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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

TERRENCE BRESSI,)
 Plaintiff,)
 vs.) CIV 04-264 TUC-JMR
 MICHAEL FORD, ERIC O'DELL,)
 GEORGE TRAVIOLIA, RICHARD)
 SAUNDERS, and UNITED STATES OF)
 AMERICA,)
 Defendants.)

DEPOSITION OF OFFICER GEORGE PATRICK TRAVIOLIA, II

2 November, 2006

Tucson, Arizona

Reported by: Melanie J. Builder, RPR, CR
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19 GUST ROSENFELD, PLC
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22 One South Church Avenue
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24 ALSO PRESENT:

25 TERRENCE BRESSI

1 BE IT REMEMBERED that pursuant to Notice of
2 Deposition in the above-styled and numbered cause, the
3 deposition of OFFICER GEORGE PATRICK TRAVIOLIA, II was
4 taken upon oral examination at the Hotel Arizona,
5 Presidio Board Room, in the city of Tucson, state of
6 Arizona, before Melanie J. Builder, RPR, CR, in and for
7 the State of Arizona, on the 2nd day of November, 2006,
8 commencing at the hour of 11:00 a.m. in a certain cause
9 now pending before the United States District Court,
10 District of Arizona.

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1 OFFICER GEORGE PATRICK TRAVIOLIA, II,
2 having been first duly sworn upon his oath to tell the
3 truth, the whole truth, and nothing but the truth,
4 testified as follows:

5

6 EXAMINATION

7

8 BY MR. EUCHNER:

9 Q Is it still Detective Traviolia?

10 A Officer Traviolia.

11 Q Officer?

12 A Yes.

13 Q And can you state your full name?

14 A George Patrick Traviolia, the second.

15 MR. EUCHNER: Okay. In a little while we're
16 going to ask you some questions, but first we're going
17 to make a record among the lawyers of conversations that
18 we've had with the court.

19 Today is Thursday, November 2nd. On Tuesday,
20 October 31st, the attorneys in this case, Mr. Frazier,
21 myself, Mr. Euchner, and Mr. Harrison had a
22 teleconference with Judge Roll regarding the protective
23 order.

24 The first issue that was dealt with was audio
25 recordings of these depositions. And currently there

1 are two audio recordings being made, by myself and by
2 Mr. Bressi.

3 Our understanding of -- There really wasn't
4 as much of an order on this, because it was agreed by
5 the plaintiffs that, first of all, nothing that is
6 recorded today will be placed on the Internet today or
7 any time in the very near future, as in before
8 transcripts are prepared.

9 Secondly, after transcripts are prepared, once
10 objections are dealt with, anything that is not objected
11 to or anything that is objected to and the objections
12 are overruled would be permissible to be placed on the
13 Internet.

14 And third, anything else that is objected to
15 and the objections are sustained, that would be not
16 permissible to be placed on the Internet.

17 Roger, is there any other understanding you
18 have regarding the recordings?

19 MR. FRAZIER: Yeah, mine was slightly
20 different. I think it was on your second point. The
21 initial placement should not go on the Internet at all
22 until something is filed in court. So even those parts
23 that are not objected to should not go on the Internet
24 until the same thing is filed in court. And that is the
25 case I cited in the motion for protective order, Seattle

1 Times versus Rinehart (phonetic), that says there's no
2 right to disseminate materials publicly that are
3 obtained through discovery, not filed in court.

4 Now, once it's filed in court, I basically
5 agree with your synopsis.

6 MR. EUCHNER: Okay. And our understanding is
7 that, given that transcripts will be prepared relatively
8 soon, as we have a responsive pleading due in a little
9 over three weeks, most of these issues will be resolved
10 in the relatively near future. And we had no objection
11 to holding off placing any recordings on the Internet
12 until after you have an opportunity to file any
13 paperwork that you deem appropriate with the court.

14 MR. FRAZIER: Okay.

15 MR. EUCHNER: So I think we have an
16 understanding on that issue.

17 MR. FRAZIER: Did you mention that you have
18 two recorders going?

19 MR. EUCHNER: Yes, one is mine and one is
20 Mr. Bressi's, just in case one fails.

21 MR. FRAZIER: Now, there's the second part of
22 the motion for protective order.

23 Were you going to say something about that?

24 MR. EUCHNER: Okay. My understanding is that
25 the judge told us, use your best judgment, essentially,

1 that, on the one hand, the plaintiffs are not permitted
2 to ask questions of the four named defendants related to
3 dismissed claims. However, they are -- we are permitted
4 to ask questions related to claims that still exist and,
5 given that there is such a large overlap among those
6 claims, specifically there's an injunctive relief,
7 malicious prosecution claims, and arrest citation
8 claims.

9 It's nearly impossible to sort out which facts
10 apply only to one and which apply only to the other. So
11 our understanding is that we will abide by the Court's
12 directive to not ask questions specifically designed to
13 go towards dismissed claims, but that anything that goes
14 to claims that are still existing, which pretty much is
15 everything, is still fair game.

16 MR. FRAZIER: I would agree that the Court
17 said you should not inquire into the dismissed claims.
18 And I also agree that there is a lot of overlap.

19 I defend the four individuals with regard to
20 the State citations and the Arizona constitutional claim
21 and the injunctive relief.

22 Mr. Frank is here from the US Attorney's
23 Office, is defending the malicious prosecution case. So
24 if I make an objection to relevancy and he doesn't, you
25 know, the question can still be answered.

1 Further, I think that because we had this
2 issue come up with the Court -- I would normally not
3 make relevancy objections, anyway. But if I think if
4 it's really going into the area that I don't see it
5 having any relevancy, I'll let you know.

6 And if it's still too gray, I don't want to
7 hold you up from getting your questions answered, but if
8 they don't lead to something on the other claims, I
9 would move that they be stricken and not be permitted to
10 be filed and/or admissible into evidence in Court or put
11 on the Internet or any of that stuff.

12 MR. EUCHNER: Okay. So let me just make sure
13 I understand you correctly, that rather than hold up
14 with objections on a lot of questions, you'd rather --
15 you would file paperwork later to have certain questions
16 stricken from the record?

17 MR. FRAZIER: Well, it depends.

18 MR. EUCHNER: Of course, it depends. But if
19 you would -- To the extent that you are able to let a
20 question be answered and then ask for it to be struck
21 from the record later, we obviously would be willing to
22 not place anything on the Internet until such an issue
23 was ruled upon. But if we can proceed through these
24 depositions for the next two days, that would be
25 beneficial.

1 MR. FRAZIER: And will you stipulate that you
2 would not object to my doing that later, and relatively
3 soon, though, after this, based on the fact that I
4 didn't make a relevancy objection at the moment?
5 Because I would like you to be able to get through this.
6 And I'm only going to make that objection if it really
7 appears to me that we're going way off into one of those
8 dismissed claims that has nothing to do with anything
9 else.

10 MR. EUCHNER: Okay. I think we have an
11 agreement, then, as to how we understand the Judge's
12 order and how we should proceed.

13 MR. FRAZIER: Okay.

14 MR. EUCHNER: Any other preliminary matters
15 you think we need to deal with before we go in?

16 MR. FRAZIER: (No oral response.)

17 MR. EUCHNER: Okay. There are no objections.

18 BY MR. EUCHNER:

19 Q Officer Traviolia, I'm going to --

20 A Turn this off.

21 Q I shut my phone off, too.

22 MR. FRAZIER: Mine is on, but let me get it --
23 If a call comes in, I'll check it real quick and shut it
24 down again.

25 \\\

1 BY MR. EUCHNER:

2 Q Officer Traviolia, I'm going to just advise
3 you of a few things. I don't know if you've ever been
4 deposed before. But basically you're going to be asked
5 questions today under oath. You've already been sworn
6 in. And while this isn't a proceeding in a courtroom
7 with a judge and jury, it carries the same effect as if
8 there was a judge and jury with us.

9 It's possible that these proceedings could be
10 used in a trial under certain circumstances but, given
11 that we don't have too much of an audience with us, just
12 the people in the room, we can take frequent breaks if
13 we need to. If you need a break for a bathroom -- and
14 that goes for the rest of us as well -- just let us
15 know. I'd only ask that you answer the question that is
16 currently before you --

17 A Okay.

18 Q -- before we take a break.

19 If there's any questions I ask you that you
20 don't understand, please let me know that you don't
21 understand. If it's because the question is unclear,
22 maybe you didn't hear me correctly, because I mumbled,
23 just let me know that you didn't understand the question
24 and why you didn't understand, and I'll rephrase the
25 question or I'll speak louder if I have to.

1 If there is any -- All the questions must be
2 verbal. The court reporter is typing this down. She
3 can't take head gestures, she can't take um-hums. So
4 the court reporter needs to be able to hear you.

5 If you -- Sometimes the court reporter has
6 trouble, because a lot of times we'll end up talking at
7 the same time. But try -- And I'll do -- This is a
8 problem for me as well. Do your best to wait until I
9 finish my question before you give your answer. I know
10 the court reporter will speak up if we end up speaking
11 over each other.

12 Do you have any questions about how this
13 proceeds?

14 A Not at this time.

15 Q Okay. Well, if the questions do arise, we can
16 answer them at that time.

17 You've stated your name, Officer Traviolia,
18 that's how I'll refer to you.

19 How long have you been a police officer?

20 A Going on six and a half years now.

21 Q Okay. Have you worked for the Tohono O'Odham
22 Police Department the entire time?

23 A Yes.

24 Q Okay. Have you ever worked for any other law
25 enforcement agency?

1 A No.

2 Q What training do you have in law enforcement?

3 A I graduated from the SALETC academy in
4 southern Arizona. After that I've received numerous
5 trainings in homicide investigation, ag assault
6 investigation. We've had constitutional law. Just
7 continuous training afterwards.

8 Q Okay. When you graduated from SALETC, was
9 that prior to being hired by the TOPD or after?

10 A No, you get -- You're hired first, then you
11 attend the academy.

12 Q Okay. The academy is how long?

13 A Four months.

14 Q Okay. And since that four months, that
15 training, you've had additional training since then?

16 A Yes.

17 Q Can you describe some of the details of the
18 training you've done? Like, for example, you mentioned
19 homicide training. Describe what that is.

20 A It was a -- I went to several -- They're
21 just continuous training that's offered by different
22 police departments. They go over cases, evidence
23 handling, things of that nature.

24 Q Is it fieldwork or textbook work or a little
25 of both --

1 A It's mostly test -- excuse me -- textbook.

2 Q Okay. And the ag assault training, is that
3 similar?

4 A Yes.

5 Q Okay. Do you have a POST certification?

6 A Yes, I do.

7 Q Okay. What do you have to do to get a POST
8 certification?

9 A I have to pass a background check. You have
10 to graduate the police academy. You have to work for a
11 law enforcement agency.

12 Q Other than maybe an application, is there any
13 additional paperwork that you have to complete --

14 A No.

15 Q -- beyond the background check?

16 Is there any additional training you have to
17 complete?

18 A No.

19 Q Do you --

20 A Well, to keep your certification, you have to
21 have eight hours of continuous training each year.

22 Q Okay. And would that be a classroom training
23 or field training?

24 A Yeah, either/or.

25 Q Okay.

1 A As long as it's POST-approved, you're good to
2 go.

3 Q Okay. So they have a select series of
4 classes, and probably a broad selection, and you take
5 what you choose and it's --

6 A Yes.

7 Q We have the same thing for lawyers.

8 I'm going to ask you some details about the
9 work that you've done as a police officer over the last
10 six and a half years. The only thing I'd like to say is
11 if -- I don't know if you have any undercover
12 experience but, if you do, don't answer anything related
13 to that or don't volunteer it.

14 That being said, I'd like you to describe what
15 job duties you've had over the last six and a half
16 years.

17 A The last six and a half years, I've done
18 patrol work. I've done investigations in homicide, ag
19 assault, sexual assaults, money crimes, gang
20 investigations. And then I went back on patrol. I'm
21 also a member of the SWAT team, so I do that, too.

22 Q Okay. Over the course of time, did you start
23 out on patrol?

24 A Yes.

25 Q What period of time did you do, say, the

1 homicide investigations?

2 A That was approximately three years I was back
3 in criminal investigations.

4 Q Okay. Do you know what years those were?

5 A That would be....

6 Q Approximations are fine.

7 A Yeah. I believe I went back in -- It was
8 October. And I can't remember if it was -- I think it
9 was '01, October of '01.

10 Q Okay. At some point you attained the rank of
11 detective?

12 A Yes.

13 Q Is that -- I don't know exactly how the ranks
14 work at the TOPD.

15 Is that the rank immediately above officer, or
16 is it -- how does that work?

17 A Actually, it's not a rank, it's a title.

18 Q Okay.

19 A Once you go into criminal investigations, they
20 give you that title. Once you leave, you go back to
21 officer.

22 Q Okay. What are the ranks of the officers,
23 starting with officer, working up to chief?

24 A It's officer, sergeant, lieutenant, captain or
25 assistant chief of police -- there's two titles there --

1 and then chief of police.

2 Q Okay. So it's possible to be a detective
3 without attaining the rank of sergeant, and it's
4 possible to attain the rank of sergeant without being a
5 detective?

6 A Yes.

7 Q Okay. So you were part of a detective squad?

8 A Yes.

9 Q Did you have to take any tests or
10 certifications to achieve that rank -- I mean, I'm
11 sorry, not that rank but that position?

12 A At that time, no.

13 Q Okay. So basically you got reassigned --

14 A Yeah.

15 Q -- within the TOPD?

16 A Yes.

17 Q Okay. How many detectives does the department
18 have at any period of time?

19 A I don't know right off the top of my head.

20 Q Okay. Were you part of a detective squad
21 where all of the detectives were part of the same group?

22 A Yes.

23 Q Do you know how many detectives there were
24 when you were a detective? Approximation is fine.

25 A I believe there were six or eight of us. I

1 just can't tell you right off the top of my head.

2 Q That's fine. And I know it changes, so....

3 With regard to the laws you had enforced, on
4 patrol you just enforce any law that you saw that was
5 broken, or is there any laws that you didn't enforce?

6 A You respond to a call and you -- you assess
7 the situation, find out if the victim wants to
8 prosecute, and, if they want to prosecute, then you
9 apply the applicable laws.

10 Q Okay. What kind of experience do you have
11 working at roadblocks?

12 A I participated in -- I can't recall the
13 number -- a couple before this roadblock in question, or
14 checkpoint in question.

15 Q Okay. And I'm going to use "roadblock", but
16 "roadblock" or "checkpoint", whichever term you feel
17 comfortable with. For our purposes I'm considering them
18 synonymous.

19 Do you know how many roadblocks you've done,
20 total?

21 A No, I don't.

22 Q Okay. The roadblock that we're here to talk
23 about today, was that your first roadblock or had you
24 done some before then?

25 A No, I had done some before.

1 Q Okay. Do you know how many?

2 A No.

3 Q Okay. Do you know if it was more like a
4 couple or if it was more like a dozen?

5 A It wasn't a dozen, but....

6 Q Okay. At this roadblock on December 20th,
7 2002, do you remember it, the events of this date?

8 A Yes.

9 Q Okay. And I understand four years have passed
10 and you don't remember every last detail. But I'm going
11 to ask you just for your best recollection. If you
12 don't remember something, "I don't remember" is an
13 acceptable answer.

14 At the time that you came to -- Well, first,
15 let me backtrack.

16 How did you find out about the roadblock?

17 A I received an operational plan on my desk.

18 Q Okay. So you came to work and here's a piece
19 of paper on your desk?

20 A Yes.

21 Q Okay. How long was the operational plan, in
22 terms of pages?

23 A Our operational plans are -- I don't
24 remember. It's like a three-to-four-page document.

25 Q Okay. And what does the operational plan

1 basically tell you?

2 A It gives the guidelines about what the
3 checkpoint's for, and then it gives your assignments of
4 when you're supposed to be there and how long you're
5 working for.

6 Q Okay. Do you know who writes the operational
7 plans?

8 MR. FRAZIER: Objection; foundation.

9 BY MR. EUCHNER:

10 Q Okay. It was -- It was -- Was it in the
11 form of a memo that said to so-and-so, from so-and-so?

12 A No.

13 Q Okay. Was it -- Did the operational plan you
14 received -- Do you know who it came from?

15 A Yes.

16 Q Who did it come from?

17 A Lieutenant Ford.

18 Q Okay. Do you know if he wrote it?

19 A Yes, he signed it.

20 Q Okay. At the other roadblocks that you've
21 been working on, did Lieutenant Ford usually write the
22 operational plan?

23 A I don't recall who wrote those up.

24 Q Okay. Might have been somebody else on other
25 occasions?

1 A Yes.

2 Q You remember on this occasion it was
3 Lieutenant Ford?

4 A Yes.

5 Q Okay. Do you remember what the objectives
6 were that were in the operational plan?

7 A It was a DUI/license/registration checkpoint.

8 Q Okay. When you received that memo, do you
9 remember what date it was in relation to December 20th?

10 A No, I don't.

11 Q Do you know if it was the same day or the day
12 before?

13 A I believe it was about a week in advance.

14 Q Okay. Between the date you received the
15 operational plan and December 20th, did you learn
16 anything additional about the plan for the roadblock?

17 A No.

18 Q Okay. So basically here's the plan, you show
19 up on December 20th, and this is all you need to know
20 between now and then?

21 A Yes.

22 Q Okay. When you show up on December 20th, is
23 that a regularly scheduled workday for you?

24 A If it was on Friday. I don't remember what
25 day it was on, but if it was Friday it would have been a

1 regular workday.

2 Q Okay. So this would be part of your 40 hours
3 or...?

4 A Yes.

5 Q Okay. And did you arrive at the checkpoint
6 area from home or from going to the office first?

7 A From home.

8 Q Okay. So you wouldn't have seen anybody else
9 from work until you got to the checkpoint?

10 A Yes.

11 Q When you arrived, do you know if you were one
12 of the first people there, one of the last people there?

13 A You know, I don't recall --

14 Q Okay.

15 A -- that.

16 Q Who -- To the best of your recollection, who
17 was there at the checkpoint, you know, from law
18 enforcement?

19 MR. FRAZIER: Object to the form of the
20 question. And let me just clarify. Do you mean from
21 the TOPD?

22 MR. EUCHNER: Well, we'll start with the TOPD.

23 MR. FRAZIER: Are you talking about when he
24 first arrived, or the whole period of time?

25 MR. EUCHNER: Okay. I'll rephrase the

1 question, then.

2 MR. FRAZIER: Okay.

3 BY MR. EUCHNER:

4 Q So once there -- At some point was there a
5 period when, if not everybody arrived, almost everyone
6 involved so everyone was ready to begin operating the
7 checkpoint?

8 A Yes.

9 Q At that time when -- Let me ask you another
10 question, backtrack.

11 Who was command -- the commander on-scene for
12 the checkpoint?

13 A That would you Lieutenant Ford.

14 Q Okay. So at some time Lieutenant Ford would
15 say, we're ready to begin?

16 A Yes.

17 Q At the time Lieutenant Ford said, we're ready
18 to begin, who from the TOPD was present?

19 A I can --

20 Q As best you can recall --

21 A I can account for myself. I know Eric O'Dell
22 was there. Beyond that, I really don't recall everybody
23 else that was there.

24 Q If I gave you some names, would you recall if
25 they were there?

1 A They could have been. They might not have
2 been.

3 Q Okay.

4 A I couldn't tell.

5 Q Such as -- I think it's Detective Romero?

6 A If he was scheduled, he was there.

7 Q Okay. Do you know if Officer Henry was there?

8 A Which Henry?

9 Q R. Henry.

10 A If he's -- If he did reports, then he was
11 there.

12 Q Okay. Do you know who from US Customs Service
13 was on the scene at the time Lieutenant Ford said, we're
14 ready to begin there?

15 A There was no US Customs there.

16 Q Okay. Do you know who from US Border Patrol
17 was present at the time Lieutenant Ford said we're ready
18 to begin?

19 A There was no US Border Patrol there.

20 Q Okay. Do you remember approximately what time
21 of day it was when Lieutenant Ford said, we're ready to
22 begin?

23 A I don't remember.

24 Q Do you remember if it was -- December 20th is
25 about the Solstice.

1 Do you remember if it was dark yet?

2 A You know, I don't recall that.

3 Q Okay. So no recollection on time of day at
4 all?

5 A No.

6 Q Okay.

7 A It was in the evening, but I couldn't tell you
8 if the sun was still up or if it was setting or if it
9 was dark when we started.

10 Q Okay. In terms of the traffic flow that was
11 going through the checkpoint, was it a heavier traffic
12 flow than normal or was it lighter than normal?

13 A I couldn't tell you that because, at the
14 beginning, I was away from the checkpoint.

15 Q Okay. What tasks were you -- According to
16 the operational plan, or according to Lieutenant Ford on
17 the scene, however you feel best to answer it, but what
18 tasks were you assigned at the beginning of the
19 checkpoint?

20 A At the beginning of the checkpoint, I was
21 assigned to -- I was approximately about a half mile
22 away, just monitoring traffic. And I was there on
23 standby in case somebody tried to run the checkpoint.

24 Q When you say "run the checkpoint", what do you
25 mean?

1 A Actually not stop and, you know, we've had
2 occasions where people have tried to run over officers.

3 Q Okay. So you're basically the safety officer
4 at that point --

5 A Yes.

6 Q -- making sure that nobody is speeding
7 through?

8 A Yes.

9 Q What markings were there, or signs for the
10 roadblock, leading up to the point where everybody else
11 was standing?

12 A I believe there's a sign that says -- that
13 said "checkpoint ahead", and then there's a stop sign as
14 you approach the checkpoint.

15 Q Okay. Were there any other signs besides
16 that?

17 A I don't recall.

18 Q The roadblock -- Was it "roadblock" or
19 "checkpoint ahead"?

20 A I believe "checkpoint ahead".

21 Q Okay. How far away from the checkpoint was
22 that sign, do you recall?

23 A I believe it was about a quarter mile.

24 Q Okay. So if I were driving through this, I
25 would see this sign and then a quarter mile later I

1 would have to stop?

2 A Yes.

3 Q Were there any other warnings to a driver
4 coming through that there was going to be this
5 checkpoint, other than you standing there and the sign?

6 A No.

7 Q Okay. Do you know what the speed limit is on
8 that section of road?

9 A At that time -- They changed it to 65, and I
10 don't recall if it's -- if it was 55 at that time or if
11 it had been increased to 65.

12 Q Okay. And do you remember what mile marker on
13 the road we're talking about at this point?

14 A Approximately around 143.

15 Q Okay. That's near the eastern border of the
16 tribal jurisdiction?

17 A Yes.

18 Q Do you know how close it is to the actual
19 border?

20 A Around Milepost 145 is the border. I couldn't
21 give you an exact distance.

22 Q Okay. Approximately two miles, give or take?

23 A Yes.

24 Q Okay. Was there any warning of the checkpoint
25 coming westbound on State Route 86?

1 A Yes.

2 Q Okay. Was it basically the same as you
3 described for eastbound?

4 A Yes.

5 Q Okay. A quarter mile and the sign.
6 Was there a -- an officer standing on one side
7 and you standing on the other by the --

8 A No, I wasn't standing. I was sitting in my
9 vehicle.

10 Q Okay. I'm sorry. Sitting.
11 But you were monitoring the eastbound traffic,
12 or westbound?

13 A I was just stationary, monitoring either
14 direction.

15 Q Oh, okay. Were you -- So you were basically
16 at the checkpoint, near it?

17 A I was approximately half a mile away. I
18 believe I was sitting on the north side of the
19 roadway --

20 MR. FRAZIER: Just....

21 BY THE WITNESS:

22 A -- in my vehicle.

23 MR. FRAZIER: You're answering his questions
24 before he's done.

25 THE WITNESS: Okay.

1 MR. FRAZIER: And I need just a moment here at
2 the end of the question --

3 THE WITNESS: Okay.

4 MR. FRAZIER: -- so that if I need to object,
5 I can do that before you answer.

6 And you need to make sure you know what his
7 question is, because he might change it while you're
8 saying yes. Not that he would do that.

9 BY MR. EUCHNER:

10 Q I'm just trying to understand exactly where
11 you're positioned. I think I'm still a little bit hazy.

12 So you're on the north side of the road?

13 A Yes.

14 Q A half mile away from the checkpoint?

15 A Yes.

16 Q Are you east or west of the checkpoint?

17 A I would be west of the checkpoint.

18 Q Okay. So you're watching for traffic going
19 towards the checkpoint or away from it, or both?

20 A Either/or. Basically what I'm there for is
21 listening, hey, we've got a vehicle that just ran
22 through.

23 Q Okay.

24 A That was -- That was my job.

25 Q So basically, given that you're on the west

1 side of the checkpoint, you would be able to respond to
2 people that ran through, going westbound?

3 A Yes.

4 MR. FRAZIER: Okay.

5 BY MR. EUCHNER:

6 Q We should probably draw a map for this. We
7 have one person who understands.

8 Is there somebody that is doing the exact same
9 job as you are but on the eastbound side of the
10 roadblock, in case somebody runs it going eastbound, so
11 they are a half mile east of the roadblock?

12 A Yes.

13 Q So basically you've got both sides monitored.
14 Do you know if anybody ran the checkpoint that
15 day?

16 A No.

17 Q No, you don't know, or nobody ran it?

18 A I believe nobody ran it.

19 Q Okay. Do you know if anybody ran it from the
20 other direction, for example, by radio traffic?

21 A I didn't hear anybody.

22 Q Okay. I know you wouldn't have eyewitnessed
23 it. That's why I asked if maybe you heard radio
24 traffic.

25 Okay. Had anybody ever run a checkpoint like

1 that before --

2 A Yes.

3 Q -- in your experience?

4 Did you have to track them down by vehicle?

5 A Actually, I wasn't there at that checkpoint,

6 so....

7 Q Okay. So you've heard of it --

8 A Yes.

9 Q -- but you've never witnessed it?

10 A Yes.

11 Q Okay. The checkpoints that the TOPD have run,
12 that you've been a part of, have they always been on
13 this stretch of State Route 86, or have you ever done it
14 anyplace else? And I'm asking you, personally, this.

15 A I don't recall the exact locations they were
16 at.

17 Q Okay. At some point on December 20th, did you
18 change your task at the checkpoint where you're no
19 longer monitoring the westbound traffic?

20 A Yes.

21 Q What was the task that you were then given?

22 A Actually, I'd just come back and I was getting
23 to -- I was getting ready to relieve officers that were
24 running the checkpoint. I had not done so yet.

25 Q Okay. And did somebody, then, take the task

1 you were doing and...?

2 A Yes.

3 Q Sort of a swap of duties?

4 A Yes.

5 Q And at that point, what is your job
6 description on the checkpoint?

7 A At that point my description would be make
8 contact with the drivers of the vehicle.

9 Q Okay. So a driver would stop at the
10 vehicle -- they would stop their vehicle, and then, when
11 you say make contact, what would you do?

12 A I'd walk up to the -- to the door, ask them --
13 if they hadn't rolled their window down, tap their
14 window, roll it down, and ask for license, registration,
15 proof of insurance.

16 Q Okay. If somebody gives you a driver's
17 license and says, here's my license, and what do you do
18 next?

19 A I run what's called a wants and warrants check
20 on the license.

21 Q Okay. Did you have to go to a vehicle to do
22 that, or do you have a handheld radio that you could
23 call in?

24 A It depends on where you're standing. If
25 you're standing in the wrong spot, your portable

1 wouldn't get out, and you would have to go to a vehicle.

2 Q Okay. What if somebody didn't have insurance?

3 A Well --

4 MR. FRAZIER: This is now getting into the
5 irrelevant part, but....

6 MR. EUCHNER: Let it go for today --

7 MR. FRAZIER: As we discussed previously,
8 right.

9 MR. EUCHNER: -- and deal with it later.

10 BY MR. EUCHNER:

11 Q What if somebody didn't have insurance?

12 A You have certain options there. If they're a
13 tribal member, if they're on the reservation, they
14 aren't required to have insurance, and you just tell
15 them, hey, you drive off the nation, it's a big fine if
16 you get pulled over.

17 Q Okay. And if somebody didn't have the
18 driver's license with them?

19 A You could run a -- their license check by name
20 and date of birth.

21 Q Okay.

22 A And if they had it, you'd tell them, hey
23 basically -- I would say, hey, basically, you know, make
24 sure you've got your license.

25 Q Okay. Do you know could you estimate at all

1 how many cars and drivers you spoke with that particular
2 day?

3 A That particular day, I spoke with one.

4 Q Okay. But -- Well, so this day you weren't
5 knocking on -- you weren't doing windows first?

6 A No, I had just arrived to relieve somebody,
7 and then this incident happened.

8 Q Okay. So basically what we're talking about
9 before was things that had happened in other
10 checkpoints?

11 A Yes.

12 Q Okay. On this particular day you had just
13 arrived at the line area?

14 A Yes.

15 Q Okay. And at the time you arrived, what did
16 you witness related to a truck that had driven through
17 the checkpoint?

18 A I didn't witness the truck pulling up. I just
19 heard Lieutenant Ford ask me to come over and make
20 contact with the driver.

21 Q Okay. And did you observe anything about the
22 truck, for example, that stood out for you?

23 A Not at that time.

24 Q Okay. The driver had his window down?

25 A I believe so.

1 Q Okay. Spoke with you?

2 A Yes.

3 Q Okay. Do you remember the content of the
4 conversation you had with the driver?

5 A I believe I asked him for his license,
6 registration.

7 Q Okay. And do you remember what he said back?

8 A It's been a while. I don't really recall.

9 Q Okay. Was there a point where you took the
10 driver into custody?

11 A Yes.

12 Q Let me backtrack a bit.

13 Prior to that point, do you know -- Let me
14 rephrase that.

15 Did you ever make contact with the driver's
16 supervisor?

17 A No, I did not.

18 Q Okay. Do you know who did?

19 A I believe it was Officer O'Dell.

20 Q Okay. So you had no -- You were basically
21 standing by the truck?

22 A Yes.

23 Q And when I refer to the driver, what we now
24 know, it's Mr. Bressi.

25 At what point do you find out the identity of

1 the driver?

2 A The -- I found out the identity of the driver
3 after we took him into custody.

4 Q Okay. So placed him into handcuffs?

5 A Yes.

6 Q And removed him from his vehicle?

7 A Yes.

8 Q And was it -- took him over to the side of the
9 road first?

10 A Yes.

11 Q Okay. And at that point you took his wallet
12 from his pocket?

13 A Yes.

14 Q Okay. Once you had his identification, did
15 you do anything else from there with the identification?

16 A Yes, I used it to write a citation.

17 Q Okay. Do anything else with the
18 identification besides use it for the data for the
19 citation?

20 A I ran a wants and warrants check on it.

21 Q Okay. Come back negative?

22 A Came back as, I believe, his license was good.

23 Q Okay.

24 A No --

25 Q No arrest warrants out?

1 A No.

2 Q Okay. Do you remember how long Mr. Bressi is
3 on the side of the road?

4 A What do you mean by...?

5 Q Well, at this point in the story, Mr. Bressi
6 is either sitting or laying there, but he's on the side
7 of the road, he's not in his own vehicle anymore?

8 A No, we -- Let's straighten this out. We
9 weren't exactly on the side or the shoulder of the road.
10 We were -- We were off in a pullout area.

11 Q Okay. In the pullout area, Mr. Bressi is
12 sitting on the ground?

13 A Yes.

14 Q Okay. Do you recall how long he's sitting
15 there?

16 A No, I don't.

17 Q Okay. Do you know if he was moved from
18 sitting on the ground at any point?

19 A Yes.

20 Q Okay. What -- Tell me what you know of that.

21 A After I was through filling out the citation,
22 I explained to Mr. Bressi, hey, these are -- this is
23 what you're being cited for. Because these are
24 misdemeanors, you can sign the citation, basically show
25 up on this date for court. And I explained to him, if

1 you don't sign these, because they're misdemeanors, then
2 we're required to take you to the jail.

3 Q Okay. And at first he didn't sign the
4 citation?

5 A He didn't speak to me at all.

6 Q Okay. Is he still -- And I'm saying on the
7 side of the road loosely here, as opposed to his
8 vehicle, but he's still sitting outside at this point?

9 A At that point I don't recall if I picked him
10 up and had him standing, or if he was still sitting on
11 the ground.

12 Q Okay. After he didn't speak to you and,
13 obviously, didn't sign the citation at that time, did
14 you leave him where he was or was he --

15 A No, I moved him to a -- to a marked patrol
16 vehicle and put him in the back.

17 Q Okay. And did any of this affect -- Let me
18 rephrase that.

19 Do you know how long it was before Mr. Bressi
20 signed the citation and was released?

21 A I couldn't give you a time period. I just
22 don't recall. There were a lot of things starting to
23 happen.

24 Q Okay. During the roadblock, did you hear
25 radio chatter while -- even though you weren't at the

1 checkpoint area?

2 A I heard some, yes.

3 Q Okay. Would you say there was -- in terms of
4 quantity of action that was happening, was it more
5 before or after Mr. Bressi was placed into custody?

6 MR. FRAZIER: I object to the form of the
7 question on the basis of what you mean "quantity of
8 action". I don't know what you mean.

9 MR. EUCHNER: Quantity in terms of calls that
10 were generating arrests, interesting -- I'm sorry. I
11 can rephrase that.

12 BY MR. EUCHNER:

13 Q Were there other cases that stood out from
14 that night, that were out of the ordinary?

15 A Out of the ordinary for us, no.

16 Q Okay. Then I will need to rephrase my
17 question. Other than -- Let me backtrack again.

18 How many people were cited for alcohol
19 violations?

20 A I have no idea.

21 Q Okay. Other than Mr. Bressi, did you work on
22 any other vehicles that were coming through, like,
23 initiate contact with any other vehicles?

24 A No.

25 Q Do you remember how long the roadblock went on

1 that night, and do you remember approximately what time
2 it concluded?

3 A I don't recall what time it concluded.

4 Q Do you know if Mr. Bressi had been cited and
5 released prior to the conclusion of the roadblock?

6 A Yes.

7 Q Do you know how much time approximately it was
8 between when he was cited and released and when the
9 roadblock concluded?

10 A I couldn't tell you, don't know.

11 Q Minutes, hours?

12 A I don't know.

13 Q Do you have any contact with any drivers at
14 all, other than Bressi, that evening?

15 A No. I'm thinking about it. I might have. I
16 might have. I just don't recall.

17 Q If you did, nothing stands out?

18 A Nothing.

19 Q Okay. Do you remember seeing Customs officers
20 on the scene at any point?

21 A Yes.

22 Q Do you know who those Customs officers were,
23 by name?

24 A By name, I didn't recognize any of them by
25 name.

1 Q Okay. By face?

2 A I've -- Yes, I knew they were Customs
3 officers because I've seen them out there, but I just
4 didn't know -- I've never personally met them.

5 Q Okay. Do you know how many there were?

6 A No.

7 Q Okay. How about Border Patrol agents; did you
8 see any there that you knew by name?

9 A No.

10 Q Did you see any there that you knew by face?

11 A No.

12 Q Should have asked first: Did you see any
13 there?

14 A Yes.

15 Q Do you know how many you saw?

16 A No.

17 Q Was it more than one?

18 A I believe so.

19 Q Was it as many as ten?

20 A I don't know.

21 Q Okay. Do you know how many -- Let me
22 rephrase that again.

23 There was a pulloff area that you were talking
24 about before --

25 A Yes.

1 Q -- where, for example, Mr. Bressi was?

2 When he was removed from his vehicle, what was
3 done with the -- with the vehicle he was driving?

4 A I believe it was pulled over into the pulloff
5 area.

6 Q Okay. So either you or another officer got
7 behind the wheel and just moved it out of the way?

8 A It wasn't me.

9 Q Somebody moved it out of --

10 A Yes.

11 Q -- out of where it was?

12 A Yes.

13 Q Okay. Do you know how big this pulloff area
14 is? Is it just a little shoulder or is it a very large
15 area?

16 A It's a large area.

17 Q Okay. Did you happen to see vehicles that
18 were put aside for towing?

19 A Some.

20 Q Okay. At a typical roadblock when there are
21 cars that need to be towed, do you have a towing company
22 that is contracted with the Police Department?

23 MR. FRAZIER: Objection to foundation.

24 BY MR. EUCHNER:

25 Q If you know. For example, if you're an

1 officer in the field and you need to -- you're arresting
2 somebody and their car is on the side of the road, you
3 need to call the towing company, do you know who you
4 call?

5 A Dispatch does that. We have several towing
6 companies we use, and they're on a rotation.

7 Q Okay. On this particular evening,
8 December 20th, do you know if there were any cars set to
9 be towed?

10 A Yes, there were.

11 Q Do you know how many?

12 A Don't know.

13 Q Okay. If I asked you to estimate, say, 5, 10,
14 15, would you be able to give a ballpark?

15 A No, I wouldn't.

16 Q Okay. When you cited and released Mr. Bressi,
17 you gave him Arizona Traffic Ticket and Complaint?

18 A Yes.

19 Q And you give him his copy and you keep the
20 original plus other copies?

21 A Yes.

22 Q And then you give one of those copies to the
23 Justice Court in Ajo?

24 A I don't.

25 Q Okay. How does it work, if you know, that

1 paperwork that you file for a complaint to be filed in
2 the Justice Court, how does that paperwork get to the
3 Justice Court?

4 A There is an inbox. The sergeants log it down.
5 Then that paperwork goes to records and they're
6 responsible for getting it to Ajo.

7 Q Okay. So however many steps there are between
8 your department's records and Ajo, that's not within
9 your control or knowledge?

10 A Yeah.

11 Q Okay. In this case do you remember putting
12 the citation into the sergeant's box?

13 A Yes.

14 Q Okay. And it's basically just the one page
15 form that you -- for the citation?

16 A Yes.

17 Q Is there anything else that you would put with
18 it, such as a police report?

19 A No.

20 Q Okay. In this case you did prepare a police
21 report?

22 A Yes.

23 Q At what time would you refer that police
24 report to either a sergeant or the County Attorney? And
25 I'm asking the question a little bit vague because I

1 basically want you to walk me through the process of
2 from how you prepare the report and how you get it to
3 the County Attorney's Office.

4 A Okay. I could tell you this, I do the report.
5 I time-stamp it when I -- when I finish it. I send a --
6 either an e-mail to the sergeant who's in charge of me
7 or the person in charge, saying, hey, approve this
8 report, go over it. They approve it and then, in the
9 computer system, there is a code that sends it to the
10 records department. They put their approval on it
11 saying they received it into records. And after that I
12 believe the County Attorney would request from records
13 for the report.

14 Q Do you remember when you prepared your police
15 report in this case?

16 A It's -- It's time-stamped. I don't know what
17 the exact date on it is.

18 Q Okay. When you prepare reports, is there a
19 computer that you have to do it on, or is there a
20 typewriter, or do you share a computer?

21 A At that time I had my own computer at my own
22 desk.

23 Q Okay. Because you were a detective?

24 A Yes.

25 Q Okay. The perks, right?

1 A Yes.

2 Q And, obviously, you're not preparing the
3 report while you're still at the checkpoint?

4 A No.

5 Q How much longer, typically, would it take you
6 to get a report prepared in a case like this, where it's
7 only, like, a one-page report?

8 A That depends. I mean, if it's my Friday, I'll
9 come in and do it Monday.

10 Q Okay. Can you mark this as Exhibit No. --
11 Plaintiff's Exhibit No. 1.

12 (A discussion was held off the record,
13 after which the following further
14 proceedings were had herein:)

15 (Traviolia Deposition Exhibit No. 1 was
16 marked for identification.)

17 BY MR. EUCHNER:

18 Q Can you take a quick look at that? As much
19 time as you need to review it.

20 MR. FRAZIER: Do you have copies for us,
21 David?

22 MR. EUCHNER: (Complied.)

23 MR. FRAZIER: Is this your only other copy?

24 MR. EUCHNER: I brought three.

25 MR. FRAZIER: We can share.

1 MR. EUCHNER: Thanks.

2 BY MR. EUCHNER:

3 Q Okay. You've had a chance to review this?

4 A Yes.

5 Q Do you recognize this?

6 A Yeah, this is the report I did.

7 Q Okay. And do you specifically remember
8 completing this report?

9 A Yes.

10 Q Okay. And I believe one of the pages on this
11 report is completed by Lieutenant Ford. It bears a
12 narrative.

13 A Yes, I've never seen that.

14 Q Okay. But in terms of -- out of these four
15 pages that I'm showing you, Pages One, Two and Four are
16 reports that you completed?

17 A This first page right here is a -- is what
18 dispatch fills out.

19 Q Okay. So when it says occurred after,
20 occurred before, when reported, and it says 1701 hours,
21 does that mean that the arrest occurred or the stop
22 occurred at 5:00?

23 MR. FRAZIER: Foundation.

24 MR. EUCHNER: Okay. I'll rephrase the
25 question.

1 BY MR. EUCHNER:

2 Q Do you know how this 1701 number gets
3 generated?

4 A It's supposed to be, if this is a new
5 incident, that number is supposed to be, I believe,
6 generated when either they received a call from us or,
7 like, a 911 call or a call over the landline.

8 Q A lot of times when you're testifying, this
9 case being no exception, you're asked to recall specific
10 times later on; is that correct?

11 A Yes.

12 Q Do you use these dispatch times a lot to rely
13 on what time something happened when you testify?

14 A Sometimes, yes.

15 Q Assuming there's no contradictory information,
16 would you agree the stop and/or arrest of Mr. Bressi
17 occurred at or very close to 1701?

18 MR. FRAZIER: I'm just going to object to the
19 form of the question, and the foundation.

20 BY THE WITNESS:

21 A I couldn't tell you.

22 BY MR. EUCHNER:

23 Q Okay. Do you ever testify in court for the
24 State when they bring criminal charges against somebody?

25 A I haven't had to go to State court yet.

1 Q Okay. How about for the tribe?

2 A Yes.

3 Q Okay. And when the tribal Attorney General
4 calls you to the witness stand, a lot of times they'll
5 ask you what time something happened?

6 A Yes.

7 Q You don't always have independent memory,
8 though, of exactly what time something happened, do you?

9 A No.

10 Q If the tribal Attorney General is trying to
11 establish an exact time of a particular event, such as
12 an arrest that's being made, and the Attorney General
13 asks you if the dispatch time is correct, do you usually
14 rely on the dispatch time?

15 A That's why, in most of my reports -- and I
16 didn't do it here, because I believe -- I'm thinking at
17 that time I think that's when the actual checkpoint
18 started.

19 Q But the Attorney General, to your knowledge,
20 doesn't call dispatchers to the stand --

21 A No.

22 Q -- on cases like this?

23 A No.

24 Q They usually rely on the arresting officer --

25 A Yes.

1 Q -- or the investigating officer to establish
2 times?

3 Page Two is your narrative, correct?

4 A Yes, it is.

5 Q Okay. Is there anything about this narrative,
6 as you read it now, that you think is incorrect?

7 MR. FRAZIER: Be sure and take your time and
8 read it before answering the question.

9 BY MR. EUCHNER:

10 Q Yes.

11 A Yes, I'd agree with it.

12 Q Okay. Is there anything that you remember
13 independently, after reading this, that you think should
14 be not necessarily added to the report but added to your
15 account of what happened at that event?

16 A No.

17 Q Okay. And then turning past Page Three, which
18 is Lieutenant Ford's narrative, Page Four of this
19 exhibit is entitled Tohono O'Odham Police Department
20 Arizona Traffic Ticket and Complaint.

21 Do you recognize this?

22 A Yes.

23 Q What is this document?

24 A This is the citation form we use.

25 Q Okay. And you had mentioned before that the

1 information at the top you got from his driver's
2 license?

3 A Yes.

4 Q Okay. And obviously the vehicle, I think it's
5 safe to assume, you were just looking at the vehicle and
6 getting that information.

7 The registered owner, how did you get that
8 information?

9 A I don't recall if it came from dispatch or if
10 there was a registration in the vehicle.

11 Q Okay. The two citations that are on here for
12 28-1595B and 28-622A, those are citations from motor
13 vehicle codes, State of Arizona, right?

14 A Yes.

15 Q Okay. When you filled out the citation form,
16 did you know those statutes by heart or did you have to
17 look them up or call them in?

18 A I had to look them up.

19 Q Okay. More or less you knew they existed, but
20 you weren't sure what the numbers were?

21 A Yes.

22 Q And then the information below, this is the
23 equivalent of a summons with the "you must appear at"
24 and check off the Justice Court?

25 A Yes.

1 Q And you put down January 3rd, 2002 below,
2 correct?

3 A Yes.

4 Q Why that particular date as opposed to, you
5 know, tomorrow or three months from now; is there -- do
6 you know what the significance of that kind of date
7 would be?

8 A You have a certain amount of time if it's,
9 let's say, just a civil violation, civil traffic
10 violation, you have a 30-day time period to cite them
11 into court. I believe it's not counting working days
12 and -- nonworking days and holidays, things like that.
13 And then with misdemeanors, it's, I believe, 10 days, if
14 I'm remembering right, and you just basically -- you
15 pick a day.

16 Q And you're --

17 A And in the case of Ajo, they've directed us
18 now that we have certain days. I've got it written
19 down. I just don't recall them right now.

20 Q For example, the Justice of the Peace says I'm
21 not working that day, these are -- or this is, you
22 know -- Fridays are the day to send my misdemeanors?

23 A Yes.

24 Q Okay. And this is exactly two weeks after the
25 arrest date, so basically it's the Friday the Justice of

1 the Peace told you send stuff to me on Fridays?

2 A Not in that case, but that was the ten working
3 days, I believe.

4 Q Okay. And then, as we described before, this
5 is the document, then, just this one page that you put
6 with your sergeant -- in your sergeant's bin?

7 A There's the top part, and then I can't recall
8 exactly how many others go in with it.

9 Q Okay. Excuse me. When you say others, do you
10 mean other carbons?

11 A Yes.

12 Q But, I mean, all of the carbons and all the
13 different copies, but basically it's just this one
14 document that you're giving to the sergeant?

15 A Yes.

16 Q At that -- When you give it to the
17 sergeant --

18 MR. FRAZIER: For the record, David, you're
19 referring to the Arizona traffic ticket.

20 MR. EUCHNER: Yes. Thank you. I'm referring
21 to the traffic ticket, Page Four.

22 BY MR. EUCHNER:

23 Q When you're putting that in the sergeant's
24 bin, you're not putting in the narrative report?

25 A No.

1 Q This is generated later on?

2 A Yes.

3 Q Okay. And on this page of the -- If you
4 could look at the narrative report on Page Two, is there
5 a date and time up in the upper, left, not the faxed
6 February 14th, but something that's -- that looks like
7 it's generated by the computer? It might be under the
8 staple a little bit.

9 A Are you referring to that 1/16/03?

10 Q Yes. Does -- Do you know the significance of
11 that date on these reports?

12 A No.

13 Q On the -- A little bit further in the
14 narrative there's a section that says "completed by" and
15 has your name?

16 A Yes.

17 Q Even though you may not specifically remember
18 dates, would you agree that it was probably Monday,
19 December 23rd --

20 A Yes.

21 Q -- 11:06 when you completed this?

22 A Yes.

23 Q When you complete a report like this, do you
24 just hit "save" and then it saves into the computer?

25 A Yes.

1 Q Under the incident report number that's listed
2 at the top of the page?

3 A Yes.

4 Q At the time you hit that save button or
5 whatever button it is that saves it into the computer,
6 does that create any action within the computer where it
7 then goes to your reviewing detective or --

8 A No.

9 Q -- do you have to print it?

10 A No, you have to go into another field on the
11 incident. And -- And basically it's a code that the
12 sergeants can look up to see what reports need
13 approving.

14 Q Okay. So as you're completing this report at
15 11:06 on the following Monday, you then would hit the
16 code that says, okay, sergeant or approving detective,
17 whoever is the approving officer for you, you hit that
18 button and then it sends a message to them?

19 A Yes.

20 Q Okay.

21 A It doesn't send a message to them. It's their
22 responsibility to go through and look up the code.

23 Q Okay. But there's a code that is then created
24 at the time you press that button?

25 A No. When I hit save, all it does is save the

1 narrative.

2 Q Okay.

3 A I then have to go through to -- to another
4 portion of the -- of the incident in the computer and
5 put in the code for the sergeant to look it up.

6 Q Is that part of common practice to do that
7 immediately after you --

8 A Yes.

9 Q -- hit the save button?

10 A Yes.

11 Q Okay. So though you may not remember
12 independently this particular case, you probably did
13 what you were supposed to do on that one?

14 A Yes.

15 Q Okay. And then Detective Cantu says that he
16 reviewed it.

17 Does that make sense, looking back, that it
18 probably was him?

19 A Yes. At that time we didn't have a sergeant
20 back there, so he was -- I believe he was in charge.

21 Q Okay. It's got his badge number. I don't
22 know what those letters mean, but it's probably a title
23 of some kind, the CID letters?

24 A Office in charge.

25 Q Okay. And then the date that he reviewed it

1 says Friday, January 10th?

2 A Yes.

3 Q So that's about, give or take, three weeks; is
4 that a normal turnaround time?

5 A Not normally.

6 Q Okay. What's a normal turnaround time between
7 your completing the report and the reviewed...?

8 A That would depend on the sergeant, and if
9 they're staying up on their job.

10 Q Okay. At the time that you were dealing with
11 this case in '02, was three weeks a common turnaround
12 time or was that less common?

13 A That would be less common.

14 Q What was the expected turnaround time? And
15 when I say "expected", in this context I mean, if you
16 filed this report on December 23rd, at the moment you're
17 filing it, when do you expect Detective Cantu to review
18 it?

19 A Within two or three days.

20 Q Okay. After he reviews it on Friday,
21 January 10th, then it says processed by records clerk,
22 Valerie Childs, Monday, January 13th. So you may not
23 know the answer to this, but I'll ask you the question.

24 Do you know if there is a process between
25 Detective Cantu and the records clerk where he has to do

1 anything to get the information to the records clerk or
2 does he just press a button and then it automatically
3 goes to the records clerk?

4 A He actually has to fill out the same box that
5 we use to send it to the sergeant. He then changes the
6 code and then records is able to use that code and look
7 up the report.

8 Q Okay. So Detective Cantu does this Friday
9 morning and the records clerk does her job here by
10 processing it Monday in the afternoon.

11 Once it's processed by the records clerk, what
12 is -- what essentially happens with this document? What
13 does processing it mean? And, again, if you can answer
14 the question.

15 A I don't know.

16 Q Okay. Do you know if it gets forwarded to the
17 Justice Court when it's processed?

18 A Like I said before, I believe the Justice
19 Court requests the records department for the report.

20 Q Okay. And obviously some of the context
21 you'll have with this, it's not necessarily Justice
22 Court but it could be tribal court?

23 A Yes.

24 Q So once it's processed on January 13th, you
25 don't have any other involvement with this?

1 A No, actually once I send it to the sergeant
2 I'm done with this, this particular report.

3 Q Okay. Do you -- When you file misdemeanor
4 charges, do you do any kind of independent follow-up,
5 see if your cases are -- what's going on with them?

6 A At that time, no, I wouldn't have.

7 Q Okay. Do you know what your caseload was like
8 at the time in terms of how many cases you had going on?

9 A I couldn't give you an exact number, but it
10 was -- it was a heavy caseload.

11 Q Okay. So once you fill out the paperwork and
12 you give it to the sergeant, then -- and you do your
13 report here and you hit the button that sends it to get
14 it reviewed by the reviewing officer, do you have any
15 other involvement in the preparation of reports from
16 there?

17 A No, not unless a supplement is needed to cut
18 later in the case.

19 Q In this case there was no supplemental report,
20 correct?

21 A No.

22 MR. EUCHNER: I need a bathroom break, so this
23 might be a good time to take it.

24 MR. FRAZIER: Are you turning off the
25 recorder?

1 MR. EUCHNER: I'm turning off the recorder at
2 some time. I don't know what time it is.

3 (A recess was thereupon taken, after
4 which the following further proceedings
5 were had herein:)

6 BY MR. EUCHNER:

7 Q All right. Is everybody ready?

8 A Yep.

9 Q Okay. Back on the record. Officer Traviolia,
10 when you were at the checkpoint a half a mile west,
11 looking for traffic that was driving past, we talked
12 about that earlier, when you were positioned there, do
13 you recall seeing Customs or Border Patrol vehicles
14 drive past you?

15 A I don't recall.

16 Q Okay. Possibly they did, possibly they
17 didn't?

18 A Possibly, either way, yes.

19 Q When you arrived at the checkpoint and you
20 began interacting with Mr. Bressi, do you remember a
21 Customs agent coming up to Mr. Bressi?

22 A Yes, I do.

23 Q And I think we already discussed you don't
24 know his name?

25 A I know him now.

1 Q Okay.

2 A But at that time I didn't know him.

3 Q Is this Agent Dreeland?

4 A Yes.

5 Q Do you recall whether he came up to the car on
6 his own or if he was prompted to come up to the car?

7 MR. FRAZIER: Form. Go ahead.

8 BY THE WITNESS:

9 A He came up on his own.

10 BY MR. EUCHNER:

11 Q Okay. And do you recall what he said?

12 A No, because at that point I walked away.

13 Q You walked away and then you came back later,
14 right?

15 A Yes.

16 Q Do you know what period of time it is that you
17 walked away and came back?

18 A No, I don't.

19 Q Were you next to Mr. Bressi at the time Agent
20 Dreeland came up?

21 A I don't recall my exact position.

22 Q Did you hear anything that Agent Dreeland
23 said?

24 A No.

25 Q Do you know if he said anything?

1 A I assume he did.

2 Q And do you recall how long of a period Agent
3 Dreeland was interacting with Mr. Bressi?

4 A No, I don't.

5 Q Do you recall seeing how close he was to the
6 driver's side window; for example, was he very close or
7 was there a distance, and, if so, could you estimate
8 what that distance was?

9 A I couldn't. I don't recall how close he was.

10 Q Close enough that words could be exchanged, or
11 was he too far away?

12 A I believe he was close enough where they could
13 exchange words.

14 Q Do you recall who was with Mr. Bressi when you
15 walked away?

16 A No, I don't.

17 Q Do you recall what brought you to check on
18 something else? You said earlier Lieutenant Ford asked
19 you to deal with Mr. Bressi?

20 A Yes.

21 Q At this point he's already pulled over into
22 the secondary checkpoint zone or whatever it's called,
23 the secondary...?

24 A No, he was still there in the westbound lane
25 of the -- of the highway.

1 Q Possibly the eastbound lane?

2 A I'm sorry. The eastbound lane.

3 Q Okay. Do you recall whether Mr. Bressi was
4 directed to pull off to the side of the road?

5 A I don't. I don't recall.

6 Q Okay. So all of -- Basically all this
7 interaction with Mr. Bressi at this point is while he's
8 still in the traffic lane?

9 A Yes.

10 Q Okay. While Lieutenant Ford was interacting
11 with him at the time he said to you, come on over here,
12 he's still in the --

13 A Yes.

14 Q -- traffic lane?

15 And when -- At the time Mr. Bressi is
16 arrested, is he still in the traffic lane or is he
17 pulled over -- is the vehicle pulled over at that point?

18 A I believe he's still in the traffic lane.

19 Q How far away did you walk from Mr. Bressi when
20 Agent Dreeland approached?

21 A I walked to the -- It would be the north side
22 of the roadway, off the shoulder.

23 Q Okay. What was going on over there?

24 A Nothing. I just wanted to get away from
25 Mr. Bressi and let somebody else deal with him.

1 Q Okay. Was there anything else going on at the
2 time, like cars coming through or...?

3 A There were cars, I think, going through the
4 westbound lane, but since Mr. Bressi was stopped,
5 eastbound traffic was stopped.

6 Q You said you wanted to get away from
7 Mr. Bressi.

8 Was the conversation heated, troublesome?

9 A No, I just -- It's good to get away, let
10 somebody else deal with the person, maybe. I don't
11 know, maybe Mr. Bressi just didn't like the way I looked
12 or something. Maybe somebody else can deal with him a
13 little better.

14 Q The conversation you did have with Mr. Bressi,
15 how would you characterize it in terms of congenial or
16 hostile?

17 A It was civil.

18 Q Okay. Did you ever raise your voice to him?

19 A No.

20 Q Did he ever raise his voice to you?

21 A No.

22 Q Do you know if anybody else ever raised their
23 voice during this conversation, whether it was
24 Mr. Bressi or anybody else?

25 A I don't recall.

1 Q Excuse me. Do you remember that Agent
2 Dreeland was on the scene at the time Mr. Bressi was
3 there?

4 A Yes.

5 Q Do you know if he -- Strike that.

6 Do you know where he came from when he came to
7 the checkpoint, if you're aware?

8 A I don't know where he walked from.

9 Q Okay. So he may have come from Sells or he
10 may have come from Tucson.

11 Do you know where he came from?

12 A No, I don't.

13 Q Do you know if there were any other Customs
14 officers there, along with Agent Dreeland, at this time
15 when you're dealing with Mr. Bressi?

16 A I don't know if there were or not.

17 Q Were there any incidents that you dealt with
18 at the roadblock where you had to bring Customs over to
19 check something else?

20 A At this particular --

21 MR. FRAZIER: Could you say that again or have
22 it read back?

23 MR. EUCHNER: I'll -- I sense there's a
24 question as well, so I will rephrase it.

25 \\\

1 BY MR. EUCHNER:

2 Q At any point during the entire roadblock, did
3 you discover any violations of federal law for which you
4 alerted -- to which you alerted Customs?

5 A I don't recall at this one.

6 Q Okay.

7 A I don't recall if I had to alert them or not.

8 Q Okay. Same question for Border Patrol.

9 On this particular roadblock, were there any
10 incidences that you discovered, violations of federal
11 law, that required the attention of the US Border
12 Patrol?

13 A I don't recall.

14 Q Okay.

15 MR. FRAZIER: When you say "you", you mean him
16 only?

17 BY MR. EUCHNER:

18 Q In this context I mean only you, the witness.

19 Did you observe or witness other stops going
20 on where violations of federal law were discovered?

21 MR. FRAZIER: Foundation.

22 BY MR. EUCHNER:

23 Q It was --

24 MR. FRAZIER: You can still answer.

25 \\\

1 BY THE WITNESS:

2 A Yes, I did.

3 BY MR. EUCHNER:

4 Q What did you observe?

5 A I observed a vehicle that was loaded with
6 marijuana, and I observed -- I can't remember. There
7 were several vehicles that were loaded with undocumented
8 aliens.

9 Q Okay. And those would be the kind of
10 incidences that you would direct to the Customs or
11 Border Patrol agencies, correct?

12 A Yes.

13 Q At the time you were talking to Mr. Bressi and
14 Agent Dreeland approached, do you know where he was
15 standing at the time?

16 A I don't know where exactly he was standing. I
17 just remember he approached me from my right, I believe.
18 And once he approached, that's when I just -- I backed
19 off from the vehicle.

20 Q And when you were talking to Mr. Bressi, it
21 was just the two of you talking --

22 A Yes.

23 Q -- at that time?

24 Okay. Excuse me. When you have the car
25 stopped, and right now I'm just focused on the

1 eastbound, do you stop one car at a time, or do you stop
2 two at a time, do you have -- almost like when you go to
3 get your vehicles inspected, where you can do two cars
4 in line, do you have -- Do you understand the question?

5 A Are you talking about this particular...?

6 Q This particular checkpoint.

7 A Well, it would depend how many officers you
8 have out there. If it's just yourself, you're doing one
9 at a time.

10 Q Right.

11 A If you've got two officers, you can bring two
12 vehicles at a time.

13 Q In this context we have a few officers on the
14 scene, so do you know if you're doing it two vehicles at
15 a time or one at a time?

16 A If we have more than two, I assume they'd be
17 doing it, you know, each one would be doing their own
18 vehicle.

19 Q Okay. And then just to wrap up what we said
20 before the break, once you completed your report on
21 December 23rd, at that time you had no further
22 involvement with paperwork on the case?

23 A That's correct.

24 Q Okay. Are you aware that the case was
25 dismissed in January of 2003, the misdemeanor charges?

1 A Yes.

2 Q In June of 2003, do you remember receiving
3 paperwork mailed to you by Mr. Bressi?

4 A Yes, I do.

5 Q What did you receive?

6 A I believe it was a claim letter of some type,
7 and I just took that and I forwarded it up to the
8 Attorney General.

9 Q Okay. Do you recall the date you received it?

10 A No, I don't.

11 Q When you sent it up to the Attorney General,
12 do you know what happened with that letter afterwards?

13 A Don't know.

14 Q Did you do anything else with relation to this
15 case after receiving that letter?

16 A Yes, I did.

17 Q What did you do?

18 A Called the County Attorney.

19 Q Okay. Was it -- You may not remember the
20 dates at this point, but was it the same day?

21 A I don't recall if it was the same day or not.

22 Q Okay. When you called the County Attorney,
23 what did you say?

24 A I gave him details of the stop and asked him
25 if the charges still could be filed. And he said it

1 sounded like it was a good case and go ahead and refile
2 the charges.

3 Q Did you speak to the County Attorney himself?

4 A Yes.

5 Q The Deputy County Attorney?

6 A Yes.

7 Q Was that Philip Perkins at the time?

8 A Yes, it was.

9 Q Okay. At any point did you, subsequent to
10 receiving the notice of claim, did you go up to Kitt
11 Peak shortly thereafter?

12 A No.

13 Q Okay. When was the next time you saw
14 Mr. Bressi after the roadblock itself?

15 A I don't recall. I think this is the first
16 time.

17 Q Did you go to court on --

18 A Oh, yes.

19 Q -- December 9, 2003?

20 A Oh, yes, at court.

21 Q Okay. Other than the roadblock, court on
22 December 9th, 2003, and today, have you ever seen
23 Mr. Bressi?

24 A No.

25 Q Okay. When you filed the paperwork with the

1 County Attorney, did you have to give him any other
2 paperwork besides the new summons and complaint?

3 A I just sent that in, just the summons and
4 complaint.

5 MR. EUCHNER: Can you mark this as No. 2?

6 BY THE WITNESS:

7 A And I don't recall if I sent him the reports
8 or not.

9 (Traviolia Deposition Exhibit No. 2 was
10 marked for identification.)

11 BY MR. EUCHNER:

12 Q And that copy may be a little bit faint, but
13 could -- this is what we've just marked as Exhibit
14 No. 2.

15 Can you take a moment to review that? And let
16 me know when you're done.

17 A Okay.

18 Q Okay. Do you recognize this?

19 A Yes.

20 Q Okay. What is this?

21 A It's the second traffic citation that I sent
22 in.

23 Q Okay. The information that's at the top, is
24 this essentially copied from the old one, or did you get
25 some information elsewhere?

1 A Er....

2 Q Meaning the name, the address, the vehicle
3 information.

4 A I believe I had dispatch run another license
5 check on Mr. Bressi, so I could get the information.
6 And the vehicle, I don't recall if I -- if I did that
7 with the vehicle as well or not.

8 Q Do you remember what date you filled this out?

9 A No, I don't.

10 Q Okay. Do you see sort of in the middle of the
11 page, in Violations Three and Four area, there's a
12 little seal or a stamp?

13 A Um-hum.

14 Q What does that say?

15 A That was received June 20th by the Tohono
16 O'Odham Police Department records.

17 Q June 20th, 2003?

18 A Yes.

19 Q And in order for them to receive it on June
20 20th, you have to fill it out prior; isn't that correct?

21 A Either that day or prior.

22 Q Okay. And like with the other violation, when
23 you fill this out, what steps does it have to go through
24 from the time you fill it out until the time records
25 receives it?

1 A The same process. The sergeant has to mark it
2 in the book and then it goes to records and they do
3 whatever they do with it.

4 Q Okay. And at the bottom it says issue
5 summons?

6 A Yes.

7 Q So basically you're asking the Court to issue
8 a summons in this case?

9 A Yes.

10 Q Okay. And then, as far as you know, that's
11 all the court paperwork that takes care of that; there's
12 nothing else that you have to fill out?

13 A Nothing else.

14 Q Okay. When you went to court on December 9th,
15 did you have any conversations with Philip Perkins, the
16 Deputy Pima County Attorney?

17 A Talked to him briefly.

18 Q Did you talk to him about evidence in the case
19 or about motions filed by the defense?

20 A I didn't.

21 Q Did Lieutenant Ford talk to him about details
22 of the case?

23 A I believe --

24 MR. FRAZIER: Foundation.

25 \\\\\\\\

1 BY THE WITNESS:

2 A I believe --

3 BY MR. EUCHNER:

4 Q Did you see the two of them talking?

5 A They talked, yes, but I didn't overhear what
6 they were saying.

7 Q Did you hear any conversations between
8 Lieutenant Ford and Mr. Perkins concerning
9 roadblock/checkpoint guidelines or operational plans or
10 paperwork related to the case?

11 A I don't recall.

12 Q Did you hear any conversation between
13 Lieutenant Ford and Mr. Perkins related to the requests
14 made by Mr. Bressi's defense attorney?

15 A I don't recall.

16 Q That would include request for documents as
17 well as other requests.

18 A Like I said, I don't recall.

19 Q Did you listen to the court proceedings in
20 this case when the justice of the peace called the --
21 called the case?

22 A Yes.

23 Q Did you -- Do you recall Mr. Perkins making
24 statements toward the beginning of the case?

25 A I know he spoke, but I couldn't tell you the

1 exact words or what -- what he was talking....

2 Q Do you recall Mr. Perkins saying to the judge
3 that Lieutenant Ford had informed Mr. Perkins that
4 documents would not be provided to the court?

5 MR. FRAZIER: Object to the form of the
6 question. I don't know if that's what Mr. Perkins said.
7 You can ask if he knows, if he remembers that being
8 said, but I don't even know that that's what was said.

9 BY MR. EUCHNER:

10 Q Do you recall any statements to that effect?

11 A I don't recall.

12 MR. EUCHNER: I'm going to -- I only have one
13 copy of this. This will be marked as Exhibit No. 3.

14 (Traviolia Deposition Exhibit No. 3 was
15 marked for identification.)

16 BY MR. EUCHNER:

17 Q What I'm going to ask you to do is review this
18 document first. It's been marked as Exhibit No. 3.

19 A (Complied.)

20 Q And I think I'll stop you there because the
21 questions I'm going to ask you about this, sir, relate
22 to the earlier part.

23 A Okay.

24 Q And if I could turn with you to what is Page
25 No. 3 and 4 of the document.

1 And you've had a chance to read those two
2 pages?

3 A Yes.

4 Q Having read them, do you have any recollection
5 of these words being spoken in court?

6 A I don't recall but, if they're here in the
7 record, then they must have occurred.

8 Q You were listening, correct; I mean, I know it
9 was three years ago, but you were listening, right?

10 A Yeah, I was listening. I wasn't....

11 Q You may not remember every single word that
12 was said, but do you remember the substance of that
13 colloquy?

14 A Yes.

15 Q Do you remember Mr. Perkins telling the Court
16 in open court that Lieutenant Ford told him he could not
17 provide the operational plan?

18 A I don't recall him saying that.

19 Q Okay.

20 A But it's here.

21 Q Okay. When you went to court on December 9th,
22 do you have an understanding as to what you were going
23 to do at court?

24 A Basically testify about the arrest of
25 Mr. Bressi.

1 Q Okay. Evidentiary hearing?

2 A Yes.

3 Q Okay. You didn't have to testify, correct?

4 A No.

5 Q Okay. Back when you received a notice of
6 claim, did you talk to any of the other officers about
7 the notice of claim you received?

8 A What do you mean by other officers?

9 Q For example, if I get a new case, I might
10 mention it to a colleague, hey, I just got a new case,
11 or here's something interesting, something different
12 that popped up.

13 Did you mention to any other officers after
14 receiving this, hey, I just received this notice of
15 claim?

16 MR. FRAZIER: You mean TOPD officers?

17 MR. EUCHNER: TOPD officers, right.

18 Colleagues.

19 BY THE WITNESS:

20 A At that point, when I initially received it, I
21 did, because I went up the chain of command, informed
22 them of it.

23 BY MR. EUCHNER:

24 Q Who did you talk to about the notice of claim?

25 A At that particular time when I received it, I

1 don't recall. I don't recall.

2 Q Okay. So do you recall talking to anybody
3 about it?

4 MR. FRAZIER: I don't know if this is going to
5 go to any attorney.

6 MR. EUCHNER: It's a yes or no. Right now
7 it's a yes-or-no question, but I'm aware of what you're
8 thinking.

9 MR. FRAZIER: Well, answer yes or no, and
10 don't say another word until he asks his next question.

11 BY THE WITNESS:

12 A Yes.

13 BY MR. EUCHNER:

14 Q The other people that you spoke with about
15 this, were there people other than the tribal Attorney
16 General?

17 A Yes.

18 Q Who were those people?

19 A I believe it was Captain Delgado, because I
20 took the notice of claim to him.

21 Q Did you talk to any other officers about it,
22 like water cooler chatter, for example?

23 A I probably did. I don't recall what I said
24 to....

25 Q You had just testified that when you filled

1 out the second complaint form in June of '03, that you
2 ran another check to get the information.

3 A Yes.

4 Q Did you run a wants and warrants check as well
5 --

6 A No.

7 Q -- while you were doing that or just -- How
8 did you run the check?

9 A I called the dispatch on the phone. And I
10 can't remember if they printed -- I think they printed
11 me up a hard copy and I filled out the citation,
12 destroyed the hard copy.

13 Q Okay. What information did you have to give
14 dispatch to -- in order to get information back?

15 A I believe they went back into the case file
16 and looked up the license number.

17 Q But what information did you give them so that
18 they could look that up in the first place?

19 A Name.

20 Q Just the name? Chances are he's the only
21 Terrence H. Bressi that was arrested anytime.

22 A Yeah.

23 Q When you talked to Captain Delgado, what did
24 he say about the notice of claim?

25 A He didn't say -- I don't recall him saying

1 anything to me about it. I handed him the paperwork and
2 said okay.

3 (A discussion was held off the record,
4 after which the following further
5 proceedings were had herein:)

6 BY MR. EUCHNER:

7 Q When you refiled the -- I'm sorry.

8 When you refiled the complaint in June of
9 2003, who did you talk to about refiling it before
10 calling Mr. Perkins at the County Attorney's office?

11 A I don't think I talked to anybody else about
12 it.

13 Q Is it possible you talked to somebody else
14 about it?

15 A It could be. But, like I said, I don't think
16 I did.

17 Q Okay. At the time you received a notice of
18 claim, do you know if anybody else received a notice
19 from Mr. Bressi at the same time?

20 A I believe everybody in this case did.

21 Q Okay. And did you talk to, for example, Eric
22 O'Dell or Richard Saunders or Michael Ford after
23 receiving it?

24 A I wouldn't have talked to the chief. And I
25 think the extent of the conversation with Eric was,

1 yeah, he got one, too, basically the thing.

2 MR. EUCHNER: I don't think I have any further
3 questions.

4 Mr. Frazer and Mr. Frank will have a chance to
5 ask you some questions, and then I'll have a chance to
6 ask more, based on their questions. But I'm going to
7 turn the floor over to whomever wants it.

8 MR. FRAZIER: Jim.

9 MR. EUCHNER: Mr. Frank.

10

11 EXAMINATION

12

13 BY MR. FRANK:

14 Q You issued Mr. Bressi his citation, which set
15 forth two violations; is that correct?

16 A Yes.

17 Q One was for failure to display his driver's
18 license?

19 A Yes.

20 Q What was your basis for citing him for that?

21 A He refused to show us his driver's license.

22 Q He refused to show it to you upon your
23 request?

24 A Upon my request, he refused to show my
25 license -- excuse me -- his license.

1 Q Were you present when he was asked to show it
2 by Lieutenant Ford?

3 A I believe I overheard it when I walked up. I
4 believe that.

5 Q Okay. And the other citation was for failure
6 to obey an officer's orders?

7 A Yes.

8 Q What was the basis for citing him for that?

9 A When we asked him to move the vehicle and to
10 get out of the vehicle.

11 Q Did you ask him to move it or did you ask him
12 to get out?

13 A I don't recall exactly. I believe we asked
14 him to get out, and he refused.

15 Q What was happening at that point?

16 A At that point traffic was backed up, and there
17 was a traffic accident that occurred.

18 Q So you asked him to get out of the vehicle,
19 and what did he do?

20 A He refused.

21 Q And then what happened?

22 A That's when we told him to turn off the
23 vehicle.

24 Q And did he?

25 A Yes.

1 Q And then what happened?

2 A We opened the door and unbuckled his seat belt
3 and he became what we call a passive resister.

4 Q So then what?

5 A Myself and Officer O'Dell grabbed Mr. Bressi,
6 he went totally limp, so we had to pick him up and take
7 him out of the vehicle. We handcuffed him, we asked him
8 to get up, he wouldn't get up, so we had to pick him up
9 and carry him across the highway to the pull-out area.

10 Q What happened to his vehicle?

11 A I believe it was removed from the roadway
12 after we took him, but I don't know who moved it.

13 Q All right. Now, the Page Four of Exhibit
14 No. 1 there has the initial citation on it. I noticed
15 that he was cited in court, January 3rd, but it says
16 2002.

17 Is that one of those --

18 A That would have been -- Yeah, one of those --

19 Q -- turn of the year...?

20 A -- turn-of-the-year errors, yes.

21 Q How would you know whether or not this -- he
22 was convicted or not with respect to this citation?

23 A If he went to this initial appearance and he
24 just decided to pay the fines right there or to plead
25 guilty, I wouldn't know about it.

1 Q Do you recall when the first time was that you
2 found out that it was dismissed?

3 A It was -- I'm trying -- I think later in
4 January.

5 Q So what happened then?

6 A Then I was -- I was going to refile, but I
7 didn't get around to it. I was busy with a large
8 caseload and I just forgot, forgot about it.

9 Q So the next time it came to your attention was
10 when you got that --

11 A Yes.

12 Q -- claims letter?

13 A Yes.

14 Q Do you know why it was originally dismissed?

15 A I believe because our records department
16 didn't get the citation to the Ajo court in time.

17 Q In time for what? I mean, it was dismissed at
18 some point, so they got it, right?

19 A That's what I was initially told --

20 Q Okay.

21 A -- that it didn't -- that the citation didn't
22 get there in time.

23 Q All right. Why did you cite him on the second
24 occasion, then, for the same two offenses?

25 A I believed we had a good case. I believed he

1 committed those violations.

2 Q Was it because you got those claims letters?

3 A Actually, this reminded me of what had
4 happened. And I was, like, oh, yeah, I totally forgot
5 about this. And I was, like, okay, well, I guess we'll
6 refile.

7 Q I mean, was it in retaliation --

8 A No.

9 Q -- for getting those claims letters?

10 A No.

11 Q Did you have any part in the decision as to
12 whether the operational plans or the guidelines for the
13 roadblock would be produced at the trial in December of
14 '03?

15 A No, I did not.

16 MR. FRANK: That's all I have.

17

18 EXAMINATION

19

20 BY MR. FRAZIER:

21 Q I just have a couple.

22 Looking again at Exhibit No. 1, Page Four,
23 which is the citation, when you came up, Mr. Bressi, he
24 was already stopped as a result of the checkpoint that
25 was ongoing, correct?

1 A Yes.

2 Q And then you gave him two citations and the
3 first one, I believe, was for 28-15....

4 A -95B.

5 Q 1595B. And it says on here operator
6 fails/refuses to exhibit driver's license?

7 A Yes.

8 Q At your interfacing with Mr. Bressi, you
9 recall as you sit here today, that he refused to provide
10 his driver's license; is that right?

11 A Yes, he did.

12 Q Okay. And did you go check this statute
13 before you cited him or when you cited him?

14 A It's -- I knew this statute existed. I
15 didn't know the exact statute number.

16 Q Okay. So you went and got that eventually?

17 A Yes.

18 Q And the second citation, failure to obey
19 officer while directing traffic, you testified that
20 Mr. Bressi was in the lane of traffic, correct?

21 A Yes.

22 Q And you'd asked him to -- Did anybody -- Do
23 you know, did anybody ask him to move his vehicle?

24 A I don't recall if I did or if somebody else
25 did.

1 Q Okay. And -- But he obviously didn't move
2 the vehicle, correct?

3 A Yes. He didn't move.

4 Q And you asked him to step out of the vehicle?

5 A Yes, I did.

6 Q And he did not do that either, correct?

7 A Yes.

8 Q That's correct?

9 A Yes, that's correct.

10 Q So -- And that's when you and Officer O'Dell
11 removed him and took him to the side of the road,
12 correct?

13 A Yes.

14 Q Now, at the bottom of Exhibit -- Well, it's
15 Exhibit No. 1, Page Four, but at the bottom of the
16 citation, it appears to be a signature on the left-hand
17 side.

18 Is that Mr. Bressi's signature, to your
19 knowledge?

20 A Yes, to my knowledge it is.

21 Q Did you ask Mr. Bressi to sign this citation?

22 A Yes, I did.

23 Q What happened when you asked him to do that?

24 A I explained to Mr. Bressi that these were
25 misdemeanor charges and that he would have to sign the

1 ticket, okay, it wasn't admitting to any guilt, all it
2 was saying he would show up to court on January 3rd. I
3 also explained to him, because they were misdemeanors,
4 if he did not sign the ticket, then we would have to
5 book him into Pima County.

6 Q Did you hand him a copy of the ticket?

7 A Yes.

8 Q And so he had that with him?

9 A He -- I said: Are you going to sign the
10 ticket? And he did not answer me.

11 Q Okay.

12 A At all.

13 Q Did he look at you? Did he nod? Did you do
14 anything?

15 A He didn't do anything. He just -- He stared
16 at me and didn't say a word.

17 Q Okay. So you, then, did what?

18 A That's when I took Mr. Bressi and placed him
19 into a patrol unit.

20 Q Did you talk to him again later that evening,
21 do you recall?

22 A No, I did not.

23 Q Okay. So do you know exactly how his
24 signature got on here?

25 A Yes, I do.

1 Q What do you know about that?

2 A His supervisor arrived. I don't recall his
3 name. He asked what was going on. I explained to him.

4 Q So you talked to his supervisor?

5 A Yes. I explained to him right now he was
6 under arrest, that we had -- It's a cite-and-releasable
7 offense. I told him Mr. Bressi refused to sign the
8 ticket and, unfortunately, because they're misdemeanors,
9 we have to book him in if the person refuses to sign.
10 And he asked me, well, where are you going to take him?
11 And I explained: Right now, where we're located, you
12 have to take them to Ajo. And he asked: Well, where is
13 Ajo? And I said: It's about 120 miles away. And he
14 said: Well, would we be able to get him out tonight?
15 And I said: I don't know. So he asked: Can I talk to
16 him. And I said: Sure. Go ahead. He's over here.
17 And he came back, and Mr. Bressi --

18 Q Let me ask you about when he went over to talk
19 to him.

20 Did you accompany him to go talk to him?

21 A I took him over there and then left him. I
22 didn't have a problem with him talking to him. I was
23 hoping that he would talk to him and say, hey, sign the
24 ticket.

25 Q Did you have any discussion with Mr. Bressi

1 about when he would be transported to -- First of all,
2 did you tell him he would be transported to Ajo?

3 A I don't recall if I told him he was going to
4 Ajo or not.

5 Q Did you tell him what the next step would be
6 when he wouldn't sign the ticket?

7 A Yes, I told him he would be booked.

8 Q Did you tell him that he'd have to wait around
9 at all at the checkpoint for a while?

10 A I don't recall on that -- on that.

11 Q Okay. So then the supervisor went to speak to
12 Mr. Bressi, and then what happened?

13 A The supervisor came back to me and said he'll
14 sign the citation. So I went over, took Mr. Bressi out,
15 took him out of the handcuffs, he signed, and his
16 supervisor asked: Do you mind if we stay around a
17 little bit? I didn't have a problem with it. I believe
18 Lieutenant Ford was over there at the time. He said he
19 didn't have a problem with it.

20 Q Okay. Other than that, was there any other
21 interaction between you and Mr. Bressi or his
22 supervisors or friends that evening?

23 A After that, no.

24 Q Okay. Mr. Euchner asked you if anybody may
25 have run the checkpoint, and I just wanted to ask: Is

1 it possible that could have happened that night and you
2 don't recall?

3 A It's possible it could have happened.

4 Q Okay. You just don't have any independent
5 recall of that?

6 A Yeah, I don't recall.

7 MR. FRAZIER: Okay. That's all I have.

8 MR. HARRISON: I have a few quick follow-up
9 questions, if that's permissible.

10 MR. FRAZIER: Actually, it's not. If you want
11 to talk to Mr. Euchner and have him ask for you, that's
12 fine with me.

13 MR. EUCHNER: We'll do it that way. I do have
14 some follow-up questions as well.

15

16 FURTHER EXAMINATION

17

18 BY MR. EUCHNER:

19 Q When Mr. Bressi didn't show you the license,
20 that was a violation of State law?

21 A Yes.

22 MR. FRAZIER: Object to form.

23 MR. EUCHNER: Thank you.

24 BY MR. EUCHNER:

25 Q You believed it to be a violation of State law

1 when he didn't show you the license?

2 MR. FRAZIER: Object to form.

3 BY MR. EUCHNER:

4 Q You may answer that.

5 A Yes.

6 Q Earlier you had testified that people who
7 didn't show you driver's licenses, maybe because they
8 didn't have it or for other reasons, that you would run
9 other forms of checks on them?

10 A Yes.

11 Q You're aware that Mr. Bressi was checked out
12 by giving a phone number and his supervisor was called?

13 MR. FRAZIER: Object to form.

14 BY MR. EUCHNER:

15 Q Are you aware of that?

16 MR. FRAZIER: "Checked out", what does that
17 mean?

18 MR. EUCHNER: That Mr. Bressi's supervisor was
19 called.

20 BY THE WITNESS:

21 A I don't know if he was called at that time or
22 not.

23 BY MR. EUCHNER:

24 Q Okay. Other people that have come through the
25 checkpoints that didn't show you a driver's license, you

1 said that you would call in their information, check it
2 out otherwise?

3 A Yes.

4 Q What was different about Mr. Bressi?

5 A Mr. Bressi refused to show a license. Other
6 people that didn't have their license would say: I
7 don't have my license with me. This is my name. This
8 is my date of birth. I didn't get any of that from
9 Mr. Bressi.

10 Q Do you know what Lieutenant Ford was able to
11 get from Mr. Bressi?

12 A No, I don't.

13 Q Did Lieutenant Ford tell you?

14 A No, he didn't.

15 Q So you're not aware that Lieutenant Ford
16 called Mr. Bressi's supervisor?

17 A No.

18 Q When Mr. Bressi was ordered to step out of the
19 vehicle because he was being placed under arrest, at
20 this time his vehicle was still in the eastbound traffic
21 lane; is that correct?

22 A Yes.

23 Q He wasn't asked to pull off to the side of the
24 road prior to that?

25 A No.

1 Q Okay.

2 A I take that back. I can't recall if we asked
3 him to pull over or not.

4 Q How long does this entire exchange take, to
5 the best of your recollection?

6 A I couldn't tell you.

7 Q You said there was an accident that happened?

8 A Yes.

9 Q Do you remember if that was eastbound or
10 westbound?

11 A I believe it was in the eastbound lane.

12 Q Was it behind the line of cars?

13 A Yes, it was. I believe it was several cars
14 down.

15 Q Do you recall what the accident was about?

16 A I think one vehicle rear-ended another
17 vehicle.

18 Q I mean, that seven (sic) cars; that's your
19 best estimate, give or take?

20 A Yeah I, couldn't tell you how far down it was.

21 Q Within eyesight vision of where you're
22 standing?

23 A Yes.

24 Q Okay. It wasn't three miles down the road
25 around the bend?

1 A No.

2 Q When you were running a wants and warrants
3 check, do you use the ACIC or NCIC databases, or which
4 databases do you use?

5 A They use both.

6 Q Okay. So when you got Mr. Bressi's
7 identification, you called it in, it's your expectation
8 that's -- they're checking the NCIC as well?

9 A Yes.

10 Q Okay. Are any records created when you check
11 on wants and warrants?

12 A I'm not an expert on that, the way they do it
13 there in dispatch. I believe there is, but I couldn't
14 tell you how it's done or the procedure for it.

15 Q Okay. The checkpoint was working both
16 directions, correct?

17 A Yes.

18 Q Were they stopping -- Were you stopping
19 traffic coming westbound the same way you were stopping
20 traffic going eastbound?

21 A Are you talking me, personally?

22 Q In this context, you, personally, for sure,
23 and, if you know, from personal observation --

24 A I believe --

25 Q -- what others were doing.

1 A Yeah, I believe everybody was stopping both
2 vehicles both ways.

3 Q You didn't have as much interaction at the
4 initial checkpoint, though, right?

5 A No.

6 Q Okay. When you saw Mr. Bressi, did you think
7 that he might be a tribal member?

8 A At that point, I didn't know.

9 (A discussion was held off the record,
10 after which the following further
11 proceedings were had herein:)

12 BY MR. EUCHNER:

13 Q At the location that you were operating the
14 checkpoint, was it possible for vehicles to turn around
15 to avoid the checkpoint?

16 A They would have to do a U-turn in the road.

17 Q How wide is State Route 86 at this -- at Mile
18 Marker -- I believe we're at 143 here?

19 A It's standard, I believe, 8-foot lanes, and at
20 143 there's a wider shoulder, a pulloff. That's why we
21 use that place.

22 Q Is there any bend in the road where there's a
23 blind curve near Mile Marker 143?

24 A I drive it every day, and I don't know. I'd
25 have to -- I would have to actually go out there and

1 look at it again. I think I've driven it so much, it's
2 all like a blur now going out there.

3 Q I think we have a field trip scheduled for
4 tonight.

5 When you were speaking with Mr. Bressi, did he
6 ask you about the law and ask you to cite a law for
7 showing a driver's license?

8 A No, I don't recall him asking me that.

9 MR. EUCHNER: I think I have no further
10 questions. Is there any more follow-up?

11 MR. FRAZIER: Yeah, but I -- Off the record.

12 (A discussion was held off the record,
13 after which the following further
14 proceedings were had herein:)

15 MR. FRAZIER: I don't know who it was, but I'm
16 not talking to him. Okay. Back on.

17

18 FURTHER EXAMINATION

19

20 BY MR. FRAZIER:

21 Q Was the -- When did you first know that
22 Mr. Bressi was not a tribal member or a member of any
23 other tribe in the United States?

24 A After I was able to -- after he was arrested
25 and taken over to the side of the road and I was able to

1 get his wallet.

2 Q Okay. So when -- Are there also tribal laws
3 and things like that about showing your driver's
4 license?

5 A I would have to go back and look. I can't
6 remember the exact statutes or the wording of it.

7 Q Okay. But until you saw his driver's license
8 you didn't know whether you would be citing him into a
9 State court for a State law violation; is that correct?

10 A Until I actually got his wallet -- His
11 license wouldn't tell me if he's a tribal member or not.
12 The other thing I did is I looked through the wallet to
13 see if there was a tribal ID card.

14 Q Okay.

15 A And there was none.

16 MR. FRAZIER: Okay. No further questions.

17

18 FURTHER EXAMINATION

19

20 BY MR. EUCHNER:

21 Q I have one follow-up based on that question.

22 Are tribal members required to carry a
23 driver's license?

24 A No. Actually, yes, they are.

25 Q Let me --

1 A Under tribal law, yes, they have to have a
2 State-issued driver's license in order to drive on the
3 nation.

4 Q Is that anywhere on the nation, or just on,
5 say, the State highway?

6 A Anywhere on the nation.

7 Q Okay. So from within the nation, they're
8 required to go down to an Arizona DMV and get themselves
9 an Arizona driver's license?

10 A Yes.

11 MR. EUCHNER: Okay. I have no further
12 questions.

13

14 FURTHER EXAMINATION

15

16 BY MR. FRANK:

17 Q Just to be clear, you did not get his driver's
18 license until after you forcibly removed him from the
19 truck; is that correct?

20 A Yes, that's correct.

21 Q Did he voluntarily give it to you, then?

22 A No.

23 Q How did you get it?

24 A I took it out of his pocket.

25 MR. FRANK: That's all.

1 MR. EUCHNER: I think we can conclude this
2 deposition, then.

3 MR. FRAZIER: Okay. We'll read and sign the
4 transcript.

5 (At 1:13 p.m., Thursday, November 2,
6 2006, the taking of the deposition of
7 OFFICER GEORGE PATRICK TRAVIOLIA, II, was
8 concluded.)

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OFFICER GEORGE PATRICK TRAVIOLIA, II

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1 C E R T I F I C A T E

2

3 BE IT KNOWN that I took the foregoing
4 deposition; that I was then and there a Certified
5 Reporter in the State of Arizona; that by virtue
6 thereof, I was authorized to administer an oath; that
7 the witness, before testifying, was duly sworn to
8 testify to the whole truth and nothing but the truth,
9 and that the testimony of the witness was reduced to
10 writing under my direction;

11 I DO FURTHER CERTIFY that I am not a relative
12 or attorney of either party or otherwise interested in
13 the events of this action.

14 Pursuant to request, notification was provided
15 that the deposition is available for review and
16 signature.

17 WITNESS my hand this 9th day of November,
18 2006.

19

20

21

MELANIE J. BUILDER, RPR, CR
Certified Reporter No. 50143

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