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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

TERRENCE BRESSI,)	
)	
Plaintiff,)	
)	
vs.)	No. 04-264 TUC-JMR
)	
MICHAEL FORD, ERIC O'DELL,)	
GEORGE TRAVIOLIA, RICHARD)	
SAUNDERS, AND UNITED STATES OF)	
AMERICA,)	
)	
Defendants.)	
_____)	

THE DEPOSITION OF Michael Ford

Tucson, Arizona
November 3, 2006
2:40 p.m.

WENDY J. PULLIUM, RPR
Arizona Certified Reporter, No. 50247

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12 GUST ROSENFELD, P.L.C.
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14

15 ALSO PRESENT: Terrence Bressi
Eric O'Dell

16

* * * *

17

18 BE IT REMEMBERED that pursuant to Notice
19 for taking depositions in the above-styled cause, the
20 deposition of Michael Ford was taken upon oral
21 examination at Hotel Arizona, 181 West Broadway
Boulevard, in the City of Tucson, State of Arizona,
22 before WENDY J. PULLIUM, Certified Reporter #50247, on
the 3rd day of November 2006, commencing at the hour
of 2:40 p.m. in a certain cause now pending before the
United States District Court in the District of
Arizona.

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I N D E X

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E X H I B I T S

NUMBER	DESCRIPTION	IDENTIFIED
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(No Exhibits Marked For Identification)

1 MICHAEL FORD,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 E X A M I N A T I O N

5 BY MR. EUCHNER:

6 Q We are on the record.

7 Good afternoon, Lieutenant Ford.

8 A Good afternoon.

9 Q Could you state your name for the record.

10 A Michael Brendon Ford.

11 MR. EUCHNER: Okay. And before we start, we
12 are now down to one audio recording, that of
13 Mr. Bressi, as my battery has run out.

14 BY MR. EUCHNER:

15 Q Lieutenant Ford, I'm going to ask you some
16 questions today. You have been placed under oath, so
17 you have to answer the questions truthfully as best
18 you can. In this setting it's much more informal,
19 there isn't a Judge or jury here, but the testimony
20 you give today carries the same weight as if there was
21 a Judge and jury.

22 Do you understand?

23 A Yes, I do.

24 Q Sometimes I mumble, sometimes I don't speak
25 as clearly as I should, so if you don't understand a

1 question I am saying to you, just let me know that you
2 don't understand and I will repeat the question.

3 If there is a question that you don't
4 understand because of the way I have phrased it, feel
5 free to ask me to rephrase the question and I will.

6 Do you understand?

7 A Yes, I do.

8 Q Okay. Any other questions you have before
9 we begin?

10 A Not at this time.

11 Q Have you ever been deposed before?

12 A Yes.

13 Q How many times have you been deposed?

14 A I am not sure, maybe a few times a year on
15 different things. Never a civil deposition before.

16 Q Okay. But you have an idea of how it works?

17 A Yes.

18 Q Okay. And at some point I might ask you
19 some questions that it might go into an area that we
20 shouldn't go into; if you need to look to your counsel
21 if there is, for example an attorney/client privilege,
22 or I'm going to ask you some questions about your work
23 experience, I don't want to know anything that might
24 jeopardize your safety if you were to give that
25 information; so I'll try to foresee those kinds of

1 things coming, but if I don't, feel free to stop and
2 pause and give your attorney a chance to respond.

3 Okay?

4 Well, we are going to begin by asking you
5 some background questions. You are right now a rank
6 of lieutenant; is that correct?

7 A That's correct.

8 Q With the Tohono O'Odham Police Department?

9 A Yes.

10 Q Have you ever worked for any other police
11 departments?

12 A No, I have not.

13 Q Okay. When did you begin working for the
14 TOPD?

15 A In January of 1997.

16 Q Okay. What law enforcement training do you
17 have?

18 A I attended the Northern Arizona Regional
19 Training Academy in Prescott, Arizona.

20 Q Okay. So would that be NALETC?

21 A No. That's NARTA.

22 (Interruption by court reporter.)

23 THE WITNESS: NARTA.

24 BY MR. EUCHNER:

25 Q Was that around the same time, 1997?

1 A Yes.

2 Q And were you hired with the TOPD prior to
3 attending NARTA or after?

4 A I was hired about two weeks prior to
5 attending the academy.

6 Q Okay. So basically they hire you and say,
7 okay, go to the academy, and when you are done with
8 the academy you start work?

9 A That's correct.

10 Q Okay. You start out as the rank of officer?

11 A Yes.

12 Q What were your duties at that time when you
13 first started out?

14 A As patrol officer? I was assigned to a
15 field training officer and I spent about 12 weeks on
16 the road riding with another officer learning the
17 local statutes and laws.

18 Q Okay. When you say the local statutes, do
19 you mean the tribal statutes or the state or the
20 federal?

21 A A combination of all.

22 Q Okay. Anything that you would need to know
23 for what you are doing?

24 A Yes.

25 Q Okay. What is the next rank that you

1 attained ed from officer?

2 A I went into criminal investigations and
3 worked as a detective.

4 Q Is that a separate rank or is that merely a
5 separate title?

6 A It's a separate title at this point.

7 Q Okay. So you are a detective but you are an
8 officer as well?

9 A Yes, at that pay grade.

10 Q Okay. And what kind of work were you doing
11 as a detective?

12 A General investigation.

13 Q What does that entail?

14 A Sex crimes, fraud crimes, financial crimes
15 violent crimes.

16 Q Okay. How long did you have this job
17 description?

18 A Approximately two years.

19 Q Okay. And what year did you, did you
20 conclude that job description?

21 A I believe it was in 1999.

22 Q Okay. And then what did you do next?

23 A I was assigned to the patrol division.

24 Q Okay. Still as an officer?

25 A No.

1 Q What rank?

2 A I was assigned as a police officer.

3 Q Okay. So you were promoted to sergeant at
4 that point?

5 A Yes, that's correct.

6 Q Did you have to do any additional training
7 or take any tests or get any additional certifications
8 in order to obtain the rank of sergeant?

9 A There was a test, testing process and also I
10 attended the Arizona POST Supervisors School, and at
11 some point in there also attended the Bureau of Indian
12 Affairs Supervisors Academy.

13 Q Okay. And this is all in around 1999?

14 A Probably roughly spread out over a year's
15 time.

16 Q And as a sergeant you said you were
17 patrolling -- I mean, supervising patrolling officers?

18 A That's correct.

19 Q Okay. And what did your duties as the
20 sergeant entail?

21 A A lot of administrative detail, checking
22 reports for accurate content and grammatical errors,
23 payroll, scheduling, things of that nature.

24 Q Okay. Am I correct that the rank above
25 sergeant is lieutenant?

1 A That's correct.

2 Q Okay. So then you -- from sergeant to the
3 lieutenant, that's your next promotion?

4 A Yes.

5 Q When did you get that promotion?

6 A I think it might have been at the end of
7 2001 or the beginning of 2002.

8 Q Okay. And I didn't say this at the
9 beginning, but sometimes I'll ask you questions about
10 dates or about numbers, and you may not remember
11 exactly if it's so long ago, but if you could estimate
12 to the best of your abilities, that would be
13 sufficient.

14 So late 2001, early 2002 is when you became
15 lieutenant?

16 A Yes.

17 Q And did you have to take any additional
18 tests to become lieutenant?

19 A Yes. There was a testing and interview
20 process for that position.

21 Q Okay. As far as the testing, what kind of a
22 test was that and who administered it?

23 A It was administered by command staff, which
24 consisted of other lieutenants, assistant chief, chief
25 of police, human resources.

1 Q Oral or written?

2 A Both.

3 Q Okay. How many lieutenants are there in the
4 TOPD presently?

5 A Currently five.

6 Q Okay. And you have held the same title or
7 the same rank of lieutenant consistently since your
8 promotion to the rank of lieutenant?

9 A Yes, I have.

10 Q Okay. As a lieutenant do you have any
11 responsibilities for creating policies for the
12 officers that work under you?

13 A Not unless specifically assigned to that
14 detail.

15 Q Are there instances where you are
16 specifically assigned?

17 A Yes, there could be, but I have not had that
18 assignment as of yet.

19 Q Okay. Have other lieutenants been assigned
20 that project?

21 MR. FRAZIER: Foundation.

22 BY MR. HARRISON:

23 Q To your knowledge?

24 A Not to my knowledge.

25 Q With regard to roadblocks and sobriety

1 checkpoints in general, are you -- as a lieutenant, do
2 you have authority and responsibility for creating the
3 operational plan?

4 A Not ultimately. It depends on how it's
5 assigned to me or who gives the assignment, the nature
6 of the detail.

7 Q If there's a roadblock that's going to
8 happen in the future, it's contemplated by either, by
9 yourself or by supervisors, can you describe the
10 process by which the roadblock would be initiated?

11 A You mean the process from the inception from
12 the idea of having a checkpoint?

13 Q Yes.

14 A Usually that comes by order of the chief of
15 police and it comes down through the assistant chief.
16 And the planning itself is, has been given to whoever
17 it's assigned, usually a lieutenant.

18 Q Okay. So when you achieve the rank of
19 lieutenant, was Richard Saunders the chief of police
20 or acting chief of police at that time, or...

21 A Acting chief of police.

22 Q Okay. Chief Warren Seligman had already
23 left --

24 A That's correct.

25 Q -- his position?

1 A Yes.

2 Q Okay. So as a lieutenant you've never
3 worked for any other chief other than Richard
4 Saunders?

5 A No, I have not.

6 Q Okay. So if a roadblock was going to be
7 created, an order would come from Chief Saunders to
8 you to set something up; is that correct?

9 A Yes, through the chain of command.

10 Q And I understand that there is at least one
11 step between yourself and the chief, the captain?

12 A That's correct.

13 Q And that's Joseph Delgado?

14 A Yes.

15 Q Is there any other captain besides Captain
16 Delgado?

17 A No.

18 Q So if I understand the chain of command
19 correctly, it goes from Chief Saunders to only one
20 captain below him who's essentially assistant chief,
21 and then there's five lieutenants?

22 A Yes, that's correct.

23 Q Okay. And at any moment there may be four
24 or six, but today there is five?

25 A Today there is five.

1 Q Okay. So it's possible that Captain Delgado
2 might give you the order as well, correct?

3 A Via the chief.

4 Q Okay. But it starts with the chief?

5 A Yes.

6 Q Does the chief give any order other than set
7 up a road block or does he get more specific when he
8 gives the order?

9 A I guess that depends on the nature of the
10 checkpoint itself.

11 Q Suppose it's a checkpoint -- and I'm
12 actually going to show you an exhibit here. This has
13 been marked as the Saunders Exhibit 3, and ask you to
14 take a couple minutes to take a look at that and let
15 me know when you've had a chance to review it.

16 A (Witness complies.)

17 Okay. I'm familiar with the rest of the
18 format.

19 Q So you recognize this document?

20 A Yes.

21 Q Have you ever seen this particular document
22 before?

23 A Yes, I do believe I have seen this
24 particular document before.

25 Q Okay. In the creation of this operation

1 plan, I understand you personally did not create it;
2 but do you know what kind of an order Chief Saunders
3 would give to the lieutenant prior to the creation of
4 this particular operations plan?

5 MR. FRAZIER: Foundation.

6 Go ahead.

7 THE WITNESS: It could be a verbal or it
8 could be a written order.

9 BY MR. EUCHNER:

10 Q Would it be any more than set up a roadblock
11 and create an operation plan?

12 MR. FRAZIER: Foundation.

13 THE WITNESS: I suppose it could be for a
14 specific purpose. This one's purpose is for the Saint
15 Francis Day Celebration.

16 BY MR. EUCHNER:

17 Q Okay. And then -- excuse me.

18 Assuming that the chief would not give you
19 as much information as in the plan, otherwise there
20 would be no need to create the plan in the first place
21 by the lieutenant, how -- how does the lieutenant then
22 go about to create this plan?

23 A Based on what they need, a location has to
24 be selected.

25 Q Do they have any other standards or any

1 other goals that are sought to be accomplished in the
2 roadblock, such as this one as an example?

3 MR. FRAZIER: Form.

4 You can answer.

5 THE WITNESS: It depends on what type of --
6 what's the nature of it, if it's alcohol interdiction;
7 it depends on the nature of the particular checkpoint.

8 BY MR. EUCHNER:

9 Q List for me as many different kinds of
10 checkpoints as you can that the TOPD run.

11 MR. FRAZIER: When? Foundation.

12 BY MR. EUCHNER:

13 Q During your tenure as a lieutenant.

14 A The only checkpoints I have seen have been
15 for sobriety.

16 Q Okay. So in that case, then, I guess I'll
17 just -- if I refer to checkpoints, I will only be
18 referring to these kinds of checkpoints.

19 What kind of additional information does the
20 lieutenant supply in order to create the operations
21 plan?

22 A There is going to be time, location,
23 personnel, whether or not there is going to be any
24 overtime involved in the operation.

25 Q Okay. Does overtime commonly come into

1 play?

2 A From an administrative level, a lot of times
3 it does play a factor because every operation has a
4 cost to it.

5 Q Right. I'm going to show you another, this
6 is Saunders Exhibit 2. If you could take a couple
7 minutes to take a look at this. Let me know when you
8 have had a chance to read it.

9 MR. EUCHNER: Off the record a second.

10 (Discussion off the record.)

11 MR. EUCHNER: On the record again.

12 THE WITNESS: Okay.

13 BY MR. EUCHNER:

14 Q Are you familiar with this document?

15 A This particular one? I don't recall having
16 seen this particular document before.

17 Q Okay. The substance of the document, are
18 you familiar with what's contained therein as any kind
19 of policy that exists within the police department?

20 MR. FRAZIER: Form.

21 BY MR. EUCHNER:

22 Q As best you can answer the question.

23 A I wouldn't say that this is policy.

24 Q Okay. Could you turn to page 2. And at the
25 very top it says that these are questions that should

1 be asked.

2 A After contacting the driver the same
3 question will be asked of every driver. That
4 question?

5 Q Yes. And there's three questions that each
6 have a paragraph, or three categories that each have a
7 paragraph?

8 A Yes, I see that.

9 Q Is -- are those questions generally followed
10 by officers that work at sobriety checkpoints?

11 MR. FRAZIER: Form and foundation.

12 THE WITNESS: Generally? I guess in a
13 general sense, yes.

14 BY MR. EUCHNER:

15 Q Okay. Obviously it may not go -- it never
16 goes exactly the same from one person to another, but
17 generally it's the same?

18 A In a general sense.

19 Q Okay. When is the last time that TOPD
20 conducted a roadblock from today's date?

21 A I can't --

22 Q If you can estimate. Was it this year, for
23 example, 2006?

24 A I don't recall one this year.

25 Q Was it in 2005?

1 A I don't recall if it was in 2005, but I
2 know there have been some.

3 Q Okay. Do you know if officers working at
4 sobriety checkpoints follow those three questions,
5 like this basic model of asking questions?

6 MR. FRAZIER: Form and foundation.

7 THE WITNESS: I don't know, I haven't been
8 assigned too many checkpoints, so...

9 BY MR. EUCHNER:

10 Q When was the last time you personally had
11 been assigned to a checkpoint?

12 A There was one that I worked in 2002 and I
13 believe it was on Federal Route 42.

14 Q Are there any roadblocks that are presently
15 being planned for the future to your knowledge?

16 A Yes.

17 Q For the immediate future or for distant
18 future?

19 A Immediate future, from my understanding.

20 Q Like holidays, for example?

21 A Yes.

22 Q Okay. Are you aware of this because you
23 have been asked to plan it or because you have just
24 heard talk?

25 A I am aware of it through department email.

1 Q Okay. Excuse me.

2 With regard to checkpoints that you
3 personally have planned, how many would you say you
4 have planned?

5 A One.

6 Q Okay. And is that the one checkpoint that
7 we are here to essentially discuss today that's the
8 subject matter of this case?

9 A Yes.

10 Q Okay. Did you create any documents prior to
11 the checkpoint taking place on December 20th, 2002?

12 A Yes, I did.

13 Q What documents did you create?

14 A I created a schedule and a memorandum
15 similar to this one.

16 Q I'm showing you what's been marked as
17 Saunders Exhibit 1. Take a second to look at that and
18 let me know when you have had a chance to review it.

19 A This is part of that checkpoint; this is
20 part of that document.

21 Q Okay. Do you know how many pages the
22 memorandum was?

23 A Roughly I believe it was two.

24 Q Okay.

25 MR. FRAZIER: Do you mean including -- for

1 clarification --

2 THE WITNESS: Including Exhibit 1.

3 MR. FRAZIER: -- including Exhibit 1?

4 THE WITNESS: Right.

5 MR. FRAZIER: Plus another page?

6 THE WITNESS: Yes.

7 BY MR. EUCHNER:

8 Q Okay. The Exhibit 1 as we have it is only
9 the one page, so there is essentially continuing
10 information on a page 2 someplace?

11 A Yes.

12 Actually, I believe this might have been a
13 second page, but I'm not sure.

14 Q Okay. Either way, but there would be two
15 pages and what we are looking at is one of those
16 pages?

17 A That's correct.

18 Q Do you recall what the content of the other
19 page was?

20 A It had the time of the operation, the
21 location, the equipment that was to be there, what the
22 officers were to bring with them as far as their
23 standardized equipment, the purpose of the checkpoint
24 and questions, not exactly like these questions, but
25 similar.

1 Q Okay. How was the memorandum distributed?

2 Was it through interoffice mail, for example?

3 A Through, I believe, office boxes. Each
4 officer has a box.

5 Q Suppose a particular officer wasn't
6 working -- let me back up a step.

7 The date on this memorandum, does that say
8 December 18th, 2002?

9 A Yes, it does.

10 Q And this is for a checkpoint to take place
11 two days later?

12 A That's what it appears, yes.

13 Q Is it possible that some of the officers
14 that are scheduled for December 20th might not have
15 been working on the 18th or 19th?

16 A That is possible.

17 Q In those cases, how would you ensure that
18 all of these officers knew that they were assigned to
19 a checkpoint on the 20th?

20 A Via telephone.

21 Q Okay. How would -- would you wait until the
22 20th to see what was picked up or did you call on the
23 18th or 19th, do you remember?

24 A Usually once the plan is complete, I try to
25 make contact with the individuals who are assigned to

1 let them know.

2 Q Okay. Do you remember if anybody was unable
3 to appear at the roadblock that was assigned?

4 A There were some people, and I believe there
5 was some conflict with leave and some other things,
6 but I don't recall exactly which officers it was.

7 Q Okay. And on this particular memorandum it
8 looks like there's two separate checkpoints, an
9 eastern and a northern, I believe?

10 A Yes.

11 Q Okay. From here on in I'm going to restrict
12 my questions to the eastern checkpoint.

13 And where exactly was that located?

14 A Approximately 143.5 or 144, in that area.

15 Q Okay. Do you know what mile marker is the
16 eastern boundary of the Tohono O'Odham Nation, what
17 mile marker on State Route 86?

18 A Mile post 145.

19 Q That's the eastern boundary?

20 A Yes.

21 Q So if this checkpoint is about 144 and a
22 half, is it safe to say it's within a half mile of the
23 boundary?

24 A If that's where it was at, then yes, it
25 would be approximately a half mile from the boundary.

1 Q Is this particular location, in terms of the
2 exact mile marker, chosen for any particular reason in
3 terms of its location east or west or safety concerns?

4 A Of course it was chosen because it was
5 within the boundaries of the Nation, and safety
6 concerns are always taken into consideration when
7 choosing a spot.

8 Q What kind of safety concerns were considered
9 with regard to that particular checkpoint?

10 A Having an adequate improved shoulder to have
11 vehicles parked on the side of the road so that our
12 patrol vehicles weren't blocking the roadway in any
13 way.

14 Q I know sometimes it's a little bit difficult
15 to visualize an exact location, but as we sit here
16 today in this room, are you able to visualize exactly
17 what that stretch of road looks like and what that
18 mile marker area looks like?

19 A Roughly, I would say yes. I pass it every
20 day.

21 Q Okay. What is the speed limit at that exact
22 point on the State Route 86?

23 A Sixty-five miles per hour.

24 Q How wide is the road?

25 A Approximately 24 feet across.

1 Q Does that include shoulders?

2 A There are no improved shoulders.

3 Q Okay.

4 A So that's the blacktop asphalt itself.

5 Q Okay. Is it a two-lane road at that point,
6 one lane either way, or...

7 A Two-lane divided highway.

8 Q Is it divided by a double line, a double
9 solid line, or is it a single solid line or is it a
10 single --

11 A It's divided by a broken yellow line.

12 Q Okay. Does that signify that passing is
13 safe -- assuming there is no checkpoint in place of
14 course -- but normal traffic patterns, is that --

15 A Passing with caution.

16 Q All right. Do you remember --

17 A I'm sorry, may I correct?

18 Q Please do.

19 A It's actually a broken white line; it's a
20 broken white line.

21 Q What's the difference between a broken white
22 line and a broken yellow line?

23 A Well, the yellow color indicates a hazard,
24 that's why a double line in a no-passing zone is
25 yellow.

1 Q But it's still is a two-lane road?

2 A It's still a two-lane highway.

3 Q Okay. In this particular location where the
4 checkpoint is, is there any pull-off for right at the
5 exact spot where the checkpoint is being conducted?

6 A There is an improved shoulder and a
7 turn-off, a break in the boundary fence, because there
8 is some personal property on the south side of the
9 road that's beyond the fence line.

10 Q Is this particular area that's off to the
11 side of the road sometimes known as a -- for roadblock
12 purposes, as a staging area?

13 A It could be addressed as a staging area.

14 Q Okay. And how many vehicles are in the
15 staging area at the beginning of the checkpoint?

16 A I suppose that depends on how many officers
17 were actually physically there, because each officer
18 brings his assigned patrol unit.

19 Q Were you -- strike that.

20 What time was the roadblock scheduled to
21 begin?

22 A I'm not sure of the exact time. I know it
23 was before, before the sunset, but right now I'm not
24 sure of the exact time.

25 Q Given that four years has past and it's

1 tough to know exactly what time it was, are you able
2 to estimate whether it was morning or afternoon?

3 A It was afternoon.

4 Q Okay. And was the sun still relatively high
5 in the sky or was it just -- or was it dusk?

6 A It wasn't quite dusk. There was, there was
7 adequate light.

8 Q Okay. Were you the first officer to arrive
9 or were some there before you got there?

10 A I don't recall if I was the first or not.

11 Q I'm assuming that not everyone shows up at
12 the exact same moment, that people are coming from
13 distances and they trickle in?

14 A From different locations.

15 Q Right.

16 A Correct.

17 Q How many officers would you have had on the
18 scene before you said, okay, so and so might be late,
19 we are ready to begin?

20 A I guess that depends on how many we have; if
21 we had enough manpower to adequately man the
22 checkpoint safely.

23 Q Do you remember how many officers you had at
24 the time you began this checkpoint?

25 A I don't.

1 Q Okay. Were there anybody else there besides
2 TOPD at the beginning of the checkpoint?

3 A Not to my recollection.

4 Q Okay. Obviously the checkpoint can't begin
5 until you say it does, correct?

6 A Well, I brought the equipment as well, so I
7 don't think it could have started without me.

8 Q And you are in command; is that correct?

9 A That's correct.

10 Q What was the, for lack of a better term, the
11 setup of the roadblock in terms of what equipment was
12 placed and what locations?

13 A There were orange cones; there were warning
14 signs advising that there was a checkpoint ahead;
15 there was a stop sign that was attached to a pole;
16 there was some portable lighting equipment and a
17 generator that were all transported in a trailer.

18 Q The stop sign was at exactly the location
19 where the checkpoint was taking place?

20 A Yes, it was, it was in the roadway.

21 Q What signs were placed prior to the stop
22 sign?

23 A There is a white sign with, I can't recall
24 the color, it's either black or red boundary, but it
25 says sobriety checkpoint ahead.

1 Q And where was that placed?

2 A That was placed on either end of the stop
3 sign for the east and west directions, one facing east
4 and one facing west.

5 Q Okay. Was there any speed limit sign placed
6 along with those signs?

7 A There wasn't a hard physical sign that we
8 had. I do believe at this time that we may have
9 deployed -- I can't think of the technical term for
10 it, but it's a trailer, and with the trailer it has
11 lights on it and illuminates "prepare to slow,
12 checkpoint ahead." I'm not sure whether or not it had
13 what the speed limit was on it. I know it has that
14 compatibility.

15 Q Okay. And as the commander on scene, you
16 assigned different tasks to different officers; is
17 that correct?

18 A Yes.

19 Q I understand you probably don't remember
20 specifically who got assigned to do what task, but in
21 general what tasks would you have assigned?

22 A We would have officers that were physically
23 working the line and making contact with drivers.
24 There would also be officers that would be
25 statisticians, who maintain statistics on the number

1 of cars that come there or violations, and there are
2 also officers on the side of the road that if there
3 are people that, for whatever reason, come out of the
4 line and need to go through some type of sobriety
5 screening, they are there to work with those people.

6 Q Do you know how many cars came through that
7 checkpoint over the course of the entire evening?

8 A Not at this time, no, I don't know exactly
9 how many cars came through.

10 Q Did you prepare any kind of a report after
11 the checkpoint?

12 A Yes, I did.

13 Q Okay. Did that contain statistics for the
14 checkpoint?

15 A Yes, it does.

16 Q Do you have that report?

17 A No, I don't.

18 Q Can you tell us where that report is or what
19 happened to it?

20 A I do not know where that report is, I do not
21 know what happened to it.

22 Q Okay. Are you able to recall any of the
23 statistics that are contained from within that report?

24 A Not freehand, I can't recall offhand what
25 those statistics were.

1 Q Do you know how many arrests were made,
2 approximately?

3 A No, I don't.

4 Q Do you know how many cars were towed
5 approximately?

6 A No.

7 Q Were cars towed?

8 A Yes, they were.

9 Q How many tow trucks were present throughout
10 the evening at the roadblock?

11 A There were a number, but I'm not sure
12 exactly how many.

13 Q Were they just the regular flatbeds or the
14 regular ones with the hook that tow away or are they
15 bigger trucks?

16 A I don't recall the specific layout or makeup
17 of the trucks, but there were tow trucks there.

18 Q Were -- what was the duty assigned to
19 yourself when you were working at the checkpoint on
20 this date?

21 A Normally my overall duty is the supervision
22 of the event itself.

23 Q Did you take on any other tasks besides the
24 supervision?

25 A Yes, I did.

1 Q What did you take, what tasks did you take
2 for yourself?

3 A I did work the line for a point because
4 there were officers that had some administrative
5 detail to deal with, so I took over the line for a
6 period of time.

7 Q Okay. At the time you were working the
8 line, is that when you encountered Mr. Bressi?

9 A Yes, that's correct.

10 Q At the time you encountered him, let's even
11 back up a little bit. When the truck is pulling up
12 towards you standing at the line, do you notice
13 anything at first, for example, it's a pickup truck?

14 A Yes, I noticed it was a pickup truck.

15 Q Do you notice anything else about the truck
16 as it's approaching?

17 A I believe I noticed that it had state
18 markings on it.

19 Q When you say state markings, specifically
20 what do you mean?

21 A There was, I can't recall whether or not it
22 was a University of Arizona decal or if it was just
23 there for official use only decal, but I did notice
24 something on the door.

25 Q Okay. And did you notice a license plate?

1 A No, not as it approached me.

2 Q Okay. Did you see the driver approaching
3 at -- as he's pulling up towards you?

4 A Yes.

5 Q Was he wearing a seat belt?

6 A I don't recall.

7 MR. FRAZIER: Foundation.

8 (Interruption by court reporter.)

9 BY MR. EUCHNER:

10 Q Did he stop right at the stop sign for you?

11 A Yes, he did.

12 Q Okay. Do you have a conversation with him?

13 A Yes.

14 Q Rather than put words in your mouth and ask
15 questions, if you could just give us the best
16 recollection of how you remember that conversation
17 going with the back-and-forth.

18 A What I roughly remember the conversation is
19 that at some point I identified myself and made the
20 purpose of the checkpoint known to him. I'm not sure
21 if that's because he asked or I just let him know what
22 the purpose was, I don't recall.

23 Q What did you say was the purpose?

24 A That it was a sobriety checkpoint.

25 Sobriety. I may have also said that it was license

1 and registration or seat belt, but I don't recall
2 specifically right now.

3 Q Okay. And after you made the purpose known,
4 did you ask him to do anything?

5 A Yes, I did.

6 Q What did you ask him to do?

7 A I asked him to present his driver's license.

8 Q And what did he do, or what did he say?

9 A He asked me some questions, but I'm not sure
10 what the content of the questions were.

11 Q Do you have any vague recollection as to
12 what they were?

13 A No. I know it wasn't in response to the
14 question: May I see your driver's license. There
15 were other questions on other topics, I guess, that I
16 guess he felt were related.

17 Q Okay. But the end result was, however this
18 conversation went, there was no driver's license
19 belonging to the driver in your hand?

20 A That's correct.

21 Q What did you do or say next?

22 A I spoke with him and I somehow came to the
23 understanding that he wasn't going to present his
24 driver's license to me, and I wasn't sure exactly why;
25 and I noticed that traffic was backing up and there

1 was another situation that I had to deal with, there
2 was a small motor vehicle accident, and I signaled to
3 Detective Traviolia to come over and speak with
4 Mr. Bressi.

5 Q Do you recall exactly -- and I shouldn't say
6 exactly, do you recall approximately what period of
7 time this part of the conversation lasted?

8 A No, I don't have a rough approximation of
9 it.

10 Q Was it a few seconds or was it a few minutes
11 or was it more than a few minutes?

12 A It might have been a few minutes. It was
13 longer than a few seconds.

14 Q Okay. And then there was a traffic
15 accident, you said?

16 A Mild traffic accident.

17 Q How far back was that?

18 A I'm not sure. It was far enough for me to
19 see it and have to move towards, but I can't say
20 exactly how far back it was or how many cars.

21 Q Far enough that you had to move toward it,
22 but close enough that you could see it?

23 A Yes, I could see it.

24 Q Prior to Mr. Bressi approaching you, how
25 long had it been before that that the immediately

1 preceding car passed you going that direction?

2 A I'm not sure. I really couldn't say. I
3 don't have a clear recollection of that.

4 Q Was it seconds, minutes or hours?

5 A I suppose it could have been seconds.

6 Q Did that person -- when that person pulled,
7 did you initiate the contact exactly the same way as
8 you did with Mr. Bressi?

9 A Yes.

10 Q When the -- strike that.

11 When you went to check on the traffic
12 accident and you waited for Detective Traviolia to
13 come over first or did you go and leave Ms. Bressi
14 unattended?

15 A It was pretty immediate. I signaled to him
16 and when he came over, I left to attend to the other
17 issue.

18 Q A second or two? Not too much time?

19 A Not too much time.

20 Q Okay. When you were paying attention to the
21 traffic accident, are you able to notice what's going
22 on with Detective Traviolia and Mr. Bressi?

23 A I could still see the vehicle from where I
24 was.

25 Q You weren't able to hear the conversation?

1 A No.

2 Q Are you able to recall what period of time
3 Detective Traviolia was interacting with Mr. Bressi at
4 this point?

5 A No.

6 Q Was there a point where you went back to
7 talk to Mr. Bressi again?

8 A I don't think I ever went back and spoke to
9 him again directly.

10 Q Were you at his vehicle with him at all
11 for -- while he is --

12 A I don't have a recollection of it. I
13 remember the conversation I had and I remember leaving
14 to attend to the accident.

15 Q Is it possible that you did have a further
16 conversation with Mr. Bressi and don't recall?

17 A I don't know, I don't know.

18 Q So then it is possible?

19 MR. FRAZIER: Foundation, form.

20 THE WITNESS: I suppose anything is
21 possible.

22 BY MR. EUCHNER:

23 Q Do you recall any Customs agents on the
24 scene of the roadblock at this point?

25 A At that time or at this period in time?

1 Q At this exact time when Mr. Bressi is
2 stopped at the front of the line.

3 A Offhand I don't recall at that time in my
4 mind noticing a Customs agent there. I am aware after
5 the fact that there was one there, but...

6 Q Do you know a Customs agent by the name of
7 Bill Dreeland?

8 A Yes, I do.

9 Q Do you know him professionally through his
10 work as a Customs agent?

11 A Yes.

12 Q And you are aware that he was at the
13 roadblock that particular evening?

14 A Yes.

15 Q Do you know that he was at the roadblock at
16 the moment that Terry Bressi was at the front of the
17 line?

18 A Yes.

19 Q Are you aware of any interaction that Agent
20 Dreeland had with Mr. Bressi?

21 MR. FRAZIER: Foundation. You mean now or
22 at the time?

23 MR. EUCHNER: At the time. Yeah, thanks. I
24 will rephrase the question.

25 ///

1 BY MR. EUCHNER:

2 Q Did you observe any interaction between
3 Agent Dreeland and Terry Bressi?

4 A I can't say that I observed interaction. I
5 knew he was there, but I wasn't able to hear and I
6 don't know exactly what was said or what the nature of
7 that intersection was.

8 Q Did Mr. Bressi ever ask you why a Customs
9 agent was coming up to his vehicle?

10 A Not to my recollection.

11 Q Did Mr. Bressi ever ask you anything about
12 this particular Customs agent, why is he over here
13 talking to me?

14 A Not that I recall.

15 Q Do you recall ever using the phrase "joint
16 task force" or "multi-jurisdictional task force" with
17 Mr. Bressi?

18 A No, I do not.

19 Q Is it possible that you used that phrase?

20 A No.

21 Q Were you present at the moment that
22 Mr. Bressi was taken into custody?

23 A When you say present --

24 Q When I say present --

25 A -- I was still on the scene.

1 Q -- at this point -- what I mean is do you
2 have any personal objections either seeing or hearing
3 at the time he is taken into custody?

4 A I saw him taken into custody.

5 Q Did you hear any of the words that were
6 spoken at that time, whether they be by officers or by
7 Mr. Bressi?

8 A No, I did not.

9 Q Out of earshot but within eyeshot?

10 A Yes.

11 Q Do you know who took Mr. Bressi into
12 custody?

13 A I believe it was K-9 Officer O'Dell and
14 Detective Traviolia.

15 Q Did you see where Officers Traviolia and
16 O'Dell brought Mr. Bressi when he was taken into
17 custody?

18 A Yes.

19 Q Where was that?

20 A I saw him extracted from the vehicle and
21 laid on the blacktop.

22 Q At the time he is extracted from the
23 vehicle, is the vehicle still at the front of the line
24 or has it been moved at all since the initial stop?

25 A I believe the vehicle was at the same

1 location as when I first contacted Mr. Bressi.

2 Q Was Mr. Bressi ever asked at the initial
3 stop, when he didn't provide his driver's license, to
4 move over to the side of the road?

5 MR. FRAZIER: Object to foundation. You
6 mean by Mr. Ford -- I'm sorry, by Lieutenant Ford?

7 BY MR. EUCHNER:

8 Q By Lieutenant Ford.

9 A I don't recall if I asked him to move the
10 vehicle or not.

11 Q When Mr. Bressi was placed on the blacktop,
12 is it blacktop that -- are we talking about improved
13 shoulder area at this point?

14 A Oh, no. We are talking about the highway
15 itself.

16 Q Okay. When you were speaking with
17 Mr. Bressi while he's still in the vehicle, did he
18 ever identify himself in any way at all?

19 A If I recall correctly, he did state his
20 first name to me.

21 Q Did he give you any other identifying
22 information of any form?

23 A Not that I recall.

24 Q Give you a supervisor's name or supervisor's
25 phone number?

1 A Not to me.

2 Q Did you ever say to him that his Arizona
3 driver's license was property of the State of Arizona?

4 A I don't recall if that was said at the scene
5 or at a later time when I believe there was some
6 depositions that had occurred. I'm not sure if it was
7 at that time or in the deposition in relation to some
8 example, I'm not sure.

9 Q Okay. Possible it was said at that time and
10 possible it was said at a different time?

11 A Or -- either or.

12 Q Okay. Did you take any part in getting
13 information about Mr. Bressi's supervisor or
14 contacting his supervisor?

15 A I believe I did give instructions to the
16 officers who were dealing with Mr. Bressi to get ahold
17 of his supervisor.

18 Q Did Detective Traviolia ask you any
19 questions about how he should deal with Mr. Bressi in
20 terms of custody or arrests or any questions like
21 that?

22 A No, I don't recall him asking me anything
23 like that.

24 Q Did you give Detective Traviolia any
25 information that would pertain to placing Mr. Bressi

1 under arrest?

2 A No.

3 Q For example, did you cite any statutes?

4 A Not that I recall.

5 Q Okay. Did you advise Detective Traviolia to
6 place him under arrest?

7 A No, I did not.

8 Q Did you assist Detective Traviolia in any
9 way in filling out the traffic ticket and complaint?

10 A No, not to my recollection.

11 Q Okay. Once Mr. Bressi was on the blacktop,
12 did you have any more -- any further personal dealings
13 with him in any way?

14 A Not until he was prepared to leave.

15 Q Was there a point where coworkers, including
16 the supervisor of Mr. Bressi, came to the scene?

17 A Yes.

18 Q Did you have any interaction with those
19 individuals?

20 A Yes, I did.

21 Q Can you describe the interaction you had?

22 A I went over to the individual, I don't
23 recall exactly who the supervisor was, there was one
24 older gentleman who was there, and that's the person
25 that I spoke with. I had gotten the keys, I can't

1 recall if it was from Officer O'Dell or from Detective
2 Traviolia. I went over and advised them where
3 Mr. Bressi was, why he had been detained and where the
4 vehicle was, and I handed the gentleman the key.

5 Q At this point when you are advising him why
6 Mr. Bressi had been detained has -- at this stage has
7 Detective Traviolia given you information as to what
8 he's decided to do?

9 A Yes.

10 Q From your best recollection was it his
11 decision or did he get that information from anybody
12 else?

13 MR. FRAZIER: Form and foundation.

14 BY MR. EUCHNER:

15 Q If you can answer.

16 A I don't know.

17 Q That's fine.

18 MR. EUCHNER: Oh, off the record a second.

19 (Discussion off the record.)

20 (Break was taken.)

21 MR. EUCHNER: Okay. We are back on the
22 record.

23 BY MR. EUCHNER:

24 Q I'm not sure exactly what the question was
25 where we left off, but I think I know where we were

1 basically. We were talking about when Mr. Bressi's
2 supervisor and co-worker came to the scene.

3 A Yes.

4 Q And conversations you had with them. And I
5 may end up asking the same questions twice now, so I
6 apologize if I do.

7 But you had mentioned that you were
8 explaining to them the reason why he was detained?

9 A Yes.

10 Q What was the reason you gave to them that he
11 was detained?

12 A That he did not provide his identification
13 when asked to do so.

14 Q Did you mention to them that he was under
15 arrest or that he was detained?

16 A I don't recall specifically.

17 Q Okay.

18 A I wasn't the person who arrested him.

19 Q Were you aware at this point that he was
20 under arrest?

21 A Yes.

22 Q Who was it that made you aware of such?

23 A I believe it was Detective Traviolia.

24 Q Okay. So he basically told you matter of
25 factly I placed him under arrest?

1 A Yes.

2 Q Did Detective Traviolia show you the
3 citation form?

4 A I don't recall if he showed it to me or not.

5 Q Did he mention to you what he had decided to
6 charge Mr. Bressi with?

7 A I don't recall specifically if he advised me
8 specifically with what he was charged with.

9 Q He may have, but you don't recall?

10 A He may have, but I don't specifically
11 recall.

12 Q Okay. At the time Mr. Bressi was still in
13 his vehicle talking to you at first, did he ever ask
14 if he was being detained?

15 A I believe he may have. There was a
16 conversation that was there, but I don't know the
17 exact content of it.

18 Q I don't want to ask too many questions that
19 you don't recall the answer to, but is there any
20 statement by either yourself or by Mr. Bressi that you
21 do recall from when you were on the line and you
22 encountered him?

23 A I don't want to specifically quote him, but
24 I do recall the nature of the conversation that we
25 had, and that was as to whether or not I believed him

1 to be under the influence.

2 Q Did you believe him to be under the
3 influence?

4 A At that time no, I did not.

5 Q At any later time did you come to believe he
6 was under the influence?

7 A Not that I recall. I don't recall ever
8 thinking he was under the influence.

9 Q Okay. At the time that the supervisor and
10 co-worker came to the scene, where was Mr. Bressi
11 located at that time?

12 A I'm not sure. He may have been in the back
13 of a squad car, but I can't say for sure.

14 Q He wasn't still on the side of the road,
15 though, right?

16 A Not that I recall.

17 Q Okay.

18 A I believe there was some time where he was
19 physically on the ground.

20 Q Are you aware that Mr. Bressi signed the
21 citation at the end of the evening?

22 A I was made aware of that.

23 Q Were you present at that time?

24 A Not when he signed it, but I was made aware
25 that he was willing to sign the citation.

1 Q Do you know who it was that was present when
2 Mr. Bressi signed the citation?

3 A I don't.

4 Q Would you have authorized those officers to
5 release Mr. Bressi upon the signing of the citation?

6 MR. FRAZIER: Objection.

7 MR. EUCHNER: And that's if you can answer.

8 MR. FRAZIER: I object to form.

9 MR. EUCHNER: I will withdrawal the question
10 and rephrase it.

11 BY MR. EUCHNER:

12 Q Did you authorize anybody to release
13 Mr. Bressi upon his citation (sic) of the form.

14 A It doesn't require my authorization.

15 Q Even though it doesn't require your
16 authorization, did anybody ask for your authorization?

17 A Not that I recall.

18 Q After the conversation with the co-worker
19 and the supervisor that you had --

20 A Yes.

21 Q -- did you have any further contact with
22 either of those two individuals or Mr. Bressi, either
23 by contact or by conversation?

24 A With Mr. Bressi, yes.

25 Q What was the content of the conversation

1 between yourself and Mr. Bressi?

2 A He asked me if he could write down, I
3 believe it was license plate numbers, or something to
4 that effect.

5 Q And how did you respond?

6 A I told him that was fine as long as he
7 didn't interfere with the officers on duty or get into
8 the roadway.

9 Q Did he comply with your conditions?

10 A I suppose he did, but I didn't take issue
11 with anything that he did.

12 Q Okay. When Detective Traviolia filled out
13 the citation form, did you ever see the citation form
14 once you're back at the, at the police station?

15 A No.

16 Q Would that citation form need to go through
17 you at all in order to be processed?

18 A Not through me, no.

19 Q And did it go through you?

20 A No, it did not.

21 Q Okay. Did you have any further contact
22 after that night with the misdemeanor charges against
23 Mr. Bressi in December or January of 2003?

24 A No, I did not.

25 Q Are you aware -- strike that.

1 Were you aware in early 2003 that those
2 misdemeanor charges had been dismissed?

3 A I'm aware of what happened at court, but I'm
4 not aware of -- I mean, now in hindsight, at this
5 particular time I am aware of that, but at that time,
6 no, I was not.

7 Q Okay. Okay. At the end of the night on
8 December 20th, did you give any briefing to either
9 Chief Saunders or Captain Delgado related to the
10 roadblock?

11 A I did speak with Captain Delgado that
12 evening.

13 Q Did you speak with him specifically related
14 to this case --

15 A In part --

16 Q -- Mr. Bressi's case?

17 A -- but also, yeah, with the checkpoint
18 itself.

19 Q What kind of information did you relay to
20 Captain Delgado in general?

21 A The nature of the events that took place
22 during the checkpoint.

23 Q Did you give him statistics, for example?

24 A That night when I spoke to him, I don't
25 recall if I gave them to him that night.

1 Q After you spoke with Captain Delgado, did
2 you also speak with Chief Saunders at any point
3 related to the way the checkpoint was operated?

4 A No. I deal specifically with my chain of
5 command, and that's Captain Delgado.

6 Q Okay. Did you speak with Captain Delgado
7 specifically about Mr. Bressi's situation that
8 evening?

9 A Just as one event of many that took place
10 during the checkpoint.

11 Q Did you relay to Captain Delgado what kinds
12 of charges were filed, like criminal charges were
13 filed that night?

14 A I don't recall if I gave him any specific
15 charges, but I did make him aware of the incident.

16 Q While you were on the phone with him, you
17 informed him that there was a -- for example, a
18 Customs case where there was marijuana found?

19 A Well, I advised him when he was physically
20 there, if I recall, he was physically.

21 Q Captain Delgado?

22 A Yes.

23 Q Was physically at the checkpoint at that
24 time?

25 A For a brief time he came to the checkpoint.

1 He was not present at the time Mr. Bressi's incident
2 occurred.

3 Q So at least with regard to a couple of the
4 events that happened that evening, he had personal
5 knowledge because he got to observe it himself?

6 MR. FRAZIER: Foundation.

7 THE WITNESS: Yeah. I don't know what he
8 observed.

9 BY MR. EUCHNER:

10 Q But he was there for a limited period of
11 time?

12 A Yes, a limited period of time.

13 Q So even if -- you don't know what he
14 observed, he observed something?

15 MR. FRAZIER: Form.

16 THE WITNESS: I'm sure he saw something, he
17 had his eyes open. I don't know exactly what he saw.

18 BY MR. EUCHNER:

19 Q But otherwise, on that particular evening at
20 the -- at night when you were talking to Captain
21 Delgado, did you relate to him the, essentially the
22 highlights of the evening, the big offenses that were
23 found?

24 A Up to that point. He didn't arrive at the
25 end of the checkpoint, he arrived sometime during it.

1 And so the events that had happened up and to that
2 point I made him aware of.

3 Q Was he there at the end of the checkpoint?

4 A No.

5 Q At the conclusion?

6 A Not that I recall. He was there a brief
7 time.

8 Q Okay. And I forget if I asked you this
9 already, but did you prepare a summary in writing of
10 the statistics and other events of the evening?

11 A Yes, I did.

12 Q Now I remember asking it.

13 After December 20th, 2002, what was the next
14 communication or contact or any information you had
15 related to Mr. Bressi and his arrest from that
16 evening?

17 A After the date of the incident itself?

18 Q Yes.

19 A I don't think I had any knowledge of it
20 until I believe it was time for it to go to court in
21 Ajo.

22 Q Did Mr. Bressi ever send you a Notice of
23 Claim?

24 A Yes.

25 Q Do you remember receiving that?

1 A I didn't physically personally see it, but I
2 do remember there was one that was sent to the
3 department with my name.

4 Q Was it ever given to you personally at any
5 point --

6 A No.

7 Q -- where you got to see it?

8 A It was in my box, my patrol box.

9 Q Do you know what was done with that Notice
10 of Claim on your behalf?

11 A I took it. I gave it to my immediate
12 supervisor, and it's my understanding that he
13 forwarded through his chain of command.

14 Q When you say your immediate supervisor, in
15 this context you mean Captain Delgado again?

16 A That's correct.

17 Q Okay. Did you ever speak with Chief
18 Saunders about the Notice of Claim?

19 A No.

20 Q Did you ever speak with either Officer
21 O'Dell or with Detective Traviolia about the Notice of
22 Claim?

23 A Yes, I did.

24 Q What was the content of the conversation and
25 with whom did you have it?

1 A I believe it was with both of them. And I
2 simply advised them of the same thing I was advised,
3 to take the Notice of Claim and forward it through the
4 chain of command, so all of those were gathered
5 together.

6 Q Was there any other conversation about it
7 besides that?

8 A Not to my recollection.

9 Q Did you have any conversations with any
10 other officers related to receiving these Notices of
11 Claim?

12 A Not that I recall.

13 Q Have you ever received a Notice of Claim
14 before this occurrence?

15 A No.

16 Q Have you received one since?

17 A No.

18 Q When it goes up the chain of command, do you
19 know where it -- where it went once you gave it to
20 Captain Delgado?

21 A You mean at the time I turned it in or now?

22 Q At the time you turned it in, did you have
23 an idea of what the chain of command was, where it
24 would end up?

25 A I knew it was going to go at least to the

1 chief, but I didn't know where it was going to go
2 beyond that.

3 Q Did you have any contact with Mr. Bressi
4 after receiving that Notice of Claim, shortly
5 thereafter?

6 A Personal contact?

7 Q Yes.

8 A No.

9 Q Did you speak with Detective Traviolia about
10 the criminal charge that had been filed that
11 evening --

12 A At what point in time?

13 Q -- December 20th.

14 A At what time?

15 Q Upon receiving the Notice of Claim.

16 A Not that I recall. I don't recall any
17 conversation like that.

18 Q In June of 2003 were you at the Kitt Peak
19 Observatory at any time?

20 A I'm not sure of the date, but yes, I did
21 attend a meeting at the Kitt Peak Observatory.

22 Q Do you know if it was before or after you
23 received the Notice of Claim?

24 A I don't recall having any knowledge of the
25 Notice of Claim prior to that meeting. I did respond

1 directly from home to Kitt Peak where the meeting was
2 at.

3 Q Did you see Mr. Bressi at Kitt Peak when you
4 were there?

5 A I don't recall seeing him there, no. I
6 didn't see him.

7 Q How did you become aware that the
8 misdemeanor charges against Mr. Bressi were refiled?

9 A I'm not sure exactly how I became aware of
10 that, but at some point I did become aware of it. I'm
11 not sure how.

12 Q Did Detective Traviolia tell you at any
13 point that he refiled the charges?

14 A I don't recall if it was Detective Traviolia
15 or not who informed me, but I was informed of it.

16 Q When the criminal charges were refiled, were
17 any requests made to you personally for either
18 documents or for an interview?

19 A From Detective Traviolia, yes, I did
20 receive. He did make a request to me and at some
21 point, I don't really recall exactly how, but a
22 telephonic deposition was requested by an attorney
23 retained by Mr. Bressi.

24 Q And if I were to represent to you that the
25 attorney's name was Marc Victor, does that ring a

1 bell?

2 A That sounds correct.

3 Q And if I told you it wasn't a deposition but
4 interview under the state rules of criminal
5 procedures --

6 A That would sound accurate.

7 Q That would sound accurate?

8 For example, you weren't placed under oath
9 at that time?

10 A No.

11 Q Okay. Were any requests made to you
12 personally for documents to be produced?

13 A From Detective Traviolia, yes.

14 Q Which documents did he ask you to produce?

15 A He asked me to produce the operational plan.

16 Q Okay. What did you tell Detective Traviolia
17 in response?

18 A I told him I did not have it, but I would
19 try to seek it out, to find it.

20 Q Do you recall what time frame we are talking
21 here, what month we're in when Detective Traviolia
22 makes this request?

23 A No. I know it was prior to the Ajo court
24 date, but I don't know exactly when.

25 Q Do you know how much prior to the Ajo court

1 date it was?

2 A No, I don't.

3 Q For example, days, weeks, months?

4 A Possibly weeks.

5 Q Okay. Who did you speak with to try to find
6 the operational plan?

7 A Captain Delgado.

8 Q Did you speak with anybody else?

9 A I spoke with him first and then I believe I
10 spoke with the chief, and later I spoke with Jonathan
11 Jansen from the attorney general's office.

12 Q Okay. When you spoke with Captain Delgado,
13 what did you say to him or what did he say to you
14 regarding the operational plan?

15 A I asked him specifically if he still had a
16 copy of it or if he had the copy I gave to him.

17 Q And did he have a copy?

18 A He said he did not think that he had a copy.

19 Q Did you speak with Chief Saunders as well?

20 A Yes.

21 Q Did he have a copy of the operational plan?

22 A No, he did not.

23 Q I should have asked you first, did you ask
24 him if he had a copy?

25 A Yes, I did.

1 Q Okay. Did you ask any of the officers who
2 were working the checkpoint if they had a copy?

3 A Yes, I did.

4 Q And I believe that the list of officers is
5 something in the ballpark of 15. Does that sound
6 correct?

7 A That was on there, but I'm not sure if
8 everyone who's listed on this document was physically
9 there.

10 Can I clarify something?

11 Q Certainty, please do.

12 A The document that I was seeking would have
13 been in part this document, the two-part document, but
14 it also had the statistical report, and that was the
15 significance of finding that particular document that
16 I have.

17 MR. EUCHNER: Okay. For the record, this
18 document that you're pointing to is Saunders
19 Exhibit 1.

20 BY MR. EUCHNER:

21 Q Did any of the 12 or 15 or however many
22 officers it was that received the operational plan
23 from you have a copy left?

24 A No. I believe this was about a year after
25 this incident. I was not able to locate one with the

1 officers that were assigned there.

2 Q At what point were you looking -- in terms
3 of time related to the Ajo court date, were you
4 looking for the operational plan? Was it days or
5 weeks or months in advance?

6 A Like I said, it might have been weeks.

7 Q Do you recall how much in time before the
8 Ajo court date that you spoke with Marc Victor?

9 A No, I don't.

10 Q Could it have been just the week before?

11 A It could have been, but I'm not sure.

12 Q At the time you spoke with Marc Victor, did
13 you tell him that you were looking for the operational
14 plan?

15 A I don't know if I told him that I was
16 looking for it, but I told him I didn't have it in my
17 possession.

18 Q Did you tell him that you would produce it
19 for him upon -- or strike that.

20 Did you tell him that you would get him the
21 operational plan?

22 A I don't know if I phrased it that way, if I
23 told him that I would personally get the operational
24 plan, or it would be available to him.

25 Q As best you can recall, how did you phrase

1 it?

2 A I don't recall how it was phrased.

3 Q When you went to -- first, did you go to
4 court in Ajo on December 9th, 2003?

5 A Yes, I did.

6 Q Did you go with any other officers?

7 A Yes, I did.

8 Q Who did you go with?

9 A Detective Traviolia.

10 Q Okay. And when you went to court, did you
11 bring any documents with you?

12 A No, I did not.

13 Q Okay. When you arrived in court, did you
14 speak with Philip Perkins, the deputy county attorney?

15 A Yes, I did.

16 Q And what did you tell Mr. Perkins pertaining
17 to the documents that you didn't have?

18 A Specifically or -- because I don't have a
19 specific recollection of the conversation. I can give
20 you a general assessment --

21 Q Generally --

22 A -- of what we discussed.

23 Q Be as specific as you can, but if you can't
24 be perfectly specific, be -- at least be general.

25 A Essentially I told him that I had attempted

1 to locate the document. I was not able to locate it,
2 and I told him the efforts I made to try to locate and
3 secure the document and that I did not have it with
4 me. My purpose for being there was I had authored the
5 document and I could assist if there were any
6 questions pertaining to the document since we didn't
7 have the physical document itself.

8 Q How long did you speak with Mr. Perkins to
9 have this conversation?

10 A Ten, 15 minutes maybe.

11 Q What -- did he say anything in response?

12 A I believe he was trying to make a decision
13 as to whether or not to move forward without the
14 document.

15 Q At what time of day did you have the
16 conversation -- strike that.

17 The conversation you had with Mr. Perkins,
18 how much before the court proceeding in State v.
19 Bressi was that conversation?

20 A I don't know.

21 Q Was it minutes before or was it hours
22 before?

23 A It might have been an hour, a half hour.

24 Q Do you remember what time of day the hearing
25 was at?

1 A No, I don't.

2 Q Okay. I'm going to show you what's been
3 marked as Traviolia Exhibit 3, and if you'll take a
4 few minutes to look through that and let me know when
5 you've had a chance to look at it.

6 A Yeah, I've seen this before, I'm familiar
7 with it.

8 Q Okay. What is this document?

9 A I believe this is a court transcript from
10 December 9th from Ajo court.

11 Q Okay. How are you familiar with this?

12 A This particular document?

13 Q Yes.

14 A I have seen it before.

15 Q Okay.

16 A It was presented to me.

17 Q And were you also present at the time that
18 these proceedings were being transcribed?

19 A Not when they were being transcribed.

20 Q I'm sorry, but when they were being -- when
21 they were taking place?

22 A Yes, I was there.

23 Q So even though you may not remember word for
24 word, you have recollection of your own as to how this
25 court proceeding went?

1 A I'm sorry, could you --

2 Q In addition to having the transcript, do you
3 have your own recollection as well of how the court
4 proceeding went?

5 A Yes.

6 Q Having read the transcript, is this at least
7 similar, if not substantially similar, to what -- how
8 you remember court going on that date?

9 A Yeah, it's, it's similar. It's accurate as
10 to what took place that day.

11 Q Okay. I would like to direct you to, I'm
12 not sure exactly which page it will be until I turn
13 for you -- one, two -- which is the third page. It's
14 actually the first page of transcription. And there
15 is a paragraph by the Court, spoken by the Court, and
16 then there's a paragraph by Mr. Perkins.

17 A Yes, okay.

18 Q I would like you to read through that
19 paragraph.

20 A From the court or from Mr. Perkins?

21 Q From Mr. Perkins. Just read through it to
22 yourself. And it goes on to the next page.

23 A (Witness complies.)

24 Okay.

25 Q Did Mr. Perkins advise the Court that the

1 documents could not be found?

2 A In part.

3 Q Did Mr. Perkins advise the Court that the
4 documents would not be produced because of the chain
5 of command?

6 A He did, not because of the chain of command,
7 but he did advise the Court of that.

8 Q At any point when Mr. Perkins was advising
9 the Court, did you speak to Mr. Perkins to fill him in
10 on something while he was speaking to the Court, such
11 as to correct him on anything he was saying?

12 A No, not while court was in progress.

13 Q Okay. Okay. Nothing further with this
14 document.

15 With relation to the summary sheet that was
16 produced at the end of the December 20 roadblock, was
17 it produced by handwriting or by a typewriter or by
18 computer?

19 A By computer.

20 Q When it was produced, was it saved as a
21 document or was it saved into a database?

22 A No.

23 Q Once it was entered into the computer, did
24 you print it?

25 A Yes, I did.

1 Q What did you do with the electronic copy
2 after it was printed?

3 A It was a pool computer. I remember turning
4 the computer off and I don't recall saving it.

5 Q Okay. I assume by pool computer you mean
6 shared computer?

7 A It was open access to everyone.

8 Q Do you have your own computer as a
9 lieutenant?

10 A Now or at that time?

11 Q At that time.

12 A No, I did not.

13 Q Okay. With regard to the end of the
14 roadblock summery sheets and other documents that are
15 prepared, are there tow sheets that are also prepared
16 or given?

17 A For vehicles that are removed from the
18 scene, yes, there are tow sheets that are filled out.

19 Q Are the tow sheets filled out by the
20 department, by officers within the department?

21 A They are filled out by officers who
22 authorized the removal if the vehicle.

23 Q Okay. So if there's a few cars that are
24 removed at the scene, it may not be you personally,
25 whoever is the officer that authorized the tow would

1 fill out the sheet; is that correct?

2 A That's correct. But an officer could also
3 be designated as an officer that's going to handle
4 that administrative detail.

5 Q Okay. At the end of the evening on December
6 20, 2002, are you responsible for collecting any of
7 that paperwork?

8 A No, not collecting tow sheets. No.

9 Q Do you review any of the tow sheets for
10 purposes of statistical summaries?

11 A To know how many vehicles were towed?

12 Q Yes.

13 A Yes.

14 Q When the vehicles are towed, is there a
15 reason attached to the tow sheet, such as this vehicle
16 is being towed for stolen car, that kind of thing?

17 A Yes, there is a section for that.

18 Q So that kind of information would also be
19 used to -- for statistical summaries?

20 A Yes.

21 Q Okay. And to the extent that certain
22 documents can't be found, the tow sheets could provide
23 information as to at least give an idea as to
24 statistics from the evening?

25 A For vehicles that were removed, yes.

1 Q Okay. The checkpoint that's being planned
2 now for the future, is this checkpoint being planned
3 pursuant to new procedural guidelines that are in
4 place?

5 MR. FRAZIER: Foundation.

6 THE WITNESS: I would assume so, but I don't
7 have any personal knowledge of the plan in process of
8 this upcoming checkpoint.

9 BY MR. EUCHNER:

10 Q Okay. Has an operational plan been released
11 within the department to your knowledge?

12 A Not that I have seen as of yet.

13 Q If you were not assigned to that particular
14 detail, would you get a copy of the operational plan?

15 A Now, currently?

16 Q Yes.

17 A Yes. It would be forwarded through email to
18 me.

19 Q At the December 20th, 2002 roadblock, when
20 vehicles are being towed, does every vehicle that's
21 towed involve the arrest of a person?

22 MR. FRAZIER: Form and foundation.

23 THE WITNESS: I don't have any knowledge
24 of -- there were a number of vehicles towed on that
25 date and I can't say specifically that each person was

1 arrested.

2 BY MR. EUCHNER:

3 Q Hypothetically speaking, is there a
4 situation that you can come up with where a vehicle
5 would be towed for a reason that doesn't involve the
6 driver and/or passengers from being arrested?

7 A (No audible response.)

8 Q Not sure?

9 MR. FRAZIER: I'm going to object to
10 foundation.

11 THE WITNESS: A vehicle could be towed for
12 an accident if it was no longer drivable or if a
13 vehicle broke down and it was towed at the request of
14 the owner. I'm sure there is a number of scenarios.

15 BY MR. EUCHNER:

16 Q But if it was towed at the checkpoint, it
17 drove up to the checkpoint, correct?

18 Let me rephrase that.

19 If it was towed from the checkpoint, it must
20 have driven that far to the checkpoint?

21 MR. FRAZIER: Foundation.

22 THE WITNESS: To be there at that scene,
23 yes, it had to get there.

24 BY MR. EUCHNER:

25 Q To your knowledge on that evening did any of

1 the vehicles that were towed get there, break down at
2 the checkpoint?

3 A Not that I specifically recall.

4 Q Within your personal knowledge was every
5 vehicle towed that evening the result of somebody
6 arrested from within the vehicle?

7 MR. FRAZIER: Foundation.

8 THE WITNESS: I can't say if every situation
9 resulted in an arrest.

10 MR. EUCHNER: Okay. I have no further
11 questions right now?

12 E X A M I N A T I O N

13 BY MR. FRANK:

14 Q Did the department have any tracking
15 procedure for citations, misdemeanor citations issued
16 by their officers back in December 2002?

17 A Tracking went through records and there was
18 an intake sheet for when they were processed by
19 records and when they are sent out to courts.

20 Q But not to the disposition of what
21 eventually happened?

22 A No, not that I'm aware of.

23 Q Okay. Did you ever direct the refiling of
24 the citations for Mr. Bressi?

25 A No, I did not.

1 Q Did you ever figure out what happened to
2 that operational plan?

3 A No, I have not to this day found out what
4 happened to it.

5 Q And so the reason it wasn't produced at the
6 hearing was because it simply couldn't be found?

7 A That's correct.

8 Q But somehow the prosecutor didn't get that
9 message?

10 A That's -- apparently he paraphrased and he
11 took it another way that could not be produced or
12 would not be produced. But my purpose for going there
13 was to tell him that the document could not be found.

14 Q Did you have a discussion with him after the
15 hearing at which you've seen that transcript?

16 A After the hearing I think I just let it go.
17 I don't think I said anything to him.

18 MR. FRANK: Okay. That's all I have.

19 E X A M I N A T I O N

20 BY MR. FRAZIER:

21 Q When you were referring to Exhibit 2 to
22 Chief Saunders' deposition, that is the one that was
23 written by Lieutenant Shonk back in 2000, and you said
24 a lot of the same questions were asked in the
25 memorandum you prepared, but not all of them.

1 Chief Saunders defined these basically as
2 policies that the lieutenant developing that document
3 used to instruct his officers. So based on that term,
4 you would agree that you were the one who drafted
5 whatever those are called, policies or instructions or
6 whatever, but for the people on December 20th, 2002,
7 correct?

8 A Yes.

9 MR. EUCHNER: Objection, leading.

10 THE WITNESS: Yes, I did author those
11 instructions.

12 MR. FRAZIER: That's all I have.

13 MR. EUCHNER: I have no follow-up then.

14 MR. FRAZIER: Read and sign.

15 (Deposition concluded at 4:11 p.m.)

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