
CRIMINAL INVESTIGATION

SP 03-10-177

CERTIFIED COPY

TAKEN IN THE PRESENCE OF
JOHN HANLON, ESQUIRE,
JEANETTE CAMACHO, ESQUIRE,
ASSISTANT STATE ATTORNEYS,
INVESTIGATOR DANIEL MURRAY,
INVESTIGATOR RICHARD RIHA and
PATRICIA BAILEY, NOTARY PUBLIC,
BROWARD COUNTY COURTHOUSE,
201 SOUTHEAST 6TH STREET,
FORT LAUDERDALE, FLORIDA,
ON JANUARY 23RD, 2004
COMMENCING AT 2:00 O'CLOCK P.M.

* * *

SWORN STATEMENT

OF

LANCE MORGAN

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I N D E X

WITNESS

EXAMINATION

LANCE MORGAN

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

3 EXAMINATION

4 BY MR. HANLON:

5 Q Sir, what's your name?

6 A Lance Morgan.

7 Q Sir, you're a deputy with the Sheriff's Office; is
8 that right?

9 A Correct.

10 Q Broward County Sheriff's Office.

11 You've got your attorney with you?

12 A Yes.

13 Q That's Barbara Duffy.

14 MS. DUFFY: 2650 West State Road 84, Fort
15 Lauderdale, Florida 33312. 954-584-7600.

16 BY MR. HANLON:

17 Q Sir, I'm John Hanlon. I'm an Assistant State
18 Attorney. In here, I have been asked to help our lead
19 prosecutor, Janette Camacho, right here in connection with a
20 criminal investigation currently ongoing.

21 I'm being backed up and supported by these two
22 investigators. These are investigators from our office.
23 To my left, Dan Murray and his supervisor investigator
24 Richard Riha right over there.

25 You're here pursuant to subpoena, are you not,

1 sir?

2 A Yes, I am.

3 Q Now, I will tell you that you're not in any way,
4 shape or form a target of this criminal investigation.
5 You're not a target of any criminal investigation that I'm
6 aware of.

7 You have been delivered a subpoena. A subpoena
8 has been delivered to you.

9 I'm not going to get into attorney-client matters
10 but I will tell you -- and I know your attorney being as
11 sharp as she always is will correct me if I misstate
12 anything -- with a delivery of a subpoena you give up your
13 Fifth Amendment privilege.

14 If I should or anyone should inadvertently ask you
15 a question that would incriminate you, you still have to
16 answer the question.

17 However, on the plus side for you, with the
18 delivery of that subpoena, you have use and derivative use
19 immunity.

20 In other words, we could not use anything you say
21 in this statement in a criminal prosecution of you.

22 We could not use any leads that would come from
23 this statement in a criminal prosecution of you; however, if
24 there was other evidence out there independent of anything
25 in this statement, that of course could be used against you

1 but I will tell you, I have no reason to believe that you've
2 done anything inappropriate.

3 A. Can anything I say be used against me in an
4 internal or administrative proceeding?

5 Q. Those are questions that I would leave for your
6 attorney to answer. This is a criminal investigation.

7 Any administrative problems that might develop,
8 while we're sensitive to that, I can't nor can any of us
9 give you any advice in that regard.

10 I can tell you that at some point in time what you
11 say here can become a public record. And it could become a
12 public record in two ways; and that is, as I'm aware of, if
13 should we close the investigation, anybody in the world can
14 submit what's called a public records request under Florida
15 Statute Section 119 and obtain your statement.

16 Should we prosecute somebody and do discovery and
17 your name be listed as a witness, when that information --
18 when that discovery is done, the entire file, or if you were
19 listed as a witness, would become a public record.

20 But unfortunately for you -- and that's not a
21 question that we have not been asked.

22 Unfortunately for you, as I go along with the
23 spiel, with the delivery of a subpoena, you have to answer
24 our questions. You don't have any recourse.

25 Should you refuse to answer, we would then have to

1 drag you and your attorney down in front of a judge, and if
2 the questions we asked you are relevant to this criminal
3 investigation, the Judge would turn around and tell you to
4 answer them.

5 And in that regard, what is your concern?

6 A. My concern is administrators or.

7 MS. DUFFY: Management.

8 THE WITNESS: Management within the Sheriff's
9 Office getting my deposition and retaliating against me
10 on a personal level based on testimony I have to give
11 and things I say that are the truth.

12 BY MR. HANLON:

13 Q. Yes. Well, I will tell you, not to talk out of
14 school, others have expressed that concern, others farther
15 up the line than you are expressed that concern.

16 One individual was very interested in having on
17 the record that top management has made the statement that
18 nobody would be hurt, in quotes, and I'm paraphrasing, for
19 telling the truth.

20 Now, I don't know whether you take any great
21 solace or comfort in that. I will not comment further if I
22 was sitting in your position.

23 The problem that you have is that we're going to
24 ask pointed questions and you've got to tell the truth.

25 Should you lie to us for any reason, and I don't

1 think that you will, I have no reason to believe that you
2 will, should you for any reason and the questions were
3 material to what we're investigating, you could expose
4 yourself to a crime of perjury in official proceedings,
5 which is a third degree felony.

6 I rattle that off. And I don't want you to think
7 that we're not sensitive to the situation or we've got our
8 heads in the sand but it's unfortunate that you're in the
9 position that you're in but we can't -- we have to leave
10 you to your civil remedies.

11 Of course, there are criminal sanctions. You, I
12 presume, are going to provide us with information which
13 makes you a possible witness to criminal activity.

14 And if somebody was to interfere or encourage you
15 or in any way, shape or form meddle with you as a witness,
16 that individual could expose themselves to criminal
17 sanctions themselves.

18 And in that regard, if for some reason down the
19 road during the pendency of this investigation, if somebody
20 would approach you or in some way try to influence you or
21 meddle with you in some fashion--

22 A. I'm not trying to--

23 Q. Let me finish what I'm saying, I want you to tell
24 your attorney and I want you to tell us--

25 A. I'm worried about working at the toll plaza on a

1 midnight shift. That's what I'm worried about.

2 Q. I understand that. I will tell you that this is
3 a pending criminal investigation.

4 What you tell us today is not going to be made a
5 matter of public record. At some point down the road--
6 this information is not being shared with any outside
7 agencies.

8 There is no one from the Sheriff's Office that's
9 participating in this investigation. There's nobody from
10 the Sheriff's Office that's in the chain of information on
11 this case.

12 The concern, like I say at some point in time,
13 what you tell us is going to be public record and anybody
14 can get it.

15 A. Okay.

16 MR. HANLON: Did I miss anything?

17 INVESTIGATOR RIHA: I can't think of a thing.

18 MR. HANLON: You're caught between a rock and a
19 hard place.

20 See the problem, I fully expect you to be
21 completely honest with us and I would encourage you to
22 do that and I assume that you would.

23 You don't have a problem now.

24 THE WITNESS: Right.

25 BY MR. HANLON:

1 Q. So failure to be completely open and honest could
2 only develop a problem for you down the road and that would
3 be silly for you to do

4 But again, we don't have our heads in the sand.
5 We understand your concerns but I guess we have to plow
6 along.

7 If you have a problem, of course you're going to
8 let us know and we'll see what we can do about it but I have
9 no control over what they might do at some point in the
10 future other than if they violate the criminal statutes.

11 MR. HANLON: Do you have anything that you would
12 like to add to that?

13 Did I miss anything?

14 MS. CAMACHO: I think we covered it.

15 MR. HANLON: Is there anything else in that
16 regard?

17 We are holding this case closely. We've asked
18 that the information, that you not discuss what is
19 ongoing and what we might ask you with anybody else for
20 any number of reasons.

21 You've got to recognize at some point in time
22 there's going to be loose talk floating around that
23 could reach the newspapers. It could reach people that
24 we don't want to reach and we're trying to maintain the
25 elementary investigation.

1 MS. DUFFY: I don't think you need to worry about
2 that especially since my client is the one who is
3 concerned that this information may get out. He's not
4 going to--

5 MR. HANLON: There's always somebody that talks to
6 somebody.

7 BY MR. HANLON:

8 Q. So in any event, with that, let me ask you a
9 little bit about your background.

10 You have been a deputy for how long?

11 A. Twenty two years.

12 Q. Is that all your law enforcement experience?

13 A. No, I had three years with the City of Tamarac
14 prior to coming over to the Sheriff's Office.

15 Q. Was Tamarac taken over?

16 MS. DUFFY: The merger.

17 THE WITNESS: Right.

18 BY MR. HANLON:

19 Q. When was that?

20 A. I didn't come over with the merger. I left
21 Tamarac in '82 and came to the Sheriff's Office.

22 And Tamarac came over I believe in '89--

23 Q. Okay.

24 A. -- to the Sheriff's Office.

25 Q. Your position is what?

1 A. Deputy sheriff

2 Q. Okay.

3 And what district are you assigned to?

4 A. Lauderdale Lakes District 4.

5 Q. District 4, okay.

6 And when were you assigned to District 4?

7 A. Just two years ago.

8 Q. All right. And who do you report to in the chain
9 of command?

10 A. My chain of command would be Sergeant Ralph
11 Hernandez. Lieutenant would be the -- district executive
12 officer would be Don Peterson and the Chief would be Andy
13 Smalling.

14 Q. Andy?

15 A. Smalling.

16 Q. Now, do you work a particular zone?

17 A. Yes. I work 4 Bravo 2, which is a four zone or 4
18 Bravo zone is the 2 Zone.

19 Q. And you work a particular time?

20 A. Yeah, I basically work day shift, 6:00 to 2:00,
21 7:00 to 3:00.

22 Q. Well, now this is just to kind of zero in on our
23 concerns, the Sheriff's Office not too long ago brought over
24 a case involving the alleged falsification of certain
25 official records that are utilized by the Sheriff's

1 Office

2 The case was assigned to Ms. Camacho for review
3 and with close scrutiny by her it came to light that there
4 might very well be a bigger problem with them than this one
5 particular deputy, for lack of a better word, downgrading
6 the nature of the criminal complaints that he was faced
7 with.

8 In reviewing the information that was eventually
9 pulled out of the Sheriff's Office, it became apparent to
10 Ms. Camacho that there might be a bigger problem than that
11 one deputy downgrading the nature of the complaint in order
12 for one reason or another to make this statistical data --
13 to skew the statistical data.

14 With that, Ms. Camacho is involved in the rest of
15 this and we have been taking statements and reviewing
16 materials and it appears that there are other indications
17 that possibly, very possibly this one deputy is not the only
18 one out of five thousand or so -- how many deputies are over
19 there?

20 MS. CAMACHO: Twenty nine hundred.

21 MS. DUFFY: About?

22 THE WITNESS: Yeah, like twenty two hundred,
23 twenty four hundred.

24 BY MR. HANLON:

25 Q. Well, it would appear that there's some indication

1 that that one deputy is not the only one who might have done
2 this.

3 Now, in order not to throw too much out on the
4 table in connection with the interviews and certain of the
5 record reviews, your name came up and it appeared to us that
6 you might have some information that could shed some light
7 on this business of classification of crime.

8 Do you think you can help us in that regard?

9 A. I don't know. I mean, whatever the questions are,
10 I'll do my best.

11 Q. Well, the question is: Have you ever handled
12 calls indicating that very possibly the complainant was the
13 victim, for lack of a better word, of a uniform crime
14 reported type crime, that before too long what appeared to
15 be what is a class one crime becomes a civil matter, a
16 suspicious incident, a trespass, that type of thing?

17 A. Have I seen instances like that happen?

18 Q. Yes.

19 A. Yes.

20 Q. Have you had instances like that? Have there been
21 instances like that that you have personally experienced?

22 A. Yes.

23 Q. Tell me about it.

24 A. Well, you will take a report of a burglary and you
25 write it up and you turn it in.

1 Q. Who does it get turned into?

2 A. You turn it into your direct supervisor. Your
3 sergeant. And then in a day or so it will get kicked back
4 to you and it's usually the C.I. sergeant.

5 Q. That's criminal investigation sergeant?

6 A. Right, who reviews all the reports for District
7 4. I don't know about the other districts.

8 It will be signed by me, signed by my direct
9 supervisor who is the sergeant and it will usually get
10 kicked back to you by the C.I. sergeant and it will say
11 reclassify this as a property damage.

12 Q. A what? I'm sorry.

13 A. Property damage or a criminal mischief based on
14 his opinion of the--

15 Q. Of the facts?

16 A. Of the facts that I'd written in my report.

17 Q. Okay.

18 Can you give us any concrete examples of that?

19 A. Well, I mean, I don't know dates and times. You
20 know, I can think of some cases that I had to reclassify
21 reports and that type of thing.

22 I have to think about it and try to I remember.
23 Like, you know, there will be a rash of burglaries, I
24 believe, that were on 39th Avenue one time where the guys
25 were breaking into cars but they weren't stealing anything.

1 They were just breaking in the cars.

2 They ransacked through the car. They would look
3 through the car and they would, you know, not steal anything
4 because nothing inside the car was good to steal.

5 There was no money or wallet or whatever and they
6 would just leave. And we were told to reclassify these as
7 criminal mischiefs because we couldn't prove the intent.

8 Q. Couldn't prove that anything was taken?

9 A. Well, we knew nothing was taken but we couldn't
10 prove the intent was to deprive the property owner of what
11 was inside the car.

12 Q. Even though the car was ransacked?

13 A. Right.

14 Q. And the glovebox?

15 A. Right. Somebody was definitely in the car. They
16 looked through it and they searched the car and they would
17 be routinely, you know, told to reclassify as criminal
18 mischief or property damage or something like that.

19 Q. Now, just to kind of zero in on this, in District
20 4, how long have you been out there?

21 A. Two years.

22 Q. Okay. And once you get there, is this a practice
23 -- did you notice this practice? When did this first come
24 to your attention?

25 A. Well, probably almost immediately within, you

1 know, a couple months of being there You write reports
2 everyday. District 4 is a very busy district.

3 Q. Which is?

4 A. Lauderdale Lakes was the homicide capital of
5 Broward County last year, seven homicides. It's a very busy
6 district, lot of burglaries, lot of things happen there and
7 we do a lot of paperwork.

8 And, you know, sometimes you may classify
9 something wrong and the sergeant does his job and he's all
10 knowing, all seeing, all doing.

11 Q. All knowing?

12 A. Yeah. And they tell you to reclassify it as
13 something that maybe it should have been.

14 Q. All right.

15 A. So that happens routinely also. But this is
16 happening in our district. And one day at roll-call I
17 brought it up to the sergeant.

18 Q. Who?

19 A. Hernandez.

20 Q. First name?

21 A. Ralph Hernandez.

22 Q. Okay.

23 A. I brought it up to him that I believe C.I. is
24 insulating them by making us reclassify the report.

25 Q. What is C.I.?

1 A. Criminal Investigation division of District 4.

2 Q. Who is it by name? Who are we talking about?

3 A. Well, at the time when this happened, I guess--

4 Q. Well, we don't want you to guess now.

5 A. Well, I'm trying to think who the supervisor was.

6 At the time Sergeant Karry Marks, was the supervisor.

7 Q. Is that C-A-R-R-Y?

8 A. I think it's K.

9 Q. Marks, M-A-R-K-S?

10 A. Yes. He was the supervisor at the time.

11 Not reports kicked back by the detective but

12 kicked back by the C.I. sergeant.

13 Q. Who is?

14 A. Marks.

15 Q. Okay.

16 Have you had that same problem with other C.I.

17 sergeants since you have been out there?

18 A. The C.I. sergeant that we have now Rudy Nesbitt,
19 he kicks backs reports also.

20 Q. Now of course -- and is that Nesbith or Nesbitt?

21 A. I'm not for sure. Nesbitt I think or something
22 like that.

23 MR. HANLON: How do you spell that?

24 MS. CAMACHO: N-E-S-B-I-T-T.

25 It's Rudolph Nesbitt.

1 BY MR. HANLON:

2 Q. Okay.

3 Part and parcel of their job is to review those
4 reports and ensure that they're properly prepared?

5 A. Correct.

6 Q. Okay.

7 Have you had instances with both the C.I.
8 sergeants you mentioned, Marks and Nesbitt, that you felt
9 that they were improperly downgrading?

10 A. Yes.

11 Q. Why do you think they're doing it?

12 A. Well, I mean, I have been a cop for a lot of
13 years.

14 Q. Sure.

15 A. I know a crime when I see one. I know the
16 elements of the crime.

17 My experience with the Sheriff's Office is as a
18 criminal investigator, extensive work on sex crimes, worked
19 homicide, worked a lot of different divisions and recently
20 did have the misfortune to go back on the road.

21 I know the elements of a crime when I see them and
22 know the statute. I know when I have a burglary and
23 property damage and criminal mischief.

24 And if the elements of the crime is there, I make
25 it what I think it is or what I know it to be.

1 Q. Why do you think they're misclassifying the
2 incidents as they are?

3 A. I don't know what their intent is.

4 Q. Can you speculate?

5 A. Well, I mean, I guess they don't have to
6 investigate a crime where you have no suspects and you have
7 no leads and, you know, it's going nowhere and you're going
8 to have a burglary in one of your zones that can't be
9 solved.

10 Q. Why is that bad?

11 A. That's very bad.

12 Q. Why?

13 A. Because the administration here doesn't want to
14 have unsolved crimes.

15 Q. How do you know that?

16 A. That's just what I'm surmising based on the hoops
17 we have to jump through based on how we get reports and
18 things kicked back.

19 Q. Okay. Now, when you go out on a call, you're
20 dispatched, is that it?

21 A. Right. Over the radio communications division
22 dispatcher will receive a complaint via emergency number or
23 non-emergency number. They take the complaint and dispatch
24 it over the radio to us.

25 Q. What will they tell you? Will they tell you what

1 the nature of the complaint is?

2 A. They tell you what they believe the nature of the
3 complaint to be. Like they will dispatch you to a burglary,
4 it's called a 21. So you get dispatched to a 21. He said
5 it's a burglary of my car.

6 On the computer you get an address, they give it
7 over the radio. And on the computer -- they send it to the
8 computer and we get an address, complainant's name and the
9 location and everything like that and you would respond to
10 that location.

11 Q. Okay.

12 A. Meet the complainant and begin your investigation.

13 Q. Okay.

14 Now, when you go out, you interview the guys and
15 his car is sitting there, the window is broken. The
16 glovebox is open.

17 The backseat is pulled out. The trunk lock is
18 pulled out and the trunk lid is up and he says but gee,
19 there's nothing taken, okay, what do you classify that?

20 A. I would classify it as a burglary. Somebody
21 entered or remain in a conveyance or structure with the
22 intent to commit a crime therein.

23 Q. And based upon the fact that the glovebox is open
24 and the seats are pulled out, your left with the impression
25 they were looking for something to take?

1 A. Correct.

2 Q. Okay. So then there are instances -- and I don't
3 want to put words in your mouth -- where either Marks or
4 Nesbitt will kick this back and tell you that's a vandalism
5 or something of that kind?

6 A. Correct. They would downgrade that to a vandalism
7 or property damage or things like that.

8 Q. Now, when you do your paperwork, when you're done
9 with that complaint, you classify it as a burglary
10 conveyance, you fill out what?

11 A. You would fill out an official BSO report, event
12 report.

13 Q. Okay.

14 Now, you have a daily report too?

15 A. Yes, sir.

16 Q. You fill that out? I mean, is that required that
17 you keep that?

18 A. Yes, you have to. It's required that you do a
19 daily header for every call you're dispatched to.

20 Q. Okay.

21 So you put down on there that you have whatever it
22 was, a burglary, whatever it is, and that you interviewed
23 the guy?

24 A. Uh-huh.

25 Q. Right?

1 And you fill that out everyday?

2 A. Yes, sir.

3 Q. And everyday that's submitted?

4 A. Yes, sir.

5 Q. Okay.

6 Now, if you were to send that report to me, and I
7 say to you well, that's a vandalism or something, and I want
8 you to change it, what is it that you would change?

9 A. Just the report itself. The daily probably would
10 not get changed until you went back in the computer and
11 changed your daily to reflect the change.

12 Q. Well, you said you put this in and then you'd go
13 back and write it in or type it in?

14 A. I would go back to my event report, out to my
15 computer, rewrite what I was told to write, delete what I
16 was told to delete and go and download that report again
17 into the system and tear up the old one and submit the new
18 one.

19 Q. All right.

20 Now, in the two or so years that you have been out
21 there, how often do you think this has happened to you?

22 A. How often does it happen to me?

23 Q. Yeah.

24 A. Probably several times a month. Some months you
25 may not get any and you may have three in one month. It

1 happens frequently enough to where I brought it to my
2 supervisor's attention.

3 Q. And that's Hernandez?

4 A. Right.

5 Q. What did he say to you?

6 A. Well, it was at roll-call one day.

7 Q. When was it in time, if you can remember a
8 timeframe?

9 A. How long ago it was?

10 Q. Yeah.

11 A. It was approximately a year ago. Maybe a little
12 bit longer, maybe year and a half or something like that.

13 I was pretty new, maybe six months in the district
14 and I started noticing all these reports coming back and
15 stuff.

16 So in roll-call one morning in -- you know, most
17 of the people that are on day shift were there, I brought
18 this up that C.I. was kicking back a lot of reports.

19 And my observation at the time was I said I think
20 they're trying to insulate themselves from -- see, a
21 detective under UCR can take a burglary report and if he
22 determines through his investigation that it's no longer a
23 burglary report because the elements of the crime is
24 different, he can downgrade that officially by saying this
25 did not happen and I'm going to make it whatever.

1 He can do that under UCR. He can unfound a case
2 However, with the reports coming back to us, making us
3 reclassify them, I told the sergeant I thought the C.I. was
4 trying to insulate themselves by making us rewrite the
5 reports so they wouldn't have to and showing -- you know,
6 writing up everything as unfounded or writing up everything.

7 And they're not doing it, we're doing it at our
8 level and the exact word was they're insulating them.

9 Q. So they're not taking it upon themselves to do it,
10 whatever they're reclassifying, they're pushing it back on
11 you and so the onus or the burden of--

12 A. It's going to be on the deputy.

13 Q. -- of downgrading something on the deputy where
14 you initially felt it was a UCR crime?

15 A. Right.

16 Q. Now, you know law enforcement talks. Have you had
17 conversations with other road patrol deputies in District 4
18 who have voiced the same concern?

19 A. Yeah, it's known that this happens in District 4.

20 Q. Who?

21 A. Pretty much everybody. I mean, everybody talks
22 about it and it's known that we're doing it.

23 Q. The reason I ask that, and for specificity is, I
24 mean, there's two ways of doing this thing. There was --
25 the way some agencies approached this thing was by saying

1 have you ever downgraded and of course the guy says no, you
2 know.

3 I mean, has this been the subject of conversation
4 between yourself and others?

5 A. Yes, over the past.

6 Q. If I want to talk to somebody over there, who
7 should I talk to?

8 A. I mean, everybody in the -- on all the shifts
9 knows it's happens. You know, you should talk to everybody
10 and you will discern who has information but you -- I hear
11 scuttlebutt all the time, guys are talking about it and
12 things like that.

13 Q. If I was to pull your dailies or their dailies and
14 compare that with the final product, would that point up the
15 problem?

16 A. It would be a lot of work. You know, if it
17 happens -- you know, like I can remember specific
18 incidents. I may even have some examples of reports I
19 kept.

20 Rumor has it a lot of guys keep their reports and
21 they can show this has happened.

22 Q. See, we want specifics.

23 A. I don't think I have--

24 Q. I'm sorry?

25 A. I don't think I have many reports but I think that

1 I may have some reports that -- I can't remember what they
2 are but when I first got in the district, I saved a lot of
3 my reports and stuff because I was new back on the road.

4 I was off the road for like seventeen years so
5 going back to the radio, I was like a rookie again. I saved
6 a lot of reports to help myself learn on how to write
7 reports at a deputy's level.

8 Q. You mentioned -- and I don't want to delve into
9 anything possibly embarrassing or uncomfortable for you --
10 the fact you went back on the road after seventeen years.
11 Had you run into a problem with the administration?

12 A. Yeah.

13 Q. Would you mind telling me about that?

14 A. Sure. I was -- two years ago, specifically
15 November 30th -- I was a representative for the PBA for the
16 Swat Team.

17 Basically myself and maybe some others led a -- I
18 don't know what word to use, a revolt against our PBA
19 brothers with the contract that we believe that was being
20 pushed down our throats.

21 The contract was five fifty to two fifty and it
22 was voted down on November 30th.

23 December 2nd I was called in, kicked off the Swat
24 Team -- I was third in charge on the Swat Team -- kicked off
25 the Swat Team.

1 The following week I was kicked out of the future
2 squad, which I had been assigned for five years and kicked
3 out of C.I., which I have been in the past sixteen years and
4 put back as a Charlie shift deputy.

5 Q. What is Charlie shift?

6 A. Afternoons in the busiest district in the county.
7 Prior to that, they had sent me to the airport for the week
8 and kicked me off the airport. In my opinion, they didn't
9 want me to have a cush job at the airport.

10 They put me out in the busiest district in the
11 county. I went and raised my concerns with Ms. Duffy and
12 Braverman.

13 They told me the hoops I would have to jump
14 through for a violation of perks law, like getting five
15 people to write letters supporting what you're saying is
16 happening, it was almost impossible to pursue.

17 That's why I'm so concerned about pursuing --
18 witness tampering, that means nothing to me. I see how I
19 was treated before. It's nothing.

20 I was put back on the road. I dealt with it. I
21 rationalized it and maybe I shouldn't have messed with
22 politics.

23 Q. As we sit here today, without refreshing your
24 recollection, you can't, and I'm not asking you this
25 question to demean what you're telling me, but as you sit

1 here today, can you think of any specific example that
2 happened to you?

3 MS. DUFFY: Of changing the stats?

4 MR. HANLON: Yes.

5 THE WITNESS: Changing the report?

6 BY MR. HANLON:

7 Q. Yeah.

8 A. I would have to concentrate a little bit. If,
9 you know, I went back to my daily reports, I could probably
10 give you specific examples.

11 Q. Well, apparently sometime in the past you had the
12 situation with the car burglary?

13 A. Right.

14 Q. Okay. Any other situations or examples where you
15 were dispatched to what you thought was a UCR crime and it
16 turned out to be something else?

17 And I'm asking, this is almost for education for
18 us as to other areas that we might look at.

19 MS. DUFFY: Just for clarification, he's
20 dispatched to a crime. He classifies it himself as a
21 crime and then it's changed by someone else?

22 MR. HANLON: Yeah, exactly.

23 MS. DUFFY: Okay.

24 THE WITNESS: There's been times where -- like I
25 think a theft of a motor -- of a go-cart was taken from

1 a side of the house and it was downgraded.

2 So we wouldn't have to make it a single stolen
3 vehicle, it was downgraded by saying that it was in
4 disrepair or it was -- like parts were missing or it
5 was like in pieces and it was downgraded.

6 BY MR. HANLON:

7 Q. What would it be downgraded to? In other words,
8 it's not a motor vehicle because it couldn't move?

9 A. Right, a petit theft. It was on the side of the
10 house. Somebody entered on the property, took the go-cart
11 and it was reworded to make it a petit theft.

12 Q. And that was on the basis that the thing wouldn't
13 move?

14 A. Right. And that it was in pieces and that it was
15 in disrepair. Someone entered on a curtilage.

16 It would be a grand theft but you make it a petit
17 theft. You know, not -- I mean, think about it. There have
18 been dozens of incidents over two years that's happened to
19 me specifically.

20 Try to narrow them down, not really thinking, it's
21 just the way things are done.

22 Q. Okay.

23 A. And, you know, bringing it to your supervisor's
24 attention, they're saying listen, don't make waves.

25 Q. Is that what Hernandez told you?

1 A. Yeah, just do what the C I. sergeant tells you.
2 He's a sergeant.

3 Q. Some of these instances it's been when these
4 things have come to light, the advice is don't change it.
5 If he wants it, the C.I. sergeant wants to change it, let
6 him do it?

7 A. Well, that's pretty much the advice now over the
8 last few months. Hernandez says if any report gets kicked
9 back to you, bring it to me first and I'll review it and
10 work out with the C.I. Sergeant and if it needs to be
11 changed, we'll change it.

12 Q. When did that change?

13 A. Three months ago. And just recently we have been
14 told that you better be able to justify downgrading or
15 changing anything.

16 Believe it or not, you get dispatched to a lot of
17 things, when you get there -- an example yesterday, I get
18 dispatched to a burglary. I get there. It's a vacant
19 apartment. A homeless person was sleeping inside the
20 vacant apartment.

21 The dispatcher, when they hear it on the radio,
22 somebody is in my apartment, they make it a burglary.
23 That's not the burglary. It's a trespass.

24 I downgrade it to a trespass, give the guy a
25 trespass, F.I. and send him on his way. Homeless person was

1 cold and went in to sleep.

2 MR. HANLON: F.I.?

3 THE WITNESS: Field Interrogation card.

4 BY MR. HANLON:

5 Q. Okay. So this happens routinely?

6 A. You get dispatched to a domestic disturbance. A
7 domestic disturbances doesn't involve a battery all the
8 times or force.

9 You get there. Husband and wife are whatever,
10 have an argument. It's verbal and you resolve the
11 difference.

12 One of them goes on their way, whatever. You
13 downgrade it to a disturbance call and you code it out.
14 You don't do any paper. That happens routinely everyday.

15 As far as the UCR crimes, generally you would
16 write it up and the report goes -- it's signed off and it
17 comes back to you so.

18 Q. Other than Sergeant Hernandez, have you voiced
19 your concerns to anybody else?

20 A. Yeah. Over the past year and a half or two
21 years, other deputies and myself have talked about it on the
22 shift.

23 Q. But I mean in management?

24 A. No.

25 Q. Okay.

1 INVESTIGATOR MURRAY: Deputy Morgan, on this F I.
2 card, just on this thing with the burglary, is there on
3 your daily a place where you indicate that the F.I.
4 card was done?

5 THE WITNESS: Yes, sir.

6 INVESTIGATOR MURRAY: There is?

7 THE WITNESS: You can indicate it in your
8 narrative section. Also there's a stat box where you
9 accumulate your stats for each call.

10 Like there's a bunch of boxes. You would check
11 one of them on the F.I. card that you wrote at the
12 scene.

13 Say there's two homeless persons. There's two --
14 there was only one yesterday, so I wrote one but on the
15 bottom of your daily there's a stat box. Anything you
16 did on a specific call, you would check that and put
17 the number there.

18 INVESTIGATOR MURRAY: You're a seasoned deputy,
19 investigator. Probably the chances of somebody trying
20 to force you into changing reports and something is
21 something that's going to be minimized because they
22 know you have experience in doing this kind of stuff as
23 far as an investigator.

24 Are there guys, younger fellows, that are kind of
25 like more of a target for these people to ask them to

1 change their reports, newer deputies I guess you would
2 say?

3 THE WITNESS: I don't think that anybody is
4 immune based on time or grade or experience. It's a
5 totalitarian way of doing things.

6 You will do this. It's done unless you have
7 problems. And guys aren't looking for problems out
8 there.

9 MS. CAMACHO: What kind of problems?

10 THE WITNESS: Being shipped to a toll plaza
11 working midnights tomorrow night. Working midnights
12 with Tuesday and Saturday off or something like that.
13 You don't believe it but this stuff happens everyday.

14 MR. HANLON: Don't presume we wouldn't believe it.

15 INVESTIGATOR MURRAY: Are there any well-known
16 shortcuts, sharpening a pencil to make something --
17 downgrading cases?

18 THE WITNESS: Not really. Because the C.I.
19 sergeant or your sergeant doesn't really know what
20 you're doing out in the field all day because Lakes is
21 a very busy place and you're handling calls.

22 At the end of the day you submit your paperwork or
23 the next morning, there's always usually a day or so
24 when they get the paperwork, review it and that's when
25 you get the report back saying change this or change

1 that.

2 As far as shortcuts, I really don't know what
3 you're getting to as far as that.

4 INVESTIGATOR MURRAY: Have you ever heard of
5 anybody -- you talked about the go-cart. Was that in
6 disrepair, the go-cart?

7 THE WITNESS: No.

8 INVESTIGATOR MURRAY: How about changing the value
9 of something? You know, almost the same thing, what
10 you just talked about, an auto theft to a petit theft,
11 how about the grand theft?

12 THE WITNESS: Not too much. You know, a thousand
13 dollars makes it a felony. If it's petit theft, it's
14 like over three hundred dollars or whatever.

15 Not so much. I haven't seen that much of changing
16 the price of something to make it a petit theft.

17 We'll take -- people lose things all the time or
18 things are missing. And they say hey, this is missing,
19 I think it was stolen, we'll make it lost property.

20 We can't basically find out one way or the other
21 if something was -- you know, if we can't prove the
22 element of the crime at the scene, even if somebody is
23 alleging that, most of the time we make it lost
24 property.

25 INVESTIGATOR MURRAY: It's never followed up on by

1 the detective?

2 THE WITNESS: It's a lost property. It's not a
3 UCR crime that's reported.

4 INVESTIGATOR MURRAY: Temporary loss of gravity.
5 How about the other one, you get sent someplace,
6 let's just take a Walgreens.

7 Kid is in there and has stolen something. Still
8 has it. Candy, hasn't eaten it yet. What's the
9 procedure for that in District 4?

10 THE WITNESS: Well, if it's a theft, retail theft,
11 we could probably arrest them and, you know, that type
12 of thing.

13 However, if the store doesn't want to pursue it, a
14 lot of times if the store doesn't want to pursue it,
15 you would just make it go away.

16 If the store doesn't want to pursue it, we F.I.
17 the kid that he was inside the Walgreens and you code
18 it again.

19 Basically it depends on what the store wants. A
20 lot these stores don't want to work with us.

21 I have no problem arresting nobody. Arrest in my
22 opinion is not the problem. You arrest somebody, you
23 arrest them.

24 Now, yeah, if the store didn't want -- I had one
25 where the Chinese grocer up there -- the lady went and

1 stole one hundred dollars worth of groceries. We
2 caught her down the street.

3 We didn't anticipate arresting her. The store
4 said I don't want to prosecute.

5 We don't prosecute. We make them sign a waiver
6 form or just, you know, code it as a civil matter
7 basically.

8 Did she steal? Yes. Was a crime committed?
9 Yes. Does the store want to do anything about it?
10 No.

11 There's a form called waiver of prosecution
12 form. It doesn't really happen much with the
13 arrests. Usually in my experience it hasn't happened
14 with arrests that much.

15 INVESTIGATOR RIHA: Hi.

16 You had indicated that you had saved some reports
17 when you first started in the district because you were
18 new.

19 Any of the reports that you saved, were any of
20 those changed at some later time?

21 THE WITNESS: Possibly, yes.

22 INVESTIGATOR RIHA: Would you be able to go
23 through those reports for us and forward those ones to
24 us that were changed?

25 THE WITNESS: Yes.

1 MR. HANLON: Through your lawyer.

2 INVESTIGATOR RIHA: Through your lawyer.

3 MR. HANLON: Would you rather have him send them
4 directly to us?

5 MS. DUFFY: Make me the mail delivery person.

6 MR. HANLON: The answer is?

7 MS. DUFFY: I have no problem with him submitting
8 them directly to you.

9 MR. HANLON: That was my question, great.

10 Investigator Riha will give you his card. We're
11 always sensitive to the lawyer presence.

12 INVESTIGATOR RIHA: You said you worked in
13 Lauderdale Lakes two years and you had quite a lot of
14 experience prior to that.

15 When you came out of C.I., did you go right into
16 Lauderdale Lakes?

17 THE WITNESS: I was first transferred to the
18 airport for about a week. Maybe a few more days than
19 that.

20 And then got called on my the week of Christmas.
21 I got called like the 27th of Christmas by the captain
22 of the airport that said you're being transferred again
23 so that's when they put me up in Lauderdale Lakes.

24 INVESTIGATOR RIHA: When you were in C.I., did you
25 -- and you said you worked homicide. Did you ever

1 work anything else besides homicide?

2 THE WITNESS: Yes, I started in 1986 in C.I. I
3 worked auto theft, major crimes which is now an
4 Aggravated Felony Unit. I worked sex crimes. Robbery
5 division. Short time in homicide.

6 During '91 during the Behan homicide and then last
7 four or five years I was in the fugitive squad.

8 BY MR. HANLON:

9 Q. During your time with C.I., did you see any
10 downgrading of crimes while you were in C.I.?

11 Was there any type of philosophy or unofficial
12 rules that would say if you could not get a hold of, say, a
13 witness or a victim, that you would then reduce that event
14 to something that would not be a UCR crime?

15 A. When I was a C.I. --, actually like I said the
16 last five or six years I was in the fugitive unit where you
17 don't deal with UCR at all.

18 But when I was in those other units, when it gets
19 to your level as investigator and it comes downtown,
20 downtown C.I., that's way different than district C.I.

21 District C.I. is in house. It stays in house.
22 When reports leave the district and they're made aggravated
23 batteries or robberies or whatever and they go downtown,
24 that's what it is. And when you get it, it's going to be
25 assigned to you as a robbery.

1 Now, you have, you know, levels of UCR's and
2 things that you can do.

3 You can unfound that case if you determine, and
4 you investigate, the elements of the crime don't meet the
5 criminality or don't meet the State statute, that type of
6 thing.

7 As an investigator, I would unfound sex crimes.
8 Sometimes -- you know, one specific example, a guy made a
9 woman grab his penis and give him a hand job. It's not a
10 sexual battery, it's a battery. It's unfounded as a sexual
11 battery.

12 So I would then give that case to a battery
13 investigator or have them pursue it at the State Attorney's
14 Office as a battery.

15 Those things happen but that was per UCR
16 standards. I didn't see it when I was a downtown C.I. It
17 could occur, I don't know but I never saw it downtown.

18 Q. You didn't experience it until you went to
19 Lauderhill?

20 A. Lauderdale Lakes.

21 Q. Lauderdale Lakes, I'm sorry.

22 A. I have been off the road sixteen -- seventeen
23 years. That's when I first started seeing what I thought
24 was inappropriate.

25 INVESTIGATOR RIHA: What is the philosophy of

1 stolen bicycles in Lauderdale Lakes?

2 Do you make event reports for petit theft when a
3 bike is stolen?

4 THE WITNESS: Believe it or not I have not handled
5 a stolen bicycle report.

6 However, if I went to a residence and somebody
7 reports a bike stolen, depending on the price of the
8 bicycle, I would make it a petit theft or grand theft.
9 That would be my philosophy.

10 MR. HANLON: What he's talking about, the
11 expression is a community bike; have you ever heard
12 that?

13 THE WITNESS: No.

14 MR. HANLON: That was a good one, where a bike
15 will be found, you know, next to the 7-Eleven, called
16 in and well, that's a community bike, that's not
17 stolen.

18 MS. DUFFY: Everyone uses it.

19 MR. HANLON: That was a new one to me.

20 MS. DUFFY: He doesn't do bicycles.

21 MS. CAMACHO: I have a question. I guess I want
22 to be clear on something.

23 If I understand you correctly, you're not just
24 told to reclassify, you are actually told literally to
25 lie on reports.

1 For example, the go-cart which you were talking
2 about, or the go-cart that it was in pieces when it
3 wasn't or it didn't work when it did; am I
4 understanding you correctly?

5 THE WITNESS: Here's what happened, you will get a
6 report back highlighted in red magic marker crossing
7 out what they don't want in and putting what they do
8 want in.

9 You will then take that to your car. You will
10 write what you're told to write and you will submit
11 that.

12 MS. CAMACHO: They're asking you to delete things
13 but you were the one who went out. You would know
14 better than anybody whether that go-cart worked or if
15 it didn't or if it was in pieces or not.

16 It's actually a truthful statement, that's why
17 it's in the report.

18 THE WITNESS: That's what my investigation
19 discovered and revealed. What you write in the report,
20 that's the initial investigation.

21 MS. CAMACHO: So they would tell you to take that
22 out and put in what they needed in there so it could
23 be--

24 THE WITNESS: Passed on as a downgraded crime,
25 correct.

1 BY MR. HANLON:

2 Q Do you remember, and just trying to tie everything
3 together, do you remember revoicing your concerns to a
4 Sergeant Rosenthal?

5 A Yes.

6 Q What's his first name?

7 A Mike Rosenthal I believe.

8 Q Was he anywhere in the chain of command at that
9 time or?

10 A Yeah, Mike has been transferred out for like a
11 year now give or take. We would talk about crimes being
12 reclassified, yeah.

13 See, you have two sergeants. You have two
14 different personalities, and Hernandez and Rosenthal didn't
15 see eye-to-eye on a lot of things.

16 But, you know, the sergeants, they take orders
17 too. They feel the pressure from up above.

18 Q How do you know that?

19 A They don't make waves. You go to your sergeant
20 about a complaint and he tells you to deal with it.

21 I mean, he knows what the right answer is and he
22 knows the wrong answer. He has been in the job as long as
23 you but what they tell you is an answer that his hands are
24 tied to.

25 Q He doesn't want to end up in the toll booth?

1 A When you get old, it's hell being on the toll
2 plaza. When you're young--

3 Q It's not necessarily easy in here.

4 A I can see that.

5 MS. CAMACHO: Do you know of anyone that refused
6 to change a report or reclassify it and was penalized
7 for that one way or the other?

8 THE WITNESS: Yes.

9 MS. CAMACHO: Who?

10 THE WITNESS: Jeff Pontz who is on my shift.

11 MS. CAMACHO: Tell us about that, please.

12 THE WITNESS: I know he had some run-ins with
13 Sergeant Nesbitt about report writing and changing
14 reports.

15 And from my understanding he refused -- from my
16 understanding he refused and he was taken off his shift
17 and stuck on day shift. He prefers midnights.

18 He was stuck on afternoons and may have got a
19 letter of reprimand. That's what I -- hear scuttlebutt
20 a lot.

21 MS. CAMACHO: Right.

22 THE WITNESS: I understand that he has a lot of
23 examples of reports that he had to change. Lots.

24 MS. CAMACHO: Lot of examples, okay.

25 Is he the only person that you're aware of?

1 THE WITNESS: That has examples or?

2 MS. CAMACHO: Or that was penalized for refusing
3 to change a report?

4 THE WITNESS: That was penalized, yeah

5 MS. CAMACHO: How about in other districts, do you
6 know of anything? Just yours?

7 THE WITNESS: No, I don't know.

8 MR. HANLON: Who puts up a fuss about it?

9 THE WITNESS: Who has put up a fuss about?

10 BY MR. HANLON:

11 Q. Changing it.

12 A. Well, Pontz has. I don't -- you know, when you're
13 kind of like in a little trouble like I was, you go with the
14 flow. You don't put up much of a fight about anything.

15 Q. I hear you. There might be some young and vocal
16 types.

17 A. No, pretty much everybody knows, you know, to keep
18 their mouth shut and do what they're told and, you know,
19 that's just the way it is.

20 And I'm not defending it. And I'm not saying it's
21 -- I'm just saying that's just the way it is.

22 And when you don't have no backing from anybody
23 when you make -- when you raise these points, you just keep
24 your mouth shut and do what you're told to.

25 INVESTIGATOR MURRAY: Deputy Morgan, on these

1 reports, you save the reports, did you save the hard
2 copy?

3 THE WITNESS: Yeah.

4 INVESTIGATOR MURRAY: Does everybody usually put
5 everything on disk?

6 THE WITNESS: Yes.

7 INVESTIGATOR MURRAY: You're just speculating but
8 do you think if somebody was made to change a report,
9 they would put their originals on disk?

10 THE WITNESS: Probably not because you would have
11 to go into the whole new report, which takes time to
12 do.

13 INVESTIGATOR MURRAY: Yeah.

14 THE WITNESS: Because everything is computerized.
15 You have to put all mandatory fields and boxes and a
16 simple report can take twenty to thirty minutes to do.

17 What I do and what I believe happens with most
18 deputies is there's two ways to change the report.

19 After you've already downgraded, you go in the
20 office computer, pull up your name and the report
21 number goes onto the screen and change it there. But
22 generally people go out to their cars, change the
23 report on their laptop.

24 INVESTIGATOR MURRAY: Right.

25 THE WITNESS: You have a permanent record of it

1 and download it to the disk and take it in office and
2 download it and get a hard copy but you can tell on the
3 computer system how many times a report has been
4 downloaded.

5 Say if I download my first report and somebody
6 doesn't like the way it's written, they tell me to
7 change it, I change it and download the second time.

8 They don't like what I wrote or maybe something
9 else I forgot, it marks this is the third report, the
10 fifth report, so you can see how many times a specific
11 report has been downloaded.

12 The only reason the report would be downloaded a
13 second or third time is if changes are made.

14 INVESTIGATOR MURRAY: Where would you retrieve
15 something like that?

16 THE WITNESS: Retrieve?

17 MS. DUFFY: Where does it show that?

18 THE WITNESS: Well, on the report itself. On the
19 computer, if you download, like the serial number on
20 the report, the serial number might be 1111, that's the
21 first report.

22 The next serial number would be 1112. And if you
23 had to change it again, it would be 1113 so you would
24 be able to tell.

25 That's a defense mechanism, from my understanding,

1 that it protects you from people -- other people
2 changing reports.

3 INVESTIGATOR MURRAY: Getting into your system?

4 THE WITNESS: Somebody going in under my ID number
5 -- my ID number is on schedule -- punch in my number
6 and pull all reports and dailies I've submitted in the
7 last year and change things; that's my understanding.

8 I've seen it done. I prefer to go out to my car
9 and do it in my car. I keep all my reports on my
10 computer.

11 So then it shows this is what I wrote and say this
12 is the second or third report that has been downloaded.

13 INVESTIGATOR MURRAY: What generates that serial
14 number?

15 THE WITNESS: The computer does. They call it --
16 not serial number, I can't remember what they call it.

17 MS. CAMACHO: It's actually -- if we had the
18 physical report, it would be on the physical report.

19 THE WITNESS: Right at the very bottom right or
20 left there's a little number that would show whatever
21 number that is.

22 If you went and downloaded it again, it would have
23 a different number than you downloaded the second and
24 third time.

25 So some reports get downloaded -- I mean,

1 sometimes you make mistakes, misspelled words. Some
2 sergeants are more particular as far as, you know,
3 grammar and that type of thing and so sometimes you
4 download or have to change the grammar or whatever,
5 that would indicate you've changed it two or three
6 times.

7 INVESTIGATOR MURRAY: Is there anyone in the
8 district that's out there that does more, let's just
9 say, changing than another?

10 THE WITNESS: We hear rumors about District 5,
11 that's all just rumors and unsubstantiated stuff.

12 INVESTIGATOR MURRAY: Just talk.

13 THE WITNESS: We hear rumors of things going on
14 over there and things go on here I'm sure. I'm not
15 knowing anything. I'm sure it goes on everywhere
16 because the pressure is -- I feel the pressure at my
17 level and I'm low.

18 I'm a road patrol deputy. They're not much lower
19 than that, maybe a CSA.

20 I feel the pressure on my level to keep crime down
21 so imagine as you go up the ladder, you're in
22 Power-Trac in these meeting.

23 MR. HANLON: Who is putting that pressure on you
24 to get crime down? Is that coming from your sergeant?

25 THE WITNESS: I have really no interaction with

1 lieutenants or chiefs in our district. And really,
2 the only time you feel pressured is when you get the
3 reports kicked back to you to change.

4 Now, they will get you on the radio occasionally
5 and say what do you got over there. And they will use
6 words like I want you to really interview those
7 witnesses and scrutinize that crime scene.

8 MR. HANLON: Is that a wink and nod? What does
9 that mean?

10 THE WITNESS: Yeah, do what you can.

11 BY MR. HANLON:

12 Q Who is telling you that?

13 A You just hear sergeants all the time doing that.
14 You know, I hear other sergeants telling other guys that.

15 And one of my first weeks on the job, my first
16 week on the job out there when I was working Charlie shift
17 for like three weeks, somebody got me on the radio and said
18 make sure you review that crime scene -- which I have no
19 problem reviewing the crime scene and looking to make sure I
20 do my job.

21 And it is what it is and I report it as that but,
22 you know, it's like you feel that pressure. That's all
23 there is.

24 MS. CAMACHO: Can you give us some of the names of
25 people on your shift that you talked about this with?

1 THE WITNESS: Tim Botter (phonetic). He knows
2 what's going on.

3 MS. CAMACHO: Do you think he may have reports
4 that he kept?

5 THE WITNESS: He's a traffic guy. I don't know
6 that he will have reports.

7 He wasn't always a traffic guy but, you know, we
8 talk and interact and have breakfast over the last
9 couple years and people say things.

10 I would say it would be my advice that -- I know
11 it would be a lot of work for you guys, talk to
12 everybody in the district, that would be my advice.

13 Not so much the rookies because they're new but
14 now the new policy in the district that, you know,
15 basically -- as a matter of fact, I was talking to an
16 Oakland Park guy yesterday.

17 He said that before they reclassify a crime, they
18 have to check with the supervisor. So new criteria has
19 come down to be able to justify what you're doing out
20 there.

21 BY MR. HANLON:

22 Q. What do you think precipitated that?

23 A. All these rumors going around about people are
24 going down for under-classifying reports, I mean there's a
25 lot of rumors.

1 Q That people are going down?

2 A That people are being investigated.

3 Q When did that start?

4 A I don't know, couple months ago. I don't know but
5 I mean, information leaks out.

6 I don't know if it's the truth or not but
7 information leaks out that, you know, things were being
8 investigated and to make sure you dot your I's and that type
9 of thing.

10 MS. CAMACHO: How long has Sergeant Nesbitt been
11 out there?

12 THE WITNESS: Maybe six months.

13 MS. CAMACHO: He came from District 5?

14 THE WITNESS: Yeah.

15 Maybe a little bit less. Maybe a little bit --
16 maybe six, eight months maybe.

17 INVESTIGATOR RIHA: Who did you talk with in
18 Oakland Park?

19 THE WITNESS: I was at the car wash and I was
20 talking to a sergeant, I don't know his name. His name
21 is a real long name.

22 We're at the car wash. I really don't know him
23 but.

24 INVESTIGATOR MURRAY: Was he an Oakland Park guy?

25 THE WITNESS: Yeah, he's an Oakland Park

1 sergeant. And we're talking and he said that they're
2 now having to -- like he had to go over to three
3 channel or go to our talk around channel and he said
4 something about the radio being real busy.

5 He goes now these guys, if they have to reclassify
6 -- when you go to the scene and have to reclassify
7 something, they have to check with you before you can
8 -- if you want to reclassify a burglary as a trespass,
9 like I told you I did yesterday, you have to check with
10 the supervisor; that's what he told me. That's my
11 understanding of what he told me.

12 BY MR. HANLON:

13 Q. Is there anybody that you can think of at the
14 sergeant's level that would come in here and be honest with
15 us?

16 A. I don't know. I don't know about that.

17 I think Mike Rosenthal but he's not my sergeant.
18 He has been gone a long time.

19 When you guys lay it out and say like you laid it
20 out to me, I don't mind telling the truth.

21 And like I said, I'm a short timer anyway. I'm
22 retiring soon, next year, I just don't want to live in
23 misery my last couple years.

24 It could have been real nice if I didn't get
25 involved in that contract. I had a cush job. I was third

1 in charge of Swat. Now I'm out pushing a car.

2 MR. HANLON: I know he's not too crazy about being
3 on the Swat Team. People shoot at you.

4 THE WITNESS: I was in third in charge.

5 MR. HANLON: Send somebody else.

6 MS. DUFFY: He did send somebody else.

7 MR. HANLON: Let's see, anyone else?

8 THE WITNESS: As far as anybody coming in and
9 talking?

10 MR. HANLON: We would like for you to do -- you
11 know, there's skeptics around that say these are
12 disgruntled employees.

13 And what we need to find and what we need -- and
14 we're going to find it -- but using Rich Riha's words,
15 you know, express elevator, it would be nice if you
16 could provide us with some specific instances.

17 So I'm going to rack your brain again. Anything
18 -- when you do that, you're being compelled to do
19 that, you know.

20 You don't have any choice but there are some -- we
21 might run into some nay sayers that would say these are
22 just disgruntled guys and there's nothing to it.

23 So if you could help us with some statistics, it
24 would be very helpful.

25 THE WITNESS: Right. I think I have -- not long

1 ago I'd seen some reports that I had red written on
2 them.

3 I didn't review that report to see what that
4 involved. It could have been something simple but I
5 saw a bunch of red writing on the report.

6 BY MR. HANLON:

7 Q. What does that mean?

8 A. The C.I. sergeant would rewrite your report for
9 that.

10 Q. That would be either Rosenthal -- I mean, Karry
11 Marks or Nesbitt?

12 MS. CAMACHO: They both do it pretty much?

13 THE WITNESS: Well, Karry Marks got transferred
14 out. He's no longer there. He's a lieutenant up in
15 North Lauderdale.

16 But, yeah -- well, now they do it a little bit
17 different. I get a cover sheet saying what's wrong
18 with your report and then you change it. They don't
19 mark on the report.

20 MS. CAMACHO: Did you keep any of them?

21 THE WITNESS: I really haven't had that many
22 reports kicked back recently, that's just something
23 they started in the last three or four months.

24 INVESTIGATOR MURRAY: Was Nesbitt promoted to
25 lieutenant because he did so well in C.I.?

1 THE WITNESS: Nesbitt is a sergeant. Marks is a
2 lieutenant.

3 INVESTIGATOR MURRAY: He was a C.I. sergeant, I'm
4 sorry, you're right.

5 THE WITNESS: I don't think he was promoted on how
6 good he did on C.I. He was on the lieutenant list for
7 two or three years and he finally -- he was one of the
8 guys that got promoted to lieutenant. At the very,
9 very end he got promoted off the list.

10 I'm sure his C.I. division, you know, when they
11 looked at it, it probably didn't hurt what he did in
12 C.I.

13 I don't think -- believe it or not BSO doesn't
14 promote people based on merit. That may surprise you,
15 okay, but this doesn't happen at BSO and maybe I'm
16 disgruntled about it, I don't really care.

17 MR. HANLON: I don't know how you could say that.

18 THE WITNESS: So but again, if you talk to the
19 other guys on the shift, I gave you some names, but I
20 have copies of reports, I know what's going on.

21 MR. HANLON: What else do you have for this guy?

22 INVESTIGATOR MURRAY: F.I. cards, did you ever
23 hear of anybody using F.I. cards other than the
24 specific reason that there put here on earth?

25 THE WITNESS: No. F.I. card is Field

1 Interrogation card.

2 My understanding is anytime you come in contact
3 with someone that you think may be suspicious, you
4 document their presence in the area, what they're
5 doing, maybe run a computer check on them.

6 If you had no probable cause or no reason to
7 detain them any longer or arrest them for something,
8 you let them go.

9 You submit that and it's introduced into the
10 database and the detective pulls that information if
11 there's a crime maybe that night, that type of thing.

12 You're supposed to make an F.I. card out on every
13 arrest you make, any suspicious people you come in
14 contact with you.

15 And truancy, if you had a truant, you return them
16 to school and make an F.I. card on them.

17 MS. DUFFY: I think he's asking you if you're
18 aware of them being used inappropriately.

19 MR. HANLON: Yeah, used as a device of downgrading
20 a crime.

21 MS. CAMACHO: Or not to report a crime.

22 THE WITNESS: Not that I know about, no. I mean,
23 I never heard of that and have never seen it.

24 I don't know how they could be used but with the
25 pressure comes a lot of creativeness by people.

1 And unfortunately when you need to be creative and
2 you're being pressured -- when I used to work sex
3 crimes and you had a stranger rape, a lot of rapists
4 hit three times, you talk about pressure to get the
5 guy.

6 There was a lot of pressure and you work your butt
7 off. I know what pressure is because I worked there
8 before and you feel the pressure.

9 MS. CAMACHO: What happened to a district if crime
10 actually goes up?

11 THE WITNESS: Well, we deal with an influx of
12 crime that go up and that's normal. We will have to do
13 specific tasks like what they call an ops plan and
14 other things to combat crime or certain things in
15 certain areas.

16 If there's a trend for auto thefts around, you
17 know, the old Lauderdale Lakes mall, we do an ops plan
18 where deputies go in four times a night.

19 You document on your daily you're in there four
20 times a night and you would, you know, try to combat
21 that problem.

22 But as far as anything that happens to you, you
23 know, if they don't feel a deputy is doing a good job
24 in a certain zone, they relocate you to another zone,
25 that type of thing.

1 But generally, you know, besides being talked to
2 at roll-call we need to start doing this and that -- I
3 know what happens at the Lakes.

4 MR. HANLON: Thank you for your courtesy.

5 (Whereupon, the SWORN STATEMENT was concluded at
6 3:30 p.m.)

7
8 AND FURTHER DEPONENT SAITH NOT.
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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 58
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 26TH 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

