

21          They never asked we got a guy here that said he  
22          didn't confess to you, what do you have to say to  
23          that. They never asked him that.

24          We have, you know, a sergeant who spoke with you  
25          five days who said you told him that you didn't get

1 anything from this guy. They never asked those  
2 questions. They didn't address them.

3 INVESTIGATOR MURRAY: Detective Arias, did he do  
4 the Probable Cause Affidavit on this Evans fellow they  
5 arrested?

6 THE WITNESS: Most of the time he did the  
7 interview afterwards. I don't know whether he  
8 actually completed the Probable Cause Affidavit but  
9 that was -- it's my understanding, you know, when you  
10 get called out and you're the detective, you may have a  
11 deputy on the road write the Probable Cause Affidavit  
12 but if you're investigating, it becomes his case  
13 because he's out there interviewing the guy, taking a  
14 master clearance on the guy.

15 And, you know, the issue that concerns -- and  
16 again, I want to get this on the record -- the issue  
17 that concerns me on this case more than anything else  
18 isn't what was asked, it's what was obviously left out.

19 But yet reading the report, if I were to hand you  
20 the report, it may make a lot of sense to you saying  
21 well, this guy just didn't know this Investigative  
22 Action Report from this one, but not providing all that  
23 information in there about, you know, alibi witnesses,  
24 why was this guy arrested, he provided an alibi, you  
25 went there and verified it. What did they tell you.

1 It was -- it just wasn't asked.

2 So we brought -- you know, we brought these  
3 concerns to Lieutenant Robshaw and Captain Hodgeman  
4 knew. The legal department knew. The Inspector  
5 General knew, you know, from the get-go that we didn't  
6 want this case leaving our command.

7 MR. HANLON: Why do you think he did it?

8 THE WITNESS: I think that's when you asked me to  
9 speculate before, it could -- we would have gone in and  
10 done an extensive records review and maybe they were  
11 scared. I don't know. I don't know.

12 MR. HANLON: I'm sorry, go ahead.

13 INVESTIGATOR MURRAY: Sergeant, do you know why  
14 this case was declined by the State Attorney's Office?

15 THE WITNESS: You know, I have the whole package  
16 in my office. I would be happy to give it to you.

17 The kid had a past for burglary.

18 MR. HANLON: The deceased?

19 THE WITNESS: The deceased had a huge past for  
20 burglary and a huge pawn -- was pawning.

21 In fact, this master clearance that was done, at  
22 least one of those is attributed to the dead guy.

23 I think they could get along with clearing one of  
24 them on the dead guy. He pawned property, some  
25 air-conditioning equipment that was taken out of a van



1 but the rest of them were vehicles.

2 They were cars broken into at a spa at different  
3 times of the day. And the property that was taken out  
4 of them was laptops and phones and computer games and  
5 video -- you know, video, V.H.S. videotapes and the  
6 dead guy never pawned stuff like that.

7 He pawned a lot of tools, blowers, chainsaws,  
8 stuff like that. So I think he was targeting tools.  
9 There were a lot of concerns that we had on the case  
10 and it's unfortunate that it was handled the way it  
11 was.

12 BY MR. HANLON:

13 Q. Now, at some point in time in connection with Ms.  
14 Camacho's investigation of the Enser matter, the subpoenas  
15 flew like confetti.

16 And at some point in time the Enser case is  
17 brought down here. Ms. Camacho, as you're aware, sent out  
18 some subpoenas seeking testimony from certain witnesses in  
19 your case and those subpoenas were not responded to; do you  
20 know why?

21 A. Can I tell you exactly what happened with that?  
22 We got the subpoenas -- I think we spoke on the 3rd. I  
23 think I picked them up on the 3rd.

24 Q. Of?

25 A. Of December.

1 Q. 2003, right?

2 A. That would be correct. Ms. Camacho talked about  
3 wanting some additional information on the Swap Shop case,  
4 the boat, those things.

5 She told me about the subpoenas. I came and  
6 picked them up.

7 The following day I spoke with Captain Hodgeman in  
8 the morning. The day that she called, right after she  
9 called, I sent an E-mail saying they're going to subpoena  
10 these people, the list of people that she gave me and she  
11 wanted me to pick up the subpoenas and they wanted some  
12 information on this. And I sent -- I send it to Julian  
13 and--

14 Q. Ulvang?

15 A. Ulvang, yeah.

16 Q. That would be up the chain of command?

17 A. That's the next spot in the chain for me.

18 Q. Right.

19 A. So I called the guy Thursday morning and gave them  
20 the subpoenas. And again, we normally -- this is what we  
21 normally do.

22 I have been down here before picking up subpoenas  
23 from the prosecutor and serving them on people involved in  
24 our case. Stan Hodgeman, my captain, said hold off a  
25 second, don't do anything else, I want to call the Inspector

1 General.

2 Q. Did that surprise you?

3 A. I knew that the case was a little bit more  
4 sensitive than the regular run-of-the-mill case that we get  
5 down here. You know, it's not surprising for our captain to  
6 consult the I.G.

7 Q. Okay.

8 Had there been any issue about this case or the  
9 fact it was real ticklish up to this point as far as you're  
10 concerned?

11 A. Just a lot of the stuff that wasn't done on the  
12 case showed that they took a little bit more interest in it  
13 than usual but rightly so. I mean, it involves a lot of  
14 employees and so I served witnesses and he told me to hold  
15 off.

16 Q. " He" being Hodgeman?

17 A. Hodgeman. Julian Ulvang then goes and talks to  
18 Hodgeman at lunchtime. Julian said go ahead and serve them  
19 so I said okay, no problem.

20 Well, I went out to serve them and I think I  
21 served four of them -- four more on Thursday afternoon and  
22 then Julian called me back and said don't serve them so I  
23 went back and picked them up.

24 And I got a little frustrated and I said -- I  
25 brought them back and stuck them on Julian's desk and I said

1 they're yours. I don't care when they get served. You  
2 serve them. I'm not taking part in serving them, not  
3 serving them.

4 This is what we normally do. So that was the end  
5 of it for me. I was off. I left.

6 I went home and Julian had actually called me and  
7 said the Inspector General had come down here to the State  
8 Attorney's Office regarding the case.

9 I don't know why. I don't know what was said. I  
10 don't know anything about the meeting. The following day  
11 Ms. Camacho calls me and said hey, did you serve those  
12 subpoenas. I said no. She said why not. And I told her I  
13 was told not to and that's kind of when things started  
14 unraveling.

15 I was off that day. So if subpoenas were  
16 eventually served that day, to my understanding Stan  
17 Hodgeman, Julian Ulvang, you know, took part in that and  
18 arranged to have that done.

19 And I talked with Julian a couple of times over  
20 the weekend. There was a lot of -- there was some high  
21 level meetings between Julian and Captain Hodgeman and the  
22 Inspector General.

23 Q. This is per Ulvang?

24 A. Yes.

25 Q. What did he tell you went on?

1           A.    They wanted to know why the case had been brought  
2 down there.    Julian did his best, I think according to him,  
3 of telling them listen, this is what we normally do.

4                If we had done anything different, it would be  
5 extraordinary not to send a criminal case down to the State  
6 Attorney's Office.

7                So Monday, December 8th, and probably at least one  
8 or two more times that week, I had a conversation with the  
9 Inspector General and he informed me that he come down  
10 here.

11               He did try to take the case back. He did want to  
12 handle this case administratively. He told me that. He  
13 told me he wanted -- he felt it would be better served  
14 handling Kantor administratively.

15               I told him, I said as far as I'm concerned, I have  
16 probable cause to arrest Deputy Kantor.

17               Whether or not we did that or not, I wouldn't go  
18 out there and arrest him without telling anybody but the  
19 probable cause existed to arrest Kantor for official  
20 misconduct.

21               We had four good strong statements from people  
22 saying he never told him this. We had an official document  
23 that appeared to have a statement in there that was false.  
24 Four statements that were false. And it appears there may  
25 have been a benefit for him not having to do the report or

1 keeping stats or crime down low.

2 So for us to do anything other than submit this to  
3 the State Attorney's Office would -- we would have then been  
4 part of covering this up and that's what I told him and I  
5 don't think we see eye-to-eye on it.

6 Q. Well, what was his response to that?

7 A. He believes that we should be -- we should have  
8 handled the case administratively.

9 Q. Did he tell you why?

10 A. No.

11 Q. So you don't know, at least from your conversation  
12 with the I.G., why?

13 A. My conversation with the I.G. was, you know, he  
14 doesn't tell me specifics but he said, you know, there's a  
15 lot more at stake here than just Kantor.

16 Q. What did he mean by that?

17 A. I don't really know. I can -- politically, it's  
18 bad.

19 Q. Did he say that?

20 A. No, he didn't come right out and say that but that  
21 was the gist of what he was saying. He didn't say this is  
22 going to look really bad for the Sheriff or anything like  
23 that.

24 He said there's a lot more at stake here. We  
25 would have liked to have handled this ourselves.

1           So I said well, again, I don't see where we have  
2           the luxury of making that determination, especially since we  
3           had cases that were not similar to this but yeah, maybe I  
4           will use the word, where people lied in official reports and  
5           we had it sent down here for review and I don't see how we  
6           can justify not doing that in this case having already done  
7           that with other employees.

8           Q.    Okay.

9                   And of course at the time he's talking to you, he  
10          knows it's down here?

11          A.    You know--

12          Q.    Right?

13          A.    Yeah, he does know.    It was in the report we sent  
14          him.  He knew, I'm guessing, the middle of November.  He  
15          actually got a copy of the report.

16                 And I had been told by Lieutenant Ulvang and  
17          Captain Hodgeman, he comments to them that he liked my  
18          report.  He thought it flowed well.

19                 So the report was there.  You know, we did a  
20          summary that showed, you know, the case was at the State  
21          Attorney's Office and gave that to him in mid-November.

22                 So probably three, maybe four weeks before he was  
23          holding paperwork that spelled it out, spelled out that we  
24          brought the case down here for review.

25          Q.    Did you have any conversations about this case or

1 the Weston case with anybody higher than the I.G.?

2 A. No, I didn't.

3 Q. Do you know either secondhand or any other way  
4 whether discussions about this case went any higher than the  
5 I.G.?

6 A. No, I don't.

7 Q. The reason you had this discussion with legal  
8 counsel, what was that? What was the reason you went to  
9 legal counsel?

10 A. The Assistant Inspector General, Roy Vrchota, was  
11 aware of Weston case when it was happening. He was aware  
12 since -- remember he was filling in for the I.G. for a week  
13 or so when the case got shipped from our office back to  
14 District 8.

15 And he knew right then and there there was  
16 something that wasn't right with the case and we were  
17 departing from what we normally do on a case like that.

18 So it's my understanding that he went to legal and  
19 told legal. And then legal somehow reached out to Captain  
20 Robshaw who reached out to me.

21 We had a meeting, just a very brief meeting of  
22 hey, something is not right here. Something at least needs  
23 to be looked into and I want to make it clear that the  
24 investigation -- and I read the Garrity statement and I read  
25 the entire case file and the investigation in my opinion is



1 nowhere near complete.

2 That's an issue that our administration and the  
3 Broward Sheriff's Office has to at some point address. It's  
4 an incomplete investigation for one reason or another.

5 MR. DONNELLY: You said that the I.G. didn't want  
6 it brought down here and he had stressed that to you in  
7 December?

8 THE WITNESS: I'm sorry, the District 5 case?

9 MR. DONNELLY: No, the Enser case.

10 THE WITNESS: Yeah.

11 MR. DONNELLY: After the subpoenas went out, he  
12 expressed to you he wanted to handle it internally?

13 THE WITNESS: Yes.

14 MR. DONNELLY: But you told us earlier today that  
15 he had also -- that when the investigation wanted to be  
16 broaden by obtaining these records, that he did not  
17 want that to happen.

18 THE WITNESS: That's correct.

19 MR. DONNELLY: So if--

20 THE WITNESS: He didn't allow it. I don't know  
21 whether it was he -- we weren't allowed to do it.

22 MR. DONNELLY: So if it would have gone back to  
23 B.S.O., what would have happened at that time because  
24 you would have been told you're not going to broaden it  
25 but it's not done?

1 THE WITNESS: It's an incomplete investigation at  
2 the very least.

3 MR. HANLON: I guess the answer to that question,  
4 in other words, the investigation didn't get broadened  
5 and then in December the I.G. told you that he would  
6 have preferred to have it handled in-house, so  
7 consequently whatever would have happened, who knows,  
8 but it would have been handled administratively within  
9 the Sheriff's office; is that right?

10 THE WITNESS: Yeah. Yes. When I say handled it,  
11 I mean, it would have been brought to Professional  
12 Standard Committee which is the board that reviews all  
13 of these cases.

14 BY MR. HANLON:

15 Q. How do you know that it would have? How would you  
16 know that?

17 A. Well, it was on the agenda to go to the December  
18 Professional Standard Committee board.

19 Q. Who makes up that board?

20 A. They're civilians. They're people from BSO.  
21 They're people like administration, union and the community.

22 Q. Now we're talking about the Weston case, right?

23 A. I'm talking about the District 5 case.

24 Q. Okay.

25 A. You know, and it was slated to go to the December

1 board and then once they found out that it was gone, that it  
2 was here, it was pulled.

3 Q. But there's no doubt, there's no question, at  
4 least in my experience, even though we have an ongoing  
5 criminal investigation, many, many times at the same time or  
6 afterwards it goes to the citizens' review committee, right?

7 A. Sometimes it goes before us and sometimes it goes  
8 after.

9 Q. Right.

10 Since the efforts to return this case and the  
11 State Attorney has picked it up, has anybody approached you  
12 about your coming down here?

13 A. No. We met with the Inspector General before we  
14 came down here for a strategy meeting.

15 Q. That was the meeting where yourself and Julian  
16 Ulvang met with myself and Ms. Camacho?

17 A. Yes.

18 Q. All right.

19 A. I don't think -- I don't think since that meeting  
20 that I had any discussions -- I had a discussion with the  
21 Inspector General that afternoon.

22 Q. Prior to?

23 A. Very briefly after the meeting.

24 Q. What did he want?

25 A. Just Julian -- I was with Julian Ulvang and he

1 told him, you know, we went down there.

2 Q. Were you called to his office?

3 A. No. It was actually at the holiday luncheon.

4 And we just -- Julian gave him a little bit of a briefing on  
5 this is what we -- this is where they're going. You know,  
6 they're looking to do some document review. They're going  
7 to look into the case, do a lot of the things that  
8 originally we asked to do.

9 And I don't think I had a discussion with him  
10 since then. He actually told me a couple of times right  
11 after the subpoenas -- a week after the subpoenas were  
12 served and then not served, he kind of went out of his way  
13 to say that I didn't do anything wrong and that he actually  
14 told Julian and I that there weren't going to be any  
15 sacrificial lambs in the case.

16 MS. CAMACHO: When were you made aware that  
17 Balanti was going to become part of this  
18 investigation?

19 THE WITNESS: You know, I find out maybe --  
20 December 19th was a Friday I think and sometime the  
21 week of the 15th, maybe the 16th or 17th we found out  
22 that we were off the case, Julian and I.

23 And he called me and told me. It was actually the  
24 16th that he called me and told me and said that Frank  
25 Balanti had been put on the case and I wasn't really

1 given a reason. Julian didn't know.

2 So on the 19th I asked the Inspector General, I  
3 was a little taken back because I didn't think I had  
4 done anything wrong and he said the decision was made  
5 at a hire level than him and he didn't elaborate.

6 MR. HANLON: The I.G.?

7 THE WITNESS: Yes, the I.G. as to why I was taken  
8 off, Julian and I had been taken off and Frank had been  
9 added.

10 MS. CAMACHO: I want to make sure I'm clear. I  
11 think I read everything you gave me. Frank Balanti had  
12 absolutely nothing to do with any of investigation you  
13 did in reference to Sergeant Enser; am I right?

14 THE WITNESS: That's correct.

15 MS. CAMACHO: And if I'm hearing you clearly, he  
16 also had absolutely nothing to do with what happened in  
17 the Weston case; am I right?

18 THE WITNESS: That's correct.

19 MS. CAMACHO: So he would have actually had  
20 nothing to do with this because he didn't do any of the  
21 questioning, he didn't pull any of the reports on the  
22 Enser case, he didn't do anything?

23 THE WITNESS: That's correct.

24 MR. HANLON: I appreciate your indulgence in  
25 discussing the handling of the Enser matter.

1           There were certain things that were done which  
2           were not ordinarily done with the handling of that  
3           case; is that right?

4           What I'm asking you, there's a certain flow in the  
5           way the cases come through your office and down here;  
6           is that not right?

7           THE WITNESS: Yes.

8           BY MR. HANLON:

9           Q.    Okay.

10           And in the Enser case it appears that there were a  
11           number of things done that were not done in the normal  
12           course of events; is that right? Do you understand my  
13           question?

14           A.    I think you're saying there were certain things  
15           that were done.

16           Q.    Was the Enser matter handled differently than the  
17           ordinary allegations of criminal misconduct that comes  
18           through the Office of Professional Compliance?

19           A.    Yes.

20           Q.    Okay.

21                   How?

22           A.    Well, we weren't given the latitude that I think  
23           was needed in the case.

24           Q.    Number one.

25           A.    It was, I guess, with the review, you know, to

1 thoroughly investigate the case from beginning to end, and  
2 where that would have taken us, I don't know because we  
3 didn't do it.

4 Q. Okay.

5 A. So I guess that would be the big thing.

6 Q. How about the fact that it came down here and an  
7 effort was made to take it back, have you ever experienced  
8 that?

9 A. No, I've never seen that before.

10 MS. CAMACHO: Have you ever been removed from a  
11 case where you yourself did the entire investigation?

12 THE WITNESS: Just the case that I went to  
13 Weston.

14 MR. HANLON: And this one.

15 THE WITNESS: And this one.

16 MR. HANLON: Where does Balanti fit in the scheme  
17 of things, in the chain of custody or chain of  
18 command?

19 THE WITNESS: He's a sergeant like myself.

20 BY MR. HANLON:

21 Q. What does he work for?

22 A. Criminal investigations in the robbery unit.

23 Q. Who does he report to generally?

24 A. He has a Lieutenant Bradwood, Captain -- he has a  
25 completely different chain of command than I do.

1 Q. Are you aware of what his chain of command is with  
2 regard to this case?

3 A. It's my understanding he reports to the colonel.  
4 Colonel Brennan, Colonel Carney I think.

5 Q. What is Brennan's first name?

6 A. I think it's Tom.

7 Q. And Carney?

8 A. Tom.

9 MR. HANLON: I can't think of another thing as we  
10 gaze around the room.

11 I'm going to ask our trustee staff to give you a  
12 subpoena for those records in your possession with  
13 regard to the Weston matter and also those documents  
14 that you're reviewing with respect to the Weston case,  
15 recognizing that you would give that to us voluntarily;  
16 however, I'll take it upon ourselves to give you a  
17 subpoena.

18 THE WITNESS: You want me to get the Weston case  
19 and give it to you?

20 MR. HANLON: I want to get what you have. You  
21 said you have stuff in your possession relative to the  
22 Weston case.

23 THE WITNESS: I have a whole copy of that file. I  
24 don't know if it's also -- I don't think that I have  
25 anything in there that's not in the file.



1           See, I sent most of the stuff, the statements, the  
2           reports, all that stuff went to District 8. They  
3           finished it and did an investigative -- I never did an  
4           Investigative Action Report and then it came back.

5           INVESTIGATOR RIHA: He would like to have that  
6           less any Garrity material that's in there. I'll go  
7           see if I can't add that to the subpoena.

8           MR. HANLON: These notes you were refreshing your  
9           recollection on, what are those, just notes?

10          THE WITNESS: These are my notes.

11          MR. HANLON: We want those. We'll give you a  
12          subpoena even though I know you would give it to us.

13          THE WITNESS: I absolutely would be happy to give  
14          you anything that you would need.

15          MR. HANLON: Nothing else, sir.

16          Thank you for your courtesy and cooperation.

17          THE WITNESS: You're welcome.

18          (Whereupon, the SWORN STATEMENT was concluded at  
19          3:05 p.m.)

20          )

21

22          AND FURTHER DEPONENT SAITH NOT.

23

24

25

CERTIFICATE

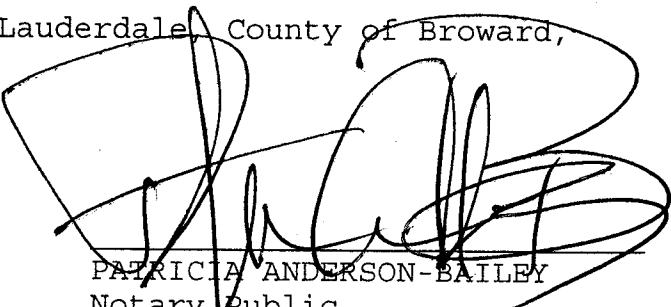
STATE OF FLORIDA       )  
                                      ) SS  
COUNTY OF BROWARD    )

I, PATRICIA ANDERSON-BAILEY, a Notary Public in  
and for the State of Florida at Large:

DO HEREBY CERTIFY that the foregoing SWORN  
STATEMENT was taken before me at the time and place therein  
designated; that the deponent was by me duly sworn; that my  
shorthand notes were thereafter reduced to typewriting under  
my supervision; and the foregoing pages 1 through 105  
inclusive, are a true and correct record of the testimony  
given by the witness.

I FURTHER CERTIFY that I am not a relative or  
employee of any of the parties, nor relative or employee of  
such attorney or counsel, or financially interested in the  
foregoing action.

WITNESS MY HAND AND SEAL this 10th day of January,  
2004 in the City of Fort Lauderdale, County of Broward,  
State of Florida.

  
PATRICIA ANDERSON-BAILEY  
Notary Public,  
State of Florida at Large

